# CHIEF'S MESSAGE

June 1st, 2013

I am proud to present the newest edition of the Austin Police Department Policy Manual. The Policy Manual is designed to assist all employees in accomplishing the Department's mission in a professional and lawful manner. Adherence to these policies also helps safeguard employees and the Department against civil litigation and ensures that employees will be protected when their individual actions are scrutinized, especially after a critical incident.

All employees will abide by these policies and are responsible for keeping themselves current on the content of this manual.

As always, be safe and thank you for your commitment to excellence.

ART ACEVEDO

Chief of Police

# Law Enforcement Code of Ethics

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

I will keep my private life unsullied as an example to all and will behave in a manner that does not bring discredit to me or to my agency. I will maintain courageous calm in the face of danger, scorn or ridicule; develop self-restraint; and be constantly mindful of the welfare of others. Honest in thought and deed both in my personal and official life, I will be exemplary in obeying the law and the regulations of my department. Whatever I see or hear of a confidential nature or that is confided to me in my official capacity will be kept ever secret unless revelation is necessary in the performance of my duty.

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

I recognize the badge of my office as a symbol of public faith, and I accept it as a public trust to be held so long as I am true to the ethics of police service. I will never engage in acts of corruption or bribery, nor will I condone such acts by other police officers. I will cooperate with all legally authorized agencies and their representatives in the pursuit of justice.

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

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

*IACP Code of Ethics, adopted 37 Tex. Admin. Code § 1.112*

# CANONS OF POLICE ETHICS

## Article 1: Primary Responsibility of Job

The primary responsibility of the police service, and of the individual officer, is the protection of people of the United States through the upholding of laws. Chief among these laws is the Constitution of the United States and its Amendments. The law enforcement officer always represents the whole of the community and it's legally expressed will and is never the arm of any political party or clique.

## Article 2: Limitations of Authority

The first duty of a law enforcement officer, as upholder of the law, is to know its bounds upon him in enforcing it. Because he represents the legal will of the community, be it local, state, or federal, he must be aware of the limitations and proscriptions which the people, through the law, have placed upon him. He must recognize the genius of the American system of government which gives to no man, groups of men, or institutions, absolute power; and he must ensure that he, as a prime defender of that system, does not pervert its character.

## Article 3: Duty to be Familiar with the Law and with Responsibilities of Self and Other Public Officials

The law enforcement officer shall assiduously apply himself to the study of the principles of the laws which he is sworn to uphold. He will make certain of his responsibilities in the particulars of their enforcement, seeking aid from his superiors in matters of technicality or principle when these are not clear to him. He will make special effort to fully understand his relationship to other public officials, including other law enforcement agencies, particularly on matters of jurisdiction, both geographically and substantively.

## Article 4: Utilization of Proper Means to Gain Proper Ends

The law enforcement officer shall be mindful of his responsibility to pay strict attention to the selection of means in discharging the duties of his office. Violations of law or disregard for public safety and property on the part of an officer are intrinsically wrong; they are self-defeating in that they instill in the public mind a like disposition. The employment of illegal means, no matter how worthy the end, is certain to encourage disrespect for the law and its officers. If the law is to be honored, it must be by those who enforce it.

## Article 5: Cooperation with Public Officials in the Discharge of Their Authorized Duties

The law enforcement officer shall cooperate fully with other public officials in the discharge of authorized duties, regardless of party affiliation or personal prejudice. He shall be meticulous, however, in assuring himself of the propriety, under the law, of such actions and shall guard against the use of his office or person, whether knowingly or unknowingly, in any improper or illegal action. In any situation open to question, he shall seek authority from his superior officer, giving him a full report of the proposed service or action.

**Article 6: Private Conduct**

The law enforcement officer shall be mindful of his special identification by the public as an upholder of the law. Laxity of conduct or manner in private life, expressing either disrespect for the law or seeking to gain special privilege, cannot but reflect upon the police officer and the police service. The community and the service require that the law enforcement officer lead the life of a decent and honorable person. Following the career of a police officer gives no person special perquisites. It does give the satisfaction and pride of following and furthering an unbroken tradition of safeguarding the American republic. The officer who reflects upon this tradition will not degrade it. Rather, he will so conduct his private life that the public will regard him as an example of stability, fidelity, and morality.

**Article 7: Conduct Toward the Public**

The law enforcement officer, mindful of his responsibility to the whole community, shall deal with individuals of the community in a manner calculated to instill respect for its laws and its police service. The law enforcement officer shall conduct his official life in a manner such as will inspire confidence and trust. Thus, he will be neither overbearing nor subservient, as no individual citizen has an obligation to stand in awe of him nor a right to command him. The officer will give service where he can, and will require compliance with the law. He will do neither from personal preference or prejudice but rather as a duly appointed officer of the law discharging his sworn obligation.

**Article 8: Conduct in Arresting and Dealing with Law Violators**

The law enforcement officer shall use his powers of arrest strictly in accordance with the law and with due regard to the rights of the citizen concerned. His office gives him no right to prosecute the violator nor to mete out punishment for the offense. He shall, at all times, have a clear appreciation of his responsibilities and limitations regarding detention of the violator. He shall conduct himself in such a manner as will minimize the possibility of having to use force. To this end, he shall cultivate a dedication to the service of the people and the equitable upholding of their laws, whether in the handling of law violators or in dealing with the law abiding.

**Article 9: Gifts and Favors**

The law enforcement officer, representing government, bears the heavy responsibility of maintaining, in his own conduct, the honor and integrity of all government institutions. He shall, therefore, guard against placing himself in a position in which any person can expect special consideration or in which the public can reasonably assume that special consideration is being given. Thus, he should be firm in refusing gifts, favors or gratuities, large or small, which can, in the public mind, be interpreted as capable of influencing his judgment in the discharge of his duties.

**Article 10: Presentation of Evidence**

The law enforcement officer shall be concerned equally in the prosecution of the wrong-doer and the defense of the innocent. He shall ascertain what constitutes evidence and shall present such evidence impartially and without malice. In so doing, he will ignore social, political, and all other distinctions among the persons involved, strengthening the tradition of the reliability and integrity of an officer's word.

**Article 11: Attitude Toward Profession**

The law enforcement officer shall regard the discharge of his duties as a public trust and recognize his responsibility as a public servant. By diligent study and sincere attention to self-improvement, he shall strive to make the best possible application of science to the solution of crime, and in the field of human relationships, shall strive for effective leadership and public influence in matters affecting public safety. He shall appreciate the importance and responsibility of his office and shall hold police work to be an honorable profession rendering valuable service to his community and country.

IACP Canons of Police Ethics, adopted 37 *Tex. Admin. Code* § 1.113

# PHILOSOPHY, VALUES, VISION AND MISSION

## Philosophy of the Austin Police Department

The protection of life is the primary core value and guiding principle of the Austin Police Department. As such, all employees will strive to preserve human life while recognizing that duty may require the use of deadly force, as a last resort, after other reasonable alternatives have failed or been determined impractical. The department's basic goal is to protect life, property, and to preserve the peace in a manner consistent with the freedom secured by the United States Constitution. It is our duty to guarantee these inalienable rights in strict accordance with the highest principles of our society. Operating with the statutory and judicial limitations of police authority, our role is to enforce the law in a fair and impartial manner. It is not our role to legislate, render legal judgment, or punish.

Employees should, by professional attitude and exemplary conduct, ensure all persons are treated with respect and courtesy. Employees should be cognizant of the fact that they are a part of the community they serve and are accountable to the community for their decisions and the consequences of those decisions. Employees should make every effort to involve the community in problem solving, crime suppression, and crime prevention. Employees should strive to know the residents they serve. Positive contact between employees and residents will enhance the public understanding of the employee's role in society and help build partnerships from which crime and fear of crime can be reduced.

Knowledge of the law itself and the ability to understand those ideals upon which the law is built are the cornerstones of law enforcement. Compassion and discretion will play an important role within the philosophy of any employee.

Employees of the Department are professionals. We must realize our main responsibility is the protection of the community and the preservation of human life and dignity. We are guided by the philosophy set forth here and the policies and procedures incorporated into this and other Department manuals.

## Department Values - I. C.A.R.E.

**I**ntegrity - the cornerstone of police work; without it, public trust is lost.

**C**ourage - to make the right professional decision.

**A**ccountable - to the community, the Department, and coworkers.

**R**espect - of the community, the Department, and most importantly, self.

**E**thical - professional actions and decision making.

**Vision Statement**

To be respected and trusted by all segments of Austin's diverse community.

**Mission Statement**

To keep you, your family, and our community safe.

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# Chapter 1 - Department Organization and Administration

# Law Enforcement Authority

## 100.1 PURPOSE AND SCOPE

Law enforcement officers are granted the authority to perform their functions based on established legal authority. This department does not tolerate abuse of law enforcement authority.

## 100.2 PEACE OFFICER POWERS

Sworn members of this department shall be considered peace officers pursuant to Tex. Code of Crim. Pro. art. 2.12. The authority of any such peace officer extends to any place in the State of Texas and assigns the duty to every peace officer to preserve the peace within the State of Texas and their jurisdiction through all lawful means. A peace officer shall perform the duties as required under the Tex. Code of Crim. Pro. art. 2.13.

Special or limited peace officer powers or authority to arrest may be granted to others as specified in Tex. Code of Crim. Pro. art. 2.121 - 2.125.

## 100.3 CONSTITUTIONAL REQUIREMENTS

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

## 100.4 LAW ENFORCEMENT JURISDICTION

Employees should be aware that there are numerous law enforcement agencies within and surrounding the City. These agencies have jurisdiction within the confines of their geographical boundaries or areas of control. This includes, but is not limited to, the following:

(a) Federal law enforcement officers possess full federal authority nationwide as given to them under the United States Code (U.S.C.). Federal Law Enforcement Officers are authorized to enforce various laws at the federal, state, county, and local level. The Federal Building in Austin is a federal reservation. The Federal Police have patrol jurisdiction and the FBI has investigative jurisdiction.

(b) The Department of Public Safety (DPS) is a state entity which has statewide jurisdiction to conduct criminal investigations, issue traffic citations, and investigate intra-state crashes. This includes the Texas Rangers and DPS Troopers.

(c) Sheriff's Offices are county level entities which have jurisdiction to conduct criminal investigations and enforce County Ordinances within their county. They have statewide jurisdiction to arrest for any criminal offense committed within their presence or view. They have countywide jurisdiction to issue traffic citations. Local Sheriff's Offices includes the Travis County Sheriff's Office (TCSO), the Williamson County Sheriff's Office (WCSO) and the Hays County Sheriff's Office (HCSO).

(d) Constable Offices are county level entities which have countywide jurisdiction to serve civil process and conduct criminal investigations. They have statewide jurisdiction to serve warrants and arrest for any criminal offense committed within their presence or view. They have countywide jurisdiction to issue traffic citations. Constable Offices are broken up into Precinct's and Travis County has five (5) Constable Precincts.



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(e) Municipal Police Departments are city level entities which have citywide jurisdiction to conduct criminal investigations. They have jurisdiction in their municipality and concurrent counties to issue traffic citations and statewide jurisdiction to arrest for any criminal offense committed within their presence or view. The Austin Police Department is a Municipal Police Department.

(f) Independent School Districts (ISD) and higher education police have concurrent jurisdiction on school property. This includes, among others, Austin Community College Police, Austin Independent School District Police (AISD-PD) and The University of Texas Police Department (UTPD).



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# Chief Executive Officer

## 102.1 PURPOSE AND SCOPE

The Texas Commission on Law Enforcement Officer Standards and Education (TCLEOSE) has mandated that all sworn officers and dispatchers employed within the State of Texas shall receive initial certification by TCLEOSE within prescribed time periods.

### 102.1.1 CHIEF EXECUTIVE OFFICER REQUIREMENTS

Any chief executive officer of this department shall, as a condition of continued employment, complete the course of training prescribed by TCLEOSE and obtain the Basic Certificate by TCLEOSE within the time frame prescribed by Tex. Educ. Code § 96.641 (Tex. Occ. Code § 1701.358).



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# Oath of Office

## 104.1 PURPOSE AND SCOPE

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

### 104.1.1 OATH OF OFFICE

Upon employment, all sworn employees shall be required to affirm and sign the oath of office expressing commitment and intent to respect constitutional rights in discharging the duties of a law enforcement officer. The oath shall read as follows:

"I _____, do solemnly swear that I will faithfully and impartially discharge and perform all duties incumbent upon me as a Police Officer of the City of Austin, according to the best of my skill and ability, agreeable to the Constitution and laws of the United States and the State of Texas.

I further solemnly swear that I will be faithful to the demands for truth and honesty, as established by my profession and the Austin Police Department. I will devote my efforts and skills to the honorable profession of policing, and to the service of the neighborhoods and individuals of this community, the City of Austin.

So help me God."

### 104.1.2 CODE AND CANONS OF ETHICS

All sworn employees shall adhere to the Code of Ethics and Canons of Police Ethics in the Policy Manual preface, as adopted by the International Association of Chiefs of Police (IACP).



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# Department Manuals

## 106.1 PURPOSE AND SCOPE

Department manuals are the written procedures, guidelines and rules that formulate Department policies to provide employees with clear information and direction as to the expectations and responsibilities relating to the performance of their duties. This policy defines the use of each type of manual, restricts the authority to issue, and provides distribution and maintenance guidelines to ensure that all personnel become acquainted with the contents of any manual affecting their position.

### 106.1.1 LEGALITY OF CONTENTS

If any section, subsection, item, clause, or phrase contained in any written directive is found to be illegal or otherwise incorrect or inapplicable, such finding shall not affect the validity of the remaining portions of the written directive.

## 106.2 GENERAL GUIDELINES

(a) Due to the amount of information needed to operate an organization the size and complexity of the Austin Police Department, Department Manuals are compiled into the following:

1. Policy Manual.
2. Special Orders.
3. Standard Operating Procedure Manuals.
4. Operations Manuals.

(b) The Chief is the ultimate authority for the provisions of Department Manuals and will ensure compliance with all applicable Texas law.

(c) The Chief or designee may approve and authorize exceptions to individual provisions within any Department Manual or directive.

1. Exemptions may be made after a legitimate business need has been clearly articulated and it is determined that failure to provide the exemption would severely interfere with a person's or work group's ability to achieve department goals (e.g. Undercover officers having to comply with all provisions of the Dress and Grooming Code).
2. Exemptions will not necessarily be referenced within the directives; however, it is the responsibility of the assistant chiefs and commanders to ensure that any exemptions are documented in a form where they can be identified and verified. All exemptions will require periodic review to determine their continued applicability and/or the need for alteration.
3. Exemptions will not be authorized which allow employees to infringe upon residents' rights to be treated fairly, humanely, and equitably under the law.

### 106.2.1 DEFINITIONS

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



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**City** - The City of Austin (as a government entity).

**Civilian/Non-Sworn** - an employee of the Austin Police Department having no arrest authority as defined for sworn officers. Civilian personnel may be employed and affiliated with APD in a variety of supporting roles, and may be uniformed, but lack the authority to make a full-custody arrest.

**Department/APD** - The Austin Police Department.

**Employee/Member/Personnel** - All persons employed by the Austin Police Department. This includes sworn officers, civilian employees, unpaid interns and volunteers.

**Child** - Generally any person under the age of 17 years. Certain sections of policy may differ in the age range of a Child due to statute specifications.

**Manual** - The Austin Police Department Policy Manual.

**Officer/Sworn** - An employee of the Austin Police Department who is commissioned by the City of Austin as a law enforcement officer and granted those general peace officer powers prescribed by constitution, statute, or ordinance in the jurisdiction.

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

**TCLEOSE** - The Texas Commission on Law Enforcement Officer Standards and Education.

**Rank** - The job classification title held by a sworn employee.

### 106.2.2 FORMATTING AND ABBREVIATION CONVENTIONS

(a) The following formatting conventions will be used for each Department Manual and directive:

1. The document will begin with a scope and purpose statement and conclude with specific directive information.
2. The subject of the document will be included in the header and the published date will be included in the footer.

(b) The following are acceptable substitutions:

1. Special Orders may be abbreviated as "SO."
2. An individual policy may be referenced as "Policy X."
3. Individual sections of a policy may be referenced as "Section 106.X" or "§ 106.X."

### 106.2.3 GRAMMATICAL CONSTRUCTION OF MANUALS

(a) The meaning of words or phrases not specifically defined shall be interpreted to have the meaning and intent established in common usage.

(b) No exception to directives will be made based on verb tense, gender, or number. The following rules of grammar shall apply throughout all Department Manuals and directives:

1. Present tense wording includes the past and future; Future tense wording includes the present.
2. The use of a specific gender is inclusive of all genders.



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3. The use of the singular number includes the plural, and the plural includes the singular.
4. Verb forms:
   (a) The words "shall", "will", and "must" are mandatory in intent and are used to specify a required action.
   (b) The word "should" is advisory in intent. While not mandatory, an advised action should be followed if the situation permits and the action is deemed practical.
   (c) The word "may" is permissive.
5. The use of "e.g.," means "for example;" its use is not intended to be an all-inclusive list.

### 106.2.4 ACKNOWLEDGMENT OF DEPARTMENT MANUALS AND MANUAL REVISIONS

(a) As a condition of employment, all employees are required to electronically or physically sign a statement of receipt acknowledging that the employee:
   1. Has received a copy or has been provided electronic access to the Policy Manual; and
   2. Is responsible for reading and becoming familiar with the Policy Manual; and
   3. Will obtain any necessary clarification of the Policy Manual; and
   4. Will keep abreast of all revisions to the Policy Manual.

(b) Supervisors/managers will ensure their employees are issued any applicable SOP(s) and/or Ops Manual(s) specific to that work assignment.
   1. Employees are required to electronically or physically sign an issuance receipt upon receiving an SOP and/or Ops Manual.
   2. Physical issuance logs will be maintained by the Unit Supervisor.

(c) Supervisor/managers will ensure their employees are made aware of any applicable Department Manual revision.
   1. Employees are required to electronically or physically sign an issuance receipt upon receiving an update to any Department Manual.
   2. Physical issuance logs will be maintained by the Unit Supervisor.

## 106.3 POLICY MANUAL

The Policy Manual is a statement of the current policies and general practices of the Department. Except where otherwise expressly stated, all employees are to conform to the provisions of this manual. It is recognized, however, that police work 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 the Department under the circumstances reasonably available at the time of any incident.

(a) All prior and existing manuals, orders and regulations which are in conflict with this manual are revoked, except to the extent that portions of existing manuals, orders and other regulations which have not been included herein shall remain in effect where they do not conflict with the provisions of this manual.



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(b) A computerized version of this Policy Manual will be made available on the Department network for access by all employees.

(c) The Policy Manual, as amended by subsequent Special Orders, shall stand over all other Department directives.

## 106.4 SPECIAL ORDERS

Special Orders 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 Meet and Confer agreement.

(a) Special Orders will immediately modify or change, and supersede, sections of this manual to which they pertain. Special Orders may also establish a temporary policy or procedure on a given subject for a specific length of time.

(b) Special Orders may be issued to the organization as a whole, to specific part of the Department, or to an individual thereof.

(c) Special Orders will have the force and effect of a General Order until its expiration or the change is incorporated into a General Order. Special Orders will be incorporated into the manual as required upon final approval of the Chief of Police.

(d) Special Orders will be numbered consecutively, starting with the four digit number of the year, followed by the number "01." For example, 2011-01 signifies the first Special Order for the year 2011.

## 106.5 STANDARD OPERATING PROCEDURE MANUALS

Standard Operating Procedure (SOP) Manuals contain procedures and guidelines specific to a rank, Unit, Command, or multiple Commands.

(a) Procedures contained in SOP Manuals shall not conflict with the policies, procedures or rules established in the Policy Manual. However, exceptions to specific parts of the Policy Manual may be approved by an assistant chief/director.

(b) SOP Manuals are generally considered public documents; information of a sensitive law enforcement nature should therefore be included in an Operations Manuals.

(c) SOP Manuals that encompass an entire Command of the Department shall take precedence over SOP manuals that encompass a specific Unit within that Command.

## 106.6 OPERATIONS MANUALS

Oftentimes a need arises for extremely detailed procedural information of a confidential nature. This information will be placed in an Operations Manual (Ops Manual) and kept separate from the SOP Manuals. Due to their inherent sensitive law enforcement nature, Ops Manuals are not considered public documents.

(a) Manuals of this nature have the same force and effect as an SOP Manual. Procedures contained in these Manuals shall not conflict with the policies, procedures, or rules established in the Policy Manual. However, exceptions to specific parts of the Policy Manual may be approved by an assistant chief/director.

(b) These Manuals may consist of materials produced professionally by a source outside of the Department, in addition to any intra-departmentally produced information.

(c) Materials may be included in these manuals due to:

1. Their detailed and extensive nature.
2. Their applicability to a very limited number of employees.



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3. A need to maintain confidentiality of the information (e.g., investigative strategy) within a specific work group.

## 106.7 REVISION OF DEPARTMENT MANUALS

Any Department employee may suggest a revision to a Department Manual. Employee's suggesting a revision of the contents to a Department Manual shall complete a *Request for Revision to Policy/Procedure/SOP* form.

(a) Revision requests that affect multiple Commands (e.g. Patrol, District Representatives, Sector Detectives) or the entire Department will be forwarded through the employee's chain-of-command to the Risk Management Unit or directly to APDPolicy@austintexas.gov on form PD0057.

(b) Revision requests that affect a single Command will be forwarded through the employee's chain-of-command to the appropriate commander/manager. If approved by the appropriate commander/manager, the revision request will be forwarded to the Risk Management Unit or directly to APDPolicy@austintexas.gov on form PD0057

(c) Final approval for revision requests are handled as follows:

1. Policy Manual revisions require the final approval of the Chief of Police.
2. Patrol SOP revisions require the final approval of the affected commanders and assistant chiefs.
3. All other SOP and Ops Manual revisions require the final approval of the affected commanders/managers.
4. A signed copy of the approved revisions will be sent to the Risk Management Unit.

### 106.7.1 RISK MANAGEMENT UNIT

The Policy Development Unit is responsible for:

(a) Coordinating the submission of Department Manual revision requests to the Policy Review Committee and Command/Executive Staff, as appropriate.

(b) Implementing all approved Department Manual revisions into a Special Order.

(c) Integrating all outstanding Special Orders into the affected Department Manual as needed.

(d) Maintaining the current version and archiving all previous versions of all Department Manuals.

### 106.7.2 POLICY REVIEW COMMITTEE

The Policy Review Committee (PRC) is responsible for reviewing proposals for revisions to Department policy that would impact the entire Department or multiple Commands. The PRC shall adhere to the following procedures:

(a) The PRC will meet monthly to review the quarterly changes recommended to the Policy Manual, or on an as needed basis to initiate or review internally proposed revisions to applicable Department Manuals.

(b) In order for a PRC meeting to convene, a quorum of at least fifty percent of the members of the PRC must be in attendance for the entirety of the meeting.

(c) The PRC will ensure proposed changes do not contradict existing agency directives or applicable laws.



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(d) Nothing in this policy shall preclude the Chief from directly approving a Department policy or from appointing a focus group to review any policy revision and provide feedback in those areas where there is no consensus, the issues are complex, and/or exigent circumstances exist.

## 106.8 REVIEW OF DEPARTMENT MANUALS

(a) The Chief of Police will cause the entire Policy Manual to be reviewed and updated as necessary to ensure it conforms to actual Department operations and complies with law.

(b) Commanders/managers will cause their affected SOP and Ops Manuals to be reviewed and updated as necessary to ensure it conforms to actual Department operations and complies with law.

1. A complete up-to-date copy of each SOP and Ops Manual shall be submitted to the Risk Management Unit by December 1 of each year, regardless of whether there have been any revisions.



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# Organizational Structure and Responsibility

## 110.1 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.

## 110.2 SWORN RANKS ESTABLISHED

Sworn employees are classified by the following ranks:

(a) Chief of Police.

(b) Assistant Chief of Police.

(c) Commander.

(d) Lieutenant.

(e) Sergeant.

(f) Corporal/Detective.

(g) Police Officer.

### 110.2.1 CHIEF OF POLICE

The Chief of Police is the director of the Department and assumes responsibility for the overall management of the organization, authorizes the institution of programs which keep APD effective in responsiveness to a wide variety of community needs, and guides the Department in progressive leadership and technology arenas. The Chief is responsible for keeping the City Manager informed of Department activities and accomplishments.

### 110.2.2 ASSISTANT CHIEF OF POLICE

(a) Assistant chiefs assume management responsibility over all matters relating to the fulfillment of the functions within their Command. Assistant chiefs work in conjunction with each other to provide unified direction to the multiple segments of the organization, assisting the Chief in the management of the agency.

(b) One assistant chief is designated as Chief of Staff. In addition to any other duties incumbent upon the position of an assistant chief, this person will serve in the absence or unavailability of the Chief, be the Chief's direct designee in all matters, and coordinate the activities of the other assistant chiefs. The Chief of Staff is responsible for the daily management of Department Operations.

### 110.2.3 COMMANDER

Commanders exercise line command over the employees assigned to them and assume staff responsibility over matters relating to the operations within their assigned command.

### 110.2.4 LIEUTENANT

Lieutenants exercise line command and provide advice and guidance to those employees assigned to them, as well as being responsible for keeping the respective commander informed about the activities and accomplishments of those employees.



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### 110.2.5 SERGEANT

Sergeants exercise line command over the employees of their assigned unit and function as the first line supervisory level within the Department. They are responsible for ensuring service delivery, compliance with policy, make recommendations to their lieutenants for improvements in operations, and to guide, train, direct, and motivate those they supervise.

### 110.2.6 CORPORAL/DETECTIVE

(a) Corporals/detectives are responsible for:

1. Ensuring service delivery, employee compliance with policy, and making recommendations to the sergeant for operation improvements.
2. Conducting criminal investigations, interviewing witnesses and suspects, and assisting crime victims in filing complaints for criminal acts committed against them.
3. Serving as training instructors and in other non-enforcement roles for the Department.

(b) Corporals/detectives will exercise line command over the employees of their assigned Unit in the absence of the sergeant due to approved leave, training, or a special assignment.

(c) Corporals/detectives may be given limited supervisory authority to support the role of the sergeant.

(d) Corporals may not be hired to work overtime in a supervisory role.

### 110.2.7 POLICE OFFICER

Police officers make up the majority of the Department's sworn personnel and often are the first to make contact with the public. Assignments vary in content but generally include patrol and community interaction. They are responsible for keeping their respective supervisors informed about their activities and accomplishments.

## 110.3 DEPARTMENT ORGANIZATION AND COMMAND PROTOCOL

APD's ability to make organizational adjustments to meet changing needs is essential in order to maximize the use of assigned resources. To ensure stability, the basic Department structure should not be changed in the absence of a demonstrated need brought about by changing community conditions. Redistribution of personnel and resources may occur as a result of any Department reorganization. APD-HR will maintain personnel allocation information.

### 110.3.1 SUCCESSION OF COMMAND

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

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

1. Chief of Staff.
2. An assistant chief, in order of seniority.
3. A commander, in order of seniority.



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### 110.3.2 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.

### 110.3.3 SPAN OF CONTROL

The number of employees under the immediate management of a single supervisor should not normally exceed fifteen (15). However, when staffing requirements are anticipated to exceed fifteen per supervisor, the span of control should be based upon the complexity/variety of the tasks of subordinates and the potential for a supervisor to adequately oversee the number of employees involved.

### 110.3.4 DELEGATED AUTHORITY

At all levels of the Department, authority will be delegated to employees to make decisions necessary for the effective execution of their responsibilities. Employees are accountable for the use of, or the failure to use, delegated authority.

### 110.3.5 DETERMINATION OF SENIORITY

(a) The senior officer at a police incident shall be determined by rank, then by seniority within rank.

(b) Seniority of civilian employees shall be determined as follows:

1. Competent authority will designate a person to be in charge of a particular situation or group.
2. In the absence of designation of command, seniority will be determined by job classification, then by length of continuous service within the classification.

## 110.4 EMPLOYEE RESPONSIBILITIES

Employees are at all times individually responsible for conducting themselves in a professional and ethical manner and for treating coworkers with respect and dignity. The intent of this section is to clearly state that unprofessional behavior will not be tolerated in the workplace. Employees shall maintain loyalty to the Department as is consistent with the law and personal ethics.

### 110.4.1 CHAIN-OF-COMMAND

Employees are responsible for knowing their chain-of-command and operating within it except when impractical to do so.

(a) If an employee bypasses the chain-of-command, the employee will notify his affected supervisor as soon as practical.

(b) When a written directive requires an employee notify an immediate supervisor and the immediate supervisor is not readily available, the employee will:

1. Notify the person designated as the acting supervisor; or
2. Notify his next-level manager; or
3. Notify another supervisor of equal rank/grade with similar responsibilities (e.g., another patrol sergeant, another forensics supervisor).



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### 110.4.2 AUTHORITY AND ACCOUNTABILITY

Delegation of authority is essential to the good working order of any organization.

(a) Employees shall exercise the responsibility and authority of the position to which they are assigned in accordance with the job specifications and work rules of that agreement.

(b) Authority to complete a task shall be commensurate with the responsibility placed on employees by the supervisor.

(c) Supervisors are ultimately responsible for the action of themselves and their subordinates; supervisors who delegate tasks to subordinate employees are ultimately accountable for ensuring the task is completed.

(d) Employees shall be held accountable for their use, or failure to use, their delegated authority.

### 110.4.3 OBEDIENCE TO ORDERS

The Department is an organization with a clearly defined hierarchy of authority. This is necessary because obedience of a superior's lawful command is essential for the safe and prompt performance of law enforcement operations. This section also applies to orders received by an employee in the field training program from a Field Training Officer (FTO).

(a) Orders from a supervisor to a subordinate will be in clear and understandable language, civil in tone, and issued pursuant to departmental business.

(b) Employees will not publicly criticize nor comment derogatorily to anyone about instructions or orders they have received from a supervisor.

(c) Employees will promptly obey any lawful order from a supervisor of higher rank, regardless if the supervisor is outside of the employees' chain-of-command.

    1. Employees will obey any lawful order from a supervisor even if the order is relayed through an employee of a lower rank.

(d) Employees who are given an otherwise proper order which appears to be in conflict with an existing policy or previous order will respectfully inform the supervisor issuing the order of the conflict.

    1. If the supervisor issuing the order does not alter or retract the conflicting order, the order will stand.

    2. The supervisor issuing the conflicting order will be responsible for the consequences, if any, of the conflicting order.

(e) Employees who are given an order which they believe violates a provision of a Meet and Confer Agreement, constitutes a safety hazard, or is in some other way improper, will respectfully inform the supervisor issuing the order of such belief.

    1. If the supervisor does not alter or retract the order, the order will stand and will be obeyed.

    2. The employee may initiate a formal grievance to seek redress.

(f) Unlawful orders are prohibited.

    1. Supervisors will not knowingly or willfully issue any order which is a violation of any law.

    2. Employees will not obey an order that is a violation of any law.



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(a) Responsibility for refusal to obey rests with the employee and he will be strictly required to justify the action.

(b) Obedience to an unlawful order is not considered a defense for an unlawful action.

3. If in doubt as to the legality of an order, employees will either request clarification of the order or confer with higher authority.

   (a) An employee receiving an unlawful order will notify the issuing supervisor that compliance with the order, as issued, is unlawful.

   (b) If the supervisor does not rescind the order, the employee will request the presence of the next-level supervisor in the chain-of-command.

   (c) The supervisor will contact the next-level supervisor and request his presence at the scene.

4. An employee receiving an unlawful order will report that fact in writing to the Chief by memorandum through the next-level supervisor in the chain-of-command as soon as practicable. The memorandum will contain the facts of the incident and the actions taken.

### 110.4.4 INSUBORDINATION

Employees will not be insubordinate. The willful disobedience of, or deliberate refusal to obey any lawful order of a supervisor is insubordination. Defying the authority of any supervisor by obvious disrespect, arrogant or disrespectful conduct, ridicule, or challenge to orders issued is considered insubordination whether done in or out of the supervisor's presence



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# APD Standing Committees

## 111.1 PURPOSE AND SCOPE

The policy sets forth the established standing committees of the Department.

## 111.2 STANDING COMMITTEES AND BOARDS

The following standing committees and boards exist within the Department and are coordinated by the following assistant chiefs:

(a) Awards Committee-Assistant Chief Brian Manley

(b) Budget Committee- Assistant Chief Troy Gay (with Assistant Director Alice Suter continuing to provide Executive Liaison support)

(c) Chaplain Advisory Committee- Assistant Chief Patrick Ockletree

(d) Fleet and Equipment Committee- Assistant Chief Troy Gay

(e) Force Review Board- Assistant Chief Brian Manley

(f) Funeral Committee- Assistant Chief Patti Robinson

(g) Homeland Security Committee- Chief of Staff David Carter

(h) Policy Review Committee- Assistant Chief Raul Munguia

(i) Training Curriculum- Assistant Chief Brian Manley



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# Administrative Communications

## 114.1 PURPOSE AND SCOPE

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

## 114.2 PERSONNEL DIRECTIVES

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

## 114.3 DEPARTMENT CORRESPONDENCE

All Department correspondence must be delivered though the sender's chain-of-command and cannot be stopped by anyone until it reaches the addressee. Employees will use the appropriate Department memorandum or form when composing and submitting Department correspondence.

### 114.3.1 INTERNAL CORRESPONDENCE

Internal correspondence consists of correspondence from a Department employee to another employee or group within the Department (e.g., memorandum, PRF). Employees will use the appropriate Department memorandum or form when submitting internal correspondence.

(a) Internal correspondence should be submitted electronically in order to conserve physical resources and to provide an electronic record or history of the document, when practicable.

1. Correspondence that requires the sender's signature should be submitted on paper; however, correspondence that requires only the addressee's signature can be submitted electronically.
2. Correspondence that is submitted on paper but could otherwise be submitted electronically (e.g., memoranda) must be initialed or signed by the sender and each recipient.
3. Internal memoranda will not be altered by any recipient within the chain-of-command although individual notes may be added or attached.

(b) Correspondence forwarded through the chain-of-command shall be delivered to the addressee within a reasonable time of initial receipt.

(c) Employees may request a reply from the addressee to address the issue or confirm receipt of the correspondence; however, the addressee is not required to provide one unless the request is from a designee of the Chief (e.g., IA, SIU) or from a supervisor of a higher rank.

1. Employees who do not receive a requested response from an addressee within a reasonable amount of time may go to each level in their chain-of-command, starting with their immediate supervisor and up to the addressee, in order to confirm that the correspondence was received.



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### 114.3.2 EXTERNAL CORRESPONDENCE

External correspondence consists of correspondence from a Department employee to a person or group outside the Department.

(a) External correspondence will be written on Department letterhead.

(b) In order to ensure that letterhead and name of the Department are not misused, Department letterhead shall only be used for official business and with the approval of the appropriate commander.

## 114.4 SURVEYS

Surveys made in the name of the Department require authorization from the Chief of Police or designee. Surveys made for internal purposes should be approved by the appropriate supervisor.



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# Forms Control

## 115.1 PURPOSE AND SCOPE

This policy establishes directives over the development, modification, review, and approval of APD forms to ensure accountability. This directive does not apply to forms supplied by other agencies and used by Department employees.

## 115.2 FORMS CONTROL

The Inspections Unit is responsible for the coordination of forms development and control process.

(a) The Inspections Unit will conduct an annual review of APD forms to ensure:

1. Each APD form is assigned an appropriate APD form number.
2. Information on Department forms is not duplicated.
3. New and modified forms include the functions the form will be used for.
4. The format is consistent with the records maintenance and data-processing requirements of the Department.
5. The master roster of all APD forms is updated.

### 115.2.1 DEVELOPMENT, MODIFICATION, REVIEW, AND APPROVAL OF DEPARTMENT FORMS

Requests for the development, modification, or review of any APD form will be made by memorandum through the chain-of-command to the employee's commander/manager.

(a) The memorandum should contain:

1. Purpose of the development, modification, or review of the form; and
2. Effect on other Department written directives; and
3. Department areas that use or will use the form.

(b) Commanders/managers will make a recommendation regarding the request. If the request is approved, forward it to the forms control coordinator in the Inspections Unit.

(c) The Chief or designee will approve any APD form prior to use.

### 115.2.2 REPRODUCTION OF EXISTING FORMS

No blank APD forms will be reproduced without the APD form number printed on the document.



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# Security and Release of Records and Information

## 116.1 PURPOSE AND SCOPE

The purpose of this section is to establish a comprehensive reference and procedure for the maintenance and release of department reports and records in accordance with applicable law and in compliance with the Meet and Confer Agreement.

This policy does not prevent the Department from voluntarily making part or all of specific information available to the public, unless disclosure is expressly prohibited by law or the information is confidential under law (Tex. Gov't Code § 552.007; Local Gov't Code § 143.089).

## 116.2 PUBLIC REQUESTS FOR RECORDS

Records created by this agency are subject to inspection and release to the public unless otherwise expressly exempt from public disclosure by statute or judicial order (Tex. Gov't Code § 552.001). Public requests for records of this department shall be processed in accordance with Texas Government Code, Chapter 552, regarding public information and this policy.

The Department shall prominently display a sign that contains the basic rights of a person who requests public information, the responsibilities of the Department and the procedures, including fees, for inspecting or obtaining copies of records (Tex. Gov't Code § 552.205).

The Tex. Gov't Code § 552.001 provides that records created by a public agency shall be subject to inspection and release pursuant to request, except pursuant to exemptions set forth in Chapter 552 of the Texas Government Code or otherwise established by statute or judicial order. Public requests for records of this department shall be processed as follows:

### 116.2.1 PROCESSING OF REQUESTS

Any member of the public, including the media, may request access to unrestricted records of this department by submitting a separate written request for each individual and specifically identified record sought to an authorized employee during normal business hours (Tex. Gov't Code § 552.021). Requests shall be completed as soon as possible under the specific circumstances of the request (Tex. Gov't Code § 552.221).

The processing of requests is subject to these limitations:

(a) The authorized receiving employee shall determine if the requested record is available and/or subject to any exemption from disclosure. Processing of such requests may take up to 10 days.

(b) The requesting party shall be required to pay in advance any established fee for each record sought (Tex. Gov't Code § 552.261).

(c) The Department shall not be required to create records which do not otherwise exist; however, existing records may be copied in such a manner as to provide the requesting party with unrestricted portions of any record.



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### 116.2.2 RECEIPT OF PUBLIC INFORMATION (OPEN RECORDS) REQUESTS

The Public Information Act requires governmental bodies to respond promptly to written requests for information. "Promptly" means as soon as possible under the circumstances and without unreasonable delay. Failure to comply with the Act may result in the mandatory release of information that otherwise could have been withheld. The statute also contains civil and criminal penalties for intentional violations.

(a) Upon receipt of a written request for information, employees will hand-carry the request immediately to the Department's Open Records coordinator.

(b) With the exception of booking photos, employees shall not release information until it is cleared through the Department open records coordinator or Department legal advisor.

(c) After reviewing the request and the information being requested, the Open Records coordinator and the legal advisor will decide whether the information should be released or if a ruling request should be sought from the Attorney General's office.

(d) An Attorney General's decision must be requested within ten (10) business days after receiving the request.

## 116.3 REPORT RELEASE RESTRICTIONS

Absent a valid court order or other statutory authority, records and/or unrestricted portions of such records of this department shall be made public subject to the following restrictions.

### 116.3.1 GENERAL CASE AND CRIME REPORTS

Reports containing any of the items listed below will not be released:

(a) **Victim Information** - Victims of crimes who have requested that their identifying information be kept confidential (Tex. Code Crim. Pro. art. 57.02), victims who are minors and victims of certain offenses shall not be made public. It is a misdemeanor to release confidential victim information to unauthorized persons (Tex. Code Crim. Pro. art. 57.03).

(b) **Confidential Information** - 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 shall not be made public (Tex. Gov't Code § 552.108).

1. Analysis and conclusions of investigating officers may also be exempted from disclosure.
2. If it has been noted in any report that any individual wishes to protect his right to privacy under the Texas Constitution, such information may not be subject to public disclosure.
3. Information on the actual identity of any victim who has filed a pseudonym form (Tex. Code of Crim. Pro. §§ 57.02 and 57B.02).

(c) **Specific Crimes** - Certain types of reports involving, but not limited to, child abuse/neglect (Tex. Fam. Code § 261.201), minors and juveniles (Tex. Gov't Code § 552.148 and Tex. Fam. Code § 58.106) and elder abuse Tex. Hum. Res. Code § 40.005) shall not be made public. Certain individuals may be allowed redacted copies of child abuse or neglect reports; these records may be released only in accordance with Family Code § 261.201(k) and (l).



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(d) **General Information** - Absent 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 Tex. Gov't Code § 552.

### 116.3.2 ARREST REPORTS

Arrestee information shall be subject to release in the same manner as information contained in other reports as set forth above.

In addition to the restrictions stated above, all requests from criminal defendants and their authorized representatives, including attorneys, shall be referred to the District Attorney, City Attorney or the courts.

Local criminal history information including, but not limited to, arrest history and disposition, fingerprints and booking photos shall only be subject to release to those agencies and individuals as prescribed by law.

### 116.3.3 TRAFFIC CRASH REPORTS

Traffic crash reports and related supplemental reports are privileged and for the confidential use of only those identified by law. Employees shall not release traffic crash reports without the legal authority to do so. Among those who may legally obtain a traffic crash report are the following persons and entities (Tex. Transp. Code § 550.065):

(a) The court in which a case involving a party involved in the crash is pending, if the report is subpoenaed.

(b) The Department of Transportation

(c) A person who provides two or more of the following:

1. The date of the crash.
2. The specific address or the highway or street where the crash occurred.
3. The name of any person involved in the crash.

### 116.3.4 PERSONNEL RECORDS

Personnel records, medical records and similar records which would involve personal privacy shall not be made public (Local Gov't Code § 143.089).

Peace officer personnel records are deemed confidential and shall not be made public or otherwise released to unauthorized individuals or entities absent a valid court order.

### 116.3.5 INTERNAL AFFAIRS FILES

Subpoenas for documents or items from files maintained by Internal Affairs (IA) will be directed to the IA commander or lieutenant. No documents or items will be released pursuant to a subpoena without authorization from the APD legal advisor.

(a) Any open records request for IA files will be referred to the APD legal advisor. Open records requests can come directly from the general public or through the Civil Service Commission.

(b) Records will be released to the public only when authorized by law. All files that resulted in suspension of at least 1 day are subject to open records requests:

1. When IA is notified that an open records request has been received for a particular file, IA personnel will review the file to ensure information that is not



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related to the sustained allegation, which formed the basis of the disciplinary action, is redacted.

2. The APD legal advisor will be consulted before any file is released in relation to an open records request to ensure that any necessary redactions have been completed.
3. If the request is submitted through the Civil Service Commission, the original redacted case file will be transferred to the Commission as soon as possible to ensure compliance with the statutory deadline for responding to the open records request (10 business days or less).

## 116.4 OTHER RECORDS

Any other record not addressed in this policy shall not be subject to release where such record is exempted or prohibited from disclosure pursuant to state or federal law, including, but not limited to provisions of the Evidence Code relating to privilege.

Any record which was created exclusively in anticipation of potential litigation involving this department shall not be subject to public disclosure (Tex. Gov't Code § 552.111 and 552.103).

### 116.4.1 PERSONAL IDENTIFYING INFORMATION

Employees shall not access, use or disclose personal identifying information, including an individual's photograph, social security number, driver identification number, name, address, telephone number and the individual's medical or disability information, which is contained in any driver license record, motor vehicle record or any department record 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 and 18 USC § 2722).

## 116.5 SUBPOENA DUCES TECUM

Any subpoena duces tecum or discovery request should be promptly provided to a supervisor 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.

All questions regarding compliance with any subpoena duces tecum should be promptly referred to the Department's legal counsel so that a timely response can be prepared.

## 116.6 RELEASED RECORDS TO BE STAMPED

Each page of any record released pursuant to a subpoena duces tecum shall be stamped in red ink with a department stamp identifying the individual to whom the record was released.

## 116.7 PRIVACY AND SECURITY OF RECORDS

Austin Police Department employees shall not access, view, distribute, or allow anyone else to access, view, or distribute any hard copy or electronic record, file, or report, except in accordance with Department policy and with a legitimate law enforcement or business purpose, or as otherwise permissible by law.

All reports including, but not limited to, initial, supplemental, follow-up, evidence and property reports, shall be maintained in a secure manner accessible only to authorized APD personnel.



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## 116.8 RECORDS RETENTION

All records will be maintained in accordance with the Retention Schedule for Records of Public Safety Agencies prescribed by the Texas State Library and Archives Commission. A copy of the retention schedule may be obtained by contacting the Texas State Library and Archives Commission or by going directly to the Commission's website at http://www.tsl.state.tx.us/slrm/recordspubs/ps.html#2.2.

No employee shall dispose of any record maintained by this department without proper authorization and not before the expiration of its retention period.



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# Criminal History Record Information

## 118.1 PURPOSE AND SCOPE

This policy provides guidelines for the release of Criminal History Record Information (CHRI), security of that information and persons authorized to release and receive that information (Tex. Gov't Code §§ 411.082, 411.085, 411.087 and 411.089).

## 118.2 AUTHORITY

This policy is established pursuant to the mandates under Texas Government Code for the Department of Public Safety to maintain, control, disseminate the information and determine who has access to CHRI.

## 118.3 DEFINITIONS

**Criminal History Record Information** (CHRI) - Information collected about a person by a criminal justice agency that consists of identifiable descriptions and notations of arrests, detentions, indictments, informations and other formal criminal charges and their dispositions (Tex. Gov't Code § 411.082(2)).

**Criminal Justice Agency -** Is a federal or state agency that is engaged in the administration of criminal justice under a statute or executive order and that allocates a substantial portion of its annual budget to the administration of criminal justice, or a non-governmental railroad or campus police department that has obtained an originating agency identifier from the FBI (Tex. Gov't Code § 411.082(3)).

**Criminal Justice Purpose** - An activity that is included in the administration of criminal justice, or screening of applicants for employment with a criminal justice agency (Tex. Gov't Code § 411.082(4)).

**Authorized Recipient -** Any person or agency authorized by court order, statute or case law to receive CHRI.

## 118.4 AUTHORIZED RECIPIENTS OF CHRI

The Department is entitled to receive CHRI from the Texas Department of Public Safety (Tex. Gov't. Code § 411.089). CHRI may only be released to authorized recipients. All law enforcement personnel with proper identification are authorized recipients.

CHRI may be obtained by authorized recipients for criminal justice purposes only. The information may be disseminated via radio devices when needed and if necessary to another criminal justice agency for a criminal justice purpose (Tex. Gov't. Code § 411.089).

### 118.4.1 TERMINAL AGENCY COORDINATOR (TAC)

The Police Technology Lieutenant is the designated Terminal Agency Coordinator (TAC) for the Austin Police Department. The TAC is responsible for ensuring compliance with this procedure and with applicable records security regulations and requirements imposed by federal and state law, as well as resolving specific questions that arise regarding authorized recipients of CHRI.



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### 118.4.2 RELEASE OF CHRI

Only the persons listed below are authorized to release CHRI. Each authorized person releasing CHRI is responsible to ensure that each request granted appears legitimate and that the requester is an authorized recipient.

(a) Terminal Agency Coordinator.

(b) All Communications Center personnel.

(c) All sworn law enforcement personnel.

(d) Personnel specifically designated by the TAC and trained to receive CHRI information.

### 118.4.3 RELEASE OF CHRI TO FIELD PERSONNEL

CHRI shall not generally be transmitted by radio, cell phone, or through computer terminals to field personnel or vehicles except in cases where circumstances reasonably indicate that the immediate safety of the officer or the public are at significant risk. Examples of situations where the transmission of summary criminal history information would be justified include a hostage situation or an armed suspect; a routine investigation or traffic enforcement stop would not be sufficient justification.

(a) Personnel shall not have access to CHRI until a background investigation has been completed and approved.

(b) Nothing in this procedure is intended to prohibit broadcasting warrant information concerning wanted persons.

### 118.4.4 POLICE CADETS

Police cadets are authorized access to criminal history information only during their field training periods. Permission must be given by the Field Training Officer to whom they are assigned. Cadets will be required to sign the log sheet and enter the name of the officer who gave them permission.

## 118.5 JUVENILE RECORDS

Nothing in this procedure is intended to alter existing statutes, case law or the policies and orders of both the county's juvenile board and the designated juvenile court regarding the release of juvenile offender records. Juvenile records and information are confidential and may only be disclosed pursuant to Tex. Fam. Code § 58.005.

## 118.6 REVIEW OF CRIMINAL OFFENDER RECORD

The Texas Department of Public Safety provides the authority and procedure whereby an individual may review his own criminal history record (Tex. Gov't Code 411.135).

An individual seeking to review his arrest or conviction record should be directed to contact the Texas Department of Public Safety. The requirements and fees can be found at http://www.txdps.state.tx.us.

## 118.7 COMPUTER ACCESS AND DESTRUCTION OF CHRI

### 118.7.1 CHRI COMPUTER TERMINAL SECURITY

OMNIXX Computer terminals capable of providing access to automated CHRI are located at various locations throughout the Department.



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(a) No employee shall be authorized to operate computer terminal equipment with access to CHRI until the operator has completed the appropriate training.

(b) All OMNIXX computers will have a hardcopy log that shall be completed when accessing CHRI records.

### 118.7.2 DESTRUCTION OF CHRI

Employees are responsible for destroying CHRI documents they receive once the document has served the purpose for which it was obtained. Documents shall be destroyed by shredding.

### 118.7.3 RETENTION OF LOG INFORMATION

Hardcopy logs of accessed CHRI records shall be kept for a period of 3 years.

## 118.8 CERTIFICATION REQUIREMENT

All personnel authorized to process, view and/or release CHRI shall be required to maintain certification as required by the Texas Department of Public Safety.

## 118.9 PENALTIES FOR MISUSE OF RECORDS

The Tex. Gov't Code § 411.085 makes it a Class B misdemeanor to obtain CHRI in an unauthorized manner, to use the information for an unauthorized purpose, to disclose the information to a person who is not entitled to the information or to provide a person with a copy of the person's criminal history record information or to violate any rule pertaining to CHRI adopted by Department of Public Safety under state law. In addition, Tex. Gov't. Code § 411.085 makes it a second degree felony if the CHRI is obtained, used or disclosed for remuneration or the promise of remuneration. The following violations may also result in administrative penalties:

(a) Divulging the content of any criminal record to anyone other than authorized personnel.

(b) Obtaining or attempting to obtain information from department files other than that to which an employee is entitled in accordance with his official duties.

## 118.10 EXPUNCTION OF FILES

For the purposes of this section, "expunge" means to remove all data or materials relating to a particular arrest from all files in such a manner that there is no indication that such data or materials ever existed or have been removed.

(a) Expunction is done by physically destroying such data or materials, or by sending all such material to District Court pursuant to a court order. Expunction of files will be done in compliance with Chapter 55 of the Code of Criminal Procedure and will include any record(s), arrest and identification files from any section which would have such files.

(b) Expunction procedures may relate to:

1. Arrest records which are indexed, accessed, and filed by individual name, and which are retrieved by reference to name (such as "rap sheets").

2. Any data or materials identifying an individual, such as fingerprints, fingerprint classifications, photographs, or other items contained in an information system that are accessible by name, and which indicate any arrest or criminal offender information including, but not limited to, that contained in:



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(a) Arrest index cards (Identification).

(b) Computer data banks known offender files.

### 118.10.1 EXPUNCTION REQUESTS

(a) The APD legal advisor is designated as the recipient of requests for expunction. Any employee receiving a request for expunction of Department records shall immediately hand deliver the request to the legal advisor.

(b) The Identification Unit and Central Records Unit are the authorized coordinating bodies for implementing expunction procedures as ordered by the court.

1. All Department personnel will provide assistance and support to the Identification Section and Central Records Section in order to ensure compliance with this policy.

2. The Identification and Central Records managers or designees are responsible for returning all expunged records and files to the legal advisor in a timely manner.



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# Inspections

## 123.1 PURPOSE AND SCOPE

The inspection process compares Departmental formal expectations with actual performance. This process is an essential mechanism for evaluating the quality of departmental operations; ensuring that the Departmental goals are being pursued; identifying the need for additional resources; and ensuring control is maintained throughout the Department.

### 123.1.1 TYPES OF INSPECTIONS DEFINED

(a) Staff Inspection, An inspection performed by the Inspections Unit that generally focuses on agency procedures to promote an objective review of departmental administrative and operational activities, facilities, property, equipment, and personnel outside the normal supervisory and/or line inspection

(b) Line Inspection, An inspection performed at frequent intervals by line supervisors to ensure that departmental employees are adhering to established policies and procedures. Examples are:

1. Personal appearance (dress and groom),
2. Use and maintenance of equipment,
3. Driver's License, or
4. Weapon.

### 123.1.2 INSPECTION FREQUENCY AND RESPONSIBILITY

(a) Staff Inspections are conducted by the Inspections Unit as directed by the Chief of Police or his designee. Specific responsibilities of the Inspection Unit are outlined in the Risk Management SOP.

(b) Line Inspections are conducted by supervisors in accordance with:

1. Chapter 3, Field Operations, Custody, and Traffic Enforcement Guidelines,
2. Chapter 5, Field Support Operations, and
3. Chapter 8, Equipment Policies.

### 123.1.3 COMPLIANCE REQUIRED

The Inspection Unit acts under direct authority of the Chief of Police and compliance with a Staff Inspection is required.

(a) The Chief will receive an inspection report containing the recommendation(s) of the Inspections Unit. The report will contain the responses to those recommendations by the affected Commander(s).

(b) The Chief has final approval and/or appropriate disposition of the recommendations.

(c) Employees designated by the Chief, or his designee, with the responsibility for implementation, additional research and/or follow-up of the final recommendations shall adhere to the Chief's designated timeline



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# Watch Lieutenant

## 124.1 PURPOSE AND SCOPE

The Watch Lieutenant (WL) is a lieutenant that assists CTECC in matters which may require management level decisions.

## 124.2 WATCH LIEUTENANT RESPONSIBILITIES

The WL is entrusted with the responsibility, among many others, to maintain efficient department operations at all times but especially during those situations that place stresses on critical department resources. This important task is one that separates the WL function from other lieutenant positions.

(a) The WL may be called upon to move personnel resources within and amongst divisions.

(b) At times the WL's decision regarding movement of those resources may be counter to the wishes of the lieutenant in direct command. It is understood that the authority of the WL supersedes that of his or her peers during those emergency situations.

(c) Specific responsibilities of the WL are outlined in the Watch Lieutenant SOP.



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# Meet and Confer

## 127.1 PURPOSE AND SCOPE

Chapter 143 of the Texas Local Government Code allows the City of Austin to adopt a collective bargaining process called "Meet and Confer." This process allows the City and the Department to negotiate and enter into a written agreement with the labor organization representing sworn employees concerning wages, work hours and other terms of employment. The written agreement is known as the "Meet and Confer Agreement."

## 127.2 MEET AND CONFER NEGOTIATIONS PROCESS

Under the City Charter and City-HR policies, the City Manager has overall responsibility for negotiating and administering contracts for the City, and shall manage the City's participation in the Meet and Confer process. The Chief is responsible for managing the Department's participation in the process. The City Manager and the Chief will conduct Meet and Confer negotiations jointly.

(a) **City Bargaining Team**

1. The City Manager and the Chief will designate the members of the City bargaining team serving as the City's sole and exclusive bargaining agent.

(b) **Sworn Employee Bargaining Team**

1. The Austin Police Association (APA) is a labor organization that is currently designated by a majority of the sworn employees as their bargaining unit for the Meet and Confer negotiation. The City will only participate in negotiations with the APA.
2. The APA may request information from the Department or City that is relevant to the negotiation or administration of the contract agreement. Any such requests shall be made by the APA's primary negotiator and submitted to the City bargaining team.

(c) The City and sworn employee bargaining teams shall negotiate in good faith and establish ground rules to govern the bargaining process.

## 127.3 MANAGEMENT OF MEET AND CONFER AGREEMENT

(a) The City will abide, in both letter and spirit, to a negotiated labor agreement that has been signed by City Management, approved by a majority of the City Council, and ratified by a majority of the APA voting membership.

(b) Subsequent to ratification of the agreement by all parties, the City Manager and Department shall review and amend all written directives to coincide with the terms of the Meet and Confer agreement.

(c) APD will disseminate any information relative to the new Meet and Confer Agreement to the supervisors of bargaining team personnel.



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# Chapter 2 - Response to Resistance and Pursuit Policies

# Response to Resistance

## 200.1 PURPOSE AND SCOPE

This policy recognizes that the use of force in response to resistance by law enforcement requires constant evaluation and that response to resistance is a serious responsibility. The purpose of this policy is to provide officers with guidelines on objectively reasonable response to resistance. While there is no way to specify the exact amount or type of objectively reasonable force to be applied in any situation, each officer is expected to use these guidelines to make such decisions in a professional, impartial, and objectively reasonable manner.

This policy is written in terms to apply to sworn officers. In incidents where civilian employees are authorized to use force, they are subject to the same policies and procedures as officers but the test of objective reasonableness is judged from the perspective of an objectively reasonable civilian employee.

### 200.1.1 PHILOSOPHY

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 human encounters and when warranted, may exercise control over another in carrying out their duties.

The Department recognizes and respects the value of all human life and dignity without prejudice to anyone. It is also understood that vesting officers with the authority to use lawful and objectively reasonable force and to protect the public welfare requires a careful balancing of all human interests.

### 200.1.2 DEFINITIONS

**Bodily Injury** - Physical pain, illness or any impairment of physical condition (Tex. Penal Code § 1.07(8)).

**Deadly Force** - Force that is intended or known by the officer to cause, or in the manner of its use or intended use is known to be capable of causing death or serious bodily injury (Tex. Penal Code § 9.01(3)).

**Force** - Any physical contact with a subject by an officer using the body or any object, device, or weapon, not including unresisted escorting or handcuffing a subject.

**Non-Deadly Force** - Any application of force other than deadly force.

**Objectively Reasonable** - An objective standard viewed from the perspective of a reasonable officer on the scene, without the benefit of 20/20 hindsight, and within the limitations of the totality of the circumstances presented at the time of the incident.

**Serious Bodily Injury** - Bodily injury that creates a substantial risk of death or that causes death, serious permanent disfigurement or protracted loss or impairment of the function of any bodily member or organ (Tex. Penal Code § 1.07(46)).



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### 200.1.3 DUTY TO INTERCEDE

Any officer present and observing another officer using force that is clearly beyond that which is objectively reasonable under the circumstances shall, when in a position to do so, intercede to prevent the use of such excessive force. Such officers should also promptly report these observations to a supervisor.

### 200.1.4 RESPONSE TO RESISTANCE RELATED POLICIES

(a) Policy 200 (Response to Resistance).

(b) Policy 202 (Firearm Discharge Situations).

(c) Policy 204 (Leg Restraint Guidelines).

(d) Policy 206 (Control Devices and Techniques).

(e) Policy 208 (TASER® Guidelines).

(f) Policy 211 (Response to Resistance Inquiry, Reporting and Review).

(g) Policy 212 (Force Review Board).

## 200.2 RESPONSE TO RESISTANCE POLICY

While the type and extent of force may vary, it is the policy of this department that officers use only that amount of objectively reasonable force which appears necessary under the circumstances to successfully accomplish the legitimate law enforcement purpose in accordance with this policy.

(a) Given that no policy can realistically predict every situation an officer might encounter, it is recognized that each officer must be entrusted with well-reasoned discretion in determining the appropriate response to resistance in each incident.

(b) Circumstances may arise in which officers reasonably believe that it would be impracticable or ineffective to use any of the standard tools, weapons, or methods provided by the Department. Officers may find it more effective or practicable to improvise their response to rapidly unfolding conditions they are confronting. In such circumstances, the use of any improvised device or method must still be objectively reasonable and used only to the extent which reasonably appears necessary to accomplish a legitimate law enforcement purpose.

(c) While it is the ultimate objective of every law enforcement encounter to minimize injury to everyone involved, nothing in this policy requires an officer to actually sustain physical injury before applying objectively reasonable force.

(d) Any complaint by a subject that an officer caused pain or injury shall be treated as a response to resistance force incident, except complaints of minor discomfort from unresisted handcuffing.

### 200.2.1 DETERMINING THE OBJECTIVE REASONABLENESS OF FORCE

Any interpretation of objective reasonableness about the amount of force that reasonably appears to be necessary in a particular situation must allow for the fact that police officers are often forced to make split-second decisions in circumstances that are tense, uncertain and rapidly evolving, and the amount of time available to evaluate and respond to changing circumstances may influence their decisions. The question is whether the officer's actions are "objectively reasonable" in light of the facts and circumstances confronting him.

(a) When determining whether to apply any level of force and evaluating whether an officer has used objectively reasonable force, a number of factors should be taken into consideration. These factors include, but are not limited to:



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1. The conduct of the individual being confronted as reasonably perceived by the officer at the time.
2. Officer/subject factors such as age, size, relative strength, skill level, injury/level of exhaustion and number of officers vs. subjects.
3. Influence of drugs/alcohol or mental capacity.
4. Proximity of weapons.
5. The degree to which the subject has been effectively restrained and his ability to resist despite being restrained.
6. Time and circumstances permitting, and the availability of other options (what resources are reasonably available to the officer under the circumstances).
7. Seriousness of the suspected offense or reason for contact with the individual.
8. Training and experience of the officer.
9. Potential for injury to citizens, officers and subjects.
10. Risk of escape.
11. Whether the conduct of the individual being confronted no longer reasonably appears to pose an imminent threat to the officer or others.
12. Other exigent circumstances.

### 200.2.2 USE OF FORCE TO AFFECT A DETENTION, AN ARREST OR TO CONDUCT A SEARCH

An officer is justified in using reasonable force when the officer reasonably believes the use of such force is immediately necessary (Tex. Penal Code § 9.51(a)):

(a) To make or assist in a detention or an arrest, or to conduct a search that the officer reasonably believes is lawful.

(b) To prevent or assist in preventing escape after an arrest, provided the officer reasonably believes the arrest or search is lawful.

(c) To make an arrest or conduct a search under a warrant that the officer reasonably believes is valid.

### 200.2.3 NOTICE OF AUTHORITY AND IDENTITY

If it is not already reasonably known by the subject to be searched or arrested, or it is not reasonably impracticable to do so, officers should make clear their intent to arrest or search and identify themselves as a peace officer before using force (Tex. Penal Code § 9.51(a)(2)).

## 200.3 DEADLY FORCE APPLICATIONS

An officer has no duty to retreat and is only justified in using deadly force against another when and to the extent the officer reasonably believes the deadly force is immediately necessary to (Tex. Penal Code § 9.51(c) and (e)):

(a) Protect himself or others from what he reasonably believes would be an imminent threat of death or serious bodily injury.

(b) Make an arrest or to prevent escape after arrest when the officer has probable cause to believe that:

1. The subject has committed or intends to commit an offense involving the infliction or threatened infliction of serious bodily injury or death; or



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2. The officer reasonably believes that there is an imminent or potential risk of serious bodily injury or death to any other person if the subject is not immediately apprehended.

## 200.4 REPORTING THE RESPONSE TO RESISTANCE

Any response to resistance by a member of this department shall be documented promptly, completely and accurately in an appropriate report as prescribed by Policy 211 (Response to Resistance Inquiry, Reporting, and Review).

### 200.4.1 NOTIFICATION TO SUPERVISORS

Supervisor notification shall be made as soon as practicable following any force incident or allegation of use of force.

### 200.4.2 MEDICAL ATTENTION

Prior to booking or release, medical assistance shall be obtained for any subject who has sustained visible injury, expressed a complaint of injury or continuing pain or who has been rendered unconscious. 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.

A subject who exhibits extreme agitation, violent irrational behavior accompanied by profuse sweating, extraordinary strength beyond their physical characteristics and impervious to pain (sometimes called "excited delirium"), or who requires a protracted physical encounter with multiple officers to be brought under control, may be at an increased risk of sudden death and should be examined by qualified medical personnel as soon as practicable. Any individual exhibiting signs of distress after such an encounter shall be medically cleared prior to booking.

If any 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 an audio recording is made of the contact or an interview with the individual, any refusal should be included, if possible.



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# Firearm Discharge Situations

## 202.1 PURPOSE AND SCOPE

The purpose of this policy is to establish procedures for the use and reporting of incidents involving the discharge of firearms. This policy is for internal use only and does not increase the Department's and/or an officer's civil or criminal liability in any way. Violations of this policy can only form the basis for departmental administrative actions.

### 202.1.1 POLICY

It is the policy of this department to resort to the use of a firearm when it reasonably appears to be necessary under the circumstances.

(a) An officer has no duty to retreat and is only justified in using deadly force against another when and to the extent the officer reasonably believes the deadly force is immediately necessary to (Tex. Penal Code § 9.51(c) and (e)):

1. Protect himself or others from what he reasonably believes would be an imminent threat of death or serious bodily injury.
2. Make an arrest or to prevent escape after arrest when the officer has probable cause to believe that:
   (a) The subject has committed or intends to commit an offense involving the infliction or threatened infliction of serious bodily injury or death; or
   (b) The officer reasonably believes that there is an imminent or potential risk of serious bodily injury or death to any other person if the subject is not immediately apprehended.

(b) To stop a dangerous and aggressive animal:

1. In circumstances where officers encounter any animal which reasonably appears, under the circumstances, to pose an imminent threat of bodily injury to officers or others, officers are authorized to use objectively reasonable force up to and including deadly force (when lesser means would be impractical) to neutralize the threat.
2. In circumstances in which officers have sufficient advanced notice that a potentially dangerous domestic animal (e.g., dog) may be encountered, such as in the serving of a search warrant, officers should develop reasonable contingency plans for dealing with the animal without the use of deadly force (e.g., fire extinguisher, TASER Device, oleoresin capsicum (OC) spray, assistance of animal control). Nothing in this policy shall prohibit any officer from resorting to deadly force to control a dangerous animal if circumstances reasonably dictate that a contingency plan has failed or becomes impracticable.
3. In the event force is used against an animal by an officer and the animal is injured or there is a reasonable belief the animal was injured, regardless of whether visible injury exists, officers shall make a reasonable attempt to ensure the animal receives care for its' injuries. This may include but is not limited to:
   (a) Contacting the owner to arrange private treatment in an appropriate time frame.
   (b) Contacting Animal Control to have the animal collected and treated



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(c) Arranging transport of the animal to a veterinary facility

(d) Transporting the animal to a veterinary facility

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

(d) For target practice or recreational shooting at an approved range or any area where firing a weapon would be safe and not a violation of law.

Where feasible, a warning should be given before an officer resorts to deadly force as outlined (a), (b) or (c) above. A specific warning that deadly force will be used is not required by this policy; only that a warning be given if feasible.

### 202.1.2 WARNING SHOTS

Warning shots are prohibited.

### 202.1.3 MOVING VEHICLES

Disabling a vehicle by use of a firearm will only be attempted by units specially trained in and equipped for this tactic and only under extraordinary circumstances. Officers who utilize a firearm against a vehicle or operator of a vehicle must meet the same standards established in 202.1.1 (a) above.

(a) Officers shall exercise good judgment and will not place themselves in the path of a moving vehicle since doing so may increase the likelihood of having to resort to the use of deadly force.

(b) Unless it reasonably appears that it would endanger officers or the public, officers will move out of the path of any approaching vehicle.

(c) When encountering a vehicle being operated in a threatening manner, officers may leave a position of cover only:

1. to utilize an avenue of escape
2. move to a position of better cover, or
3. if the need to apprehend the suspect outweighs the danger that the apprehension would impose to the officer or any other person.

(d) This is not intended to restrict an officer's right to use deadly force directed at the operator of a vehicle when it is reasonably perceived that the vehicle is being used as a weapon against the officer or others.

### 202.1.4 DISPLAY OF FIREARMS

Firearms may be readied for use in situations where it is anticipated they may be required. Firearms shall not be displayed or pointed in a threatening or intimidating fashion unless it is objectively reasonable to believe there is a substantial risk that the situation may escalate to the point where deadly force would be permitted. Firearms shall be secured or re-holstered as soon as reasonably practicable when it is determined that deadly force is no longer necessary.



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## 202.2 REPORT OF INTENTIONAL FIREARM DISCHARGE AGAINST A PERSON

For any intentional firearm discharge against a person, regardless of whether the person is hit, the incident shall be handled as a Level 1 Force Incident and the employee shall comply with the reporting procedures prescribed in Policy 211 (Response to Resistance Inquiry, Reporting and Review).

## 202.3 REPORT OF INTENTIONAL FIREARM DISCHARGE AGAINST AN ANIMAL

This section is written to cover the reporting procedures for the following situations:

(a) The humane destruction of a seriously injured animal.

(b) In defense against an attacking or dangerous animal.

### 202.3.1 REPORTING A FIREARM DISCHARGE FOR THE HUMANE DESTRUCTION OF A SERIOUSLY INJURED ANIMAL

The following reporting guidelines shall be followed for the humane destruction of a seriously injured animal or an attacking or dangerous animal.

(a) Employees who need to destroy a seriously injured animal for humane reasons shall first request approval from a supervisor.

(b) Employees shall complete an incident report entitled Injured Animal Firearm Used (Title Code 3449-7). The incident report should detail the circumstances requiring the animal's destruction. The authorizing supervisor should be identified in this report.

(c) Supervisors who approves the destruction shall:

1. Add a comment in the CAD call notating their notification and approval.
2. Send e-mail notifications with the incident report number prior to the end of the tour of duty to the:
   (a) Involved employee's chain of command up to the commander.
3. Review the primary reporting employees' incident report and add a Versadex case note to the report to document they were notified, if they responded to the scene, and whether they have reviewed the incident

(d) Each level of the chain-of-command, up to the commander, shall review the incident and complete a case note to document their review.

(e) The chain-of-command shall determine what, if any, corrective action is needed.

(f) Employees are not required to be placed on restricted duty.

### 202.3.2 REPORTING A FIREARM DISCHARGE AGAINST A DANGEROUS AND THREATENING ANIMAL

The following reporting guidelines will be followed for the destruction of a dangerous or attacking animal.

(a) Employees who destroy an attacking or dangerous animal will notify their supervisor or another on-duty supervisor in the absence of their immediate supervisor, as soon as practical.

(b) The supervisor, or designated acting supervisor, will respond to the scene and conduct an on-scene investigation of the incident, interview witnesses, and insure



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digital photographs are taken and downloaded into the Digital Crime Scene Management System.

(c) The involved employee(s) are required to complete an incident report entitled Dangerous Animal - Firearm Used (3434-7) detailing the event and the reason(s) for selecting deadly force over other force options..

(d) Investigating supervisors will complete a supplement to the incident report detailing their investigation and findings.

(e) The investigating supervisor will notify, via e-mail, each member of the involved employee's chain of command up to the Commander when the investigation is ready for review. This notification will include the incident report number. Each member of the chain-of-command through the commander shall add a Versadex case note to the incident report indicating they have reviewed the incident.

(f) The chain-of-command will determine what, if any, corrective action is needed.

(g) Employees are not required to be placed on restricted duty.

## 202.4 REPORT OF UNINTENTIONAL FIREARM DISCHARGE

This section is written to cover the reporting procedures for the following unintentional firearm discharge situations:

(a) While at the APD firearms range.

(b) While on-duty.

(c) While off-duty.

### 202.4.1 REPORTING OF UNINTENTIONAL FIREARM DISCHARGE WHILE AT THE APD FIREARMS RANGE

The following reporting guidelines will be followed when an employee discharges a firearm unintentionally while at the APD firearms range.

(a) If the result is death or injury to another then the incident will be handled as a Level 1 force incident. Refer to Policy 211 (Response to Resistance Inquiry, Reporting and Review).

(b) If there is no injury or the injury is only to self:

1. Employees will report the discharge immediately to range personnel and request emergency medical assistance if needed.
   (a) The Learned Skills sergeant will be notified immediately.
   (b) Employees may be immediately disqualified and placed on restricted duty depending on the severity of the incident.

2. The Learned Skills sergeant will:
   (a) Complete an Internal Affairs complaint and forward it to Internal Affairs.
   (b) Notify the involved employee's immediate supervisor regarding the incident.
   (c) Prepare a memorandum addressed to the employee's immediate supervisor regarding the incident and send a copy to the Learned Skills lieutenant.

3. The incident will be handled as a Class B Investigation as outlined in Policy 902 (Administrative Investigations):



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(a) The employee may be required to submit a memorandum detailing the events surrounding the discharge after being given a 48-hour notice.

(b) The employee's immediate supervisor has investigative responsibility for the incident. If the immediate supervisor is not available, an on-duty lieutenant from the employee's assigned area will designate an on-duty supervisor to investigate the incident.

(c) The employee's chain-of-command will determine what, if any, corrective action is needed.

4. The incident will be reviewed by the Force Review Board after the internal investigation is complete.

### 202.4.2 REPORTING OF UNINTENTIONAL FIREARM DISCHARGE WHILE ON-DUTY

The following reporting guidelines will be followed when an on-duty employee discharges a firearm unintentionally anywhere other than at the APD firearms range.

(a) If the result is death or injury to another then the incident will be handled as a Level 1 force incident. Refer to Policy 211 (Response to Resistance Inquiry, Reporting and Review).

(b) If there is no injury:

1. Employees will report the situation immediately and request their immediate supervisor to respond to the scene.

2. Employees may be placed on restricted duty.

3. The incident will be handled as a Class B Investigation as outlined in Policy 902 (Administrative Investigations):

(a) An incident report will be completed and witness statements taken. Digital photos will be taken and downloaded into the Digital Crime Scene Management System.

(b) The employee's immediate supervisor has investigative responsibility for the incident. If the immediate supervisor is not available, an on-duty lieutenant from the employee's assigned area will designate an on-duty supervisor to investigate the incident.

(c) The employee's chain-of-command will determine what, if any, corrective action is needed.

4. The incident will be reviewed by the Force Review Board after the internal investigation is complete.

### 202.4.3 REPORTING OF UNINTENTIONAL FIREARM DISCHARGE WHILE OFF-DUTY

The following reporting guidelines will be followed when an off-duty employee discharges a firearm unintentionally anywhere other than at the APD firearms range.

(a) If the result is death or injury to another then the incident will be handled as a Level 1 force incident. Refer to Policy 211 (Response to Resistance Inquiry, Reporting and Review).

(b) If there is no injury:



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1. Employees will report the situation immediately and request an on-duty supervisor to respond to the scene.
2. Employees may be placed on restricted duty.
3. The incident will be handled as a Class B Investigation as outlined in Policy 902 (Administrative Investigations):
   (a) An incident report will be completed and witness statements taken. Digital photos will be taken and downloaded into the Digital Crime Scene Management System.
   (b) The employee's immediate supervisor has investigative responsibility for the incident. If the immediate supervisor is not available, an on-duty lieutenant from the employee's assigned area will designate an on-duty supervisor to investigate the incident.
   (c) The employee's chain-of-command will determine what, if any, corrective action is needed.
4. If the incident occurs out of city, the proper law enforcement authority having jurisdiction must be notified. The employee's supervisor will coordinate the investigation with the responsible agency.
5. The incident will be reviewed by the Force Review Board after the internal investigation is complete.



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# Leg Restraint Device

## 204.1 PURPOSE AND SCOPE

The proper use and application of a leg restraint device can reduce the potential of injury and damage to property when dealing with violent or potentially violent subjects. This policy provides guidelines for the proper use of these devices.

### 204.1.1 PHILOSOPHY

The Department recognizes and respects the value of all human life and dignity without prejudice to anyone. A leg restraint device should only be used when officers reasonably believe it is necessary to augment other restraints while performing their lawful duties; a leg restraint device is never to be used as punishment.

## 204.2 POLICY

When an officer encounters circumstances where it reasonably appears necessary to restrain the legs to prevent escape or restrain a violent or potentially violent subject during the course of a detention, arrest, and/or transportation, only Department approved RIPP Hobble or Ankle/Leg Iron restraint devices shall be used and only in the Department approved manner for temporary immobilization of the legs.

## 204.3 AUTHORIZED USE

(a) Only those officers trained in the use of the leg restraint device are authorized to employ it on any subject.

(b) The leg restraint device shall only be used after a subject has been handcuffed.

(c) In determining whether to use a leg restraint device, officers should consider the following:

1. If the officer and/or others are subject to harm due to the assaultive behavior of a violent, resisting, and/or attacking subject.
2. If it is objectively reasonable to protect the subject from his own actions (e.g., hitting his head against the interior of the Patrol unit, running away from the arresting officer while handcuffed, kicking at objects or officers).

## 204.4 PROCEDURE

The leg restraint device is designed to reduce the likelihood of injury to the restrained subject or others, and to reduce the likelihood of property damage caused by the restrained subject by preventing him from using his legs in a manner likely to result in injury or damage. The following guidelines shall be used when applying a leg restraint device:

(a) If practicable, officers should notify a supervisor of the intent to apply the restraint. In all cases, a supervisor shall be notified as soon as practicable after the application of the restraint and the name of that supervisor shall be noted in a report or supplement.

(b) This device shall not be used to hog tie. Once the subject's legs have been bound, the safety clip of a restraint shall not be attached to the chain of the handcuffs.

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



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(d) Once secured, the subject should be placed in a seated or upright position. Subjects shall not be placed on their stomach for an extended period as this may potentially reduce their ability to breathe.

1. The restrained subject should be constantly watched by an officer while in the restraint. The officer is to ensure the subject does not roll onto and remain on his stomach.
2. The officer should look for signs of labored breathing and, where practicable, take appropriate steps to relieve and minimize any obvious factors contributing to this condition.
3. In the event that it appears reasonably necessary to restrain a subject in such a position that the subject's ability to sit upright is restricted, an officer should monitor the subject in an effort to minimize restricted breathing. The subject should be placed in an upright position as soon as it reasonably appears safe and practicable.



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# Control Devices and Techniques

## 206.1 PURPOSE AND SCOPE

In an effort to reduce and minimize altercation related injuries to officers, the public and subjects, the Department authorizes the use of selected control devices. These control devices are approved in order to control violent or potentially violent subjects. It is anticipated that the use of these devices will generally result in fewer altercation related injuries to officers and subjects. The policy below is for the use and maintenance of control devices.

### 206.1.1 PHILOSOPHY

The use of control devices upon a subject by an officer shall only occur when the officer, while in the performance of his lawful duties, reasonably believes it necessary to gain control of the subject.

The Department recognizes and respects the value of all human life and dignity without prejudice to anyone. It is also understood that vesting officers with the authority to use lawful and objectively reasonable force and protect the public welfare requires a careful balancing of all human interests.

## 206.2 CONTROL DEVICES AND TECHNIQUES OVERVIEW

### 206.2.1 WHEN DEVICES MAY BE USED

When a decision has been made to control, restrain or arrest a violent, threatening or escaping subject, an approved control device may only be used when its use appears objectively reasonable under the circumstances.

### 206.2.2 REPORTING USE OF CONTROL DEVICES AND TECHNIQUES

, See: Any application of a control device and/or technique shall be documented as prescribed by Policy 211 (Response to Resistance Inquiry, Reporting and Review).

### 206.2.3 APPROVED CONTROL DEVICES

Only Department issued or approved control devices and munitions shall be carried. Only Department approved modifications may be made to any control device.

(a) The control devices approved by the Department are:
   1. Baton and/or Impact Weapons (long, short, side-handle or expandable).
   2. Chemical Agents (Oleoresin Capsicum (OC) spray).
   3. Kinetic Energy Projectiles and their delivery systems.
   4. TASER Device - See Policy 208 (TASER® Guidelines).

(b) Every control device shall be periodically inspected by the employee's supervisor or the designated instructor for a particular control device. All daily inspections, routine maintenance, charging and cleaning shall remain the responsibility of the employee assigned the device.

(c) All damaged, inoperative, or expended control devices shall be returned to the Property Control Office for disposal, repair and/or replacement.



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### 206.2.4 TRAINING FOR CONTROL DEVICES

(a) Only employees trained and certified in the use of a specified control device are authorized to carry and/or use that device. Proficiency training must be monitored and documented by a certified device, weapons, or tactics instructor.

(b) Civilian employees may use issued chemical agents for self-defense only. Recertification for chemical agents issued to civilian employees shall occur annually.

(c) Officers shall re-certify annually for all control devices they have been previously approved to carry with the exception of the TASER®. Recertification for the TASER® shall follow the guidelines set forth in Policy 208 (TASER® Guidelines).

(d) All formal training and proficiency for control devices shall be documented in the employees' training file.

(e) Employees failing to demonstrate proficiency with a device shall be provided remedial training. Employees failing to pass remedial training shall not be permitted to carry the device and may be subject to other provisions prescribed by the Training Division.

## 206.3 BATON AND IMPACT WEAPON GUIDELINES

The baton and/or an impact weapon is authorized for use when, based upon the circumstances perceived by the officer, such force reasonably appears justified and necessary to result in the safe control of a subject.

The need to immediately incapacitate the subject must be weighed against the risk of causing serious injury. The head, neck, spine and groin should not be intentionally targeted except when the officer has an objectively reasonable belief the subject may cause serious bodily injury or death to the officer or others.

## 206.4 CHEMICAL AGENT GUIDELINES

Chemical agents are devices used to minimize the potential for injury to employees, offenders, or other subjects. They should be used only in situations where such force reasonably appears necessary.

(a) Authorized employees may use chemical agents when the application of the chemical agent is objectively reasonable to subdue or control:

1. A violent or physically resisting subject.
2. A subject who by words or action has demonstrated an intention to be violent or to physically resist and who reasonably appears to present the potential to harm employees, himself, or others.
   (a) Employees should give a verbal warning followed by a reasonable opportunity to voluntarily comply when practicable.
   (b) Employees must be able to articulate their use of the chemical agent.
3. Apprehend a subject fleeing lawful arrest or detention.
4. There is a reasonable expectation that it will be unsafe for employees to approach within contact range of the subject.

### 206.4.1 PROHIBITED USES

The following are prohibited uses of chemical agents:

(a) To torture, psychologically torment, elicit statements or inflict undue pain on any individual.



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(b) Horseplay or practical jokes.

(c) Demonstrations without the permission of a supervisor.

(d) When a subject exhibits **only** verbal and/or passive resistance to arrest or authority.

(e) When a subject is under physical restraint unless the subject is still aggressively resisting and lesser means of controlling the subject have failed.

### 206.4.2 CARRYING OF OLEORESIN CAPSICUM SPRAY

Uniformed employees carrying the OC spray shall carry the device in its holster on the equipment belt. Plainclothes and non-field employees may carry the OC spray as authorized, consistent with the needs of their assignment or at the direction of their supervisor.

### 206.4.3 TREATMENT FOR CHEMICAL AGENT EXPOSURE

Subjects who have been affected by the use of chemical agents should be afforded means of cleansing the affected areas as soon as practicable. Those subjects who complain of further severe effects shall be afforded a medical examination by competent medical personnel.

### 206.4.4 TRANSPORTING OF PRISONERS SUBJECTED TO CHEMICAL AGENT EXPOSURE

When transporting prisoners who have been subjected to chemical agents, officers shall ensure that the prisoner stays upright with a clear airway and is not placed in a prone position to avoid possible positional asphyxia. Officers must be especially careful when tightly restraining combative subjects following the use of chemical agents.

Before booking, officers shall advise jail personnel when a prisoner has been subjected to chemical agents.

## 206.5 KINETIC ENERGY PROJECTILES

This department is committed to reducing the potential for violent confrontations when such subjects are encountered. Kinetic energy projectiles are less likely to result in death or serious physical injury.

Kinetic energy projectiles are approved by the Department and are fired from 12 gauge shotguns that are clearly identified as less lethal shotguns. Certain munitions can be used in an attempt to de-escalate a potentially deadly situation, with a reduced potential for death or serious physical injury.

### 206.5.1 DEPLOYMENT

Approved munitions are justified and may be used in an effort to compel individuals to cease their actions when such munitions present a reasonable option for resolving the situation at hand.

(a) Officers are not required or compelled to use approved munitions in lieu of other reasonable tactics if the involved officers determine that deployment of these munitions cannot be deployed safely.

(b) The safety of hostages, innocent subjects and officers takes priority over the safety of subjects engaged in perceived criminal or suicidal behavior.



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### 206.5.2 EXAMPLES OF CIRCUMSTANCES APPROPRIATE FOR DEPLOYMENT

Examples include, but are not limited to, the following types of situations where the subject:

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

(b) Has made credible threats to harm himself or others.

(c) Is engaged in riotous behavior or is throwing rocks, bottles or other dangerous projectiles at people and/or officers, creating a risk for injury.

(d) There is reasonable suspicion to believe that the subject has already committed a crime of violence and is refusing to comply with lawful orders.

### 206.5.3 ADDITIONAL DEPLOYMENT CONSIDERATIONS

Before discharging projectiles, the officer should consider the following factors:

(a) The subject's capability to pose an imminent threat to the safety of officers or others.

(b) Whether the subject is actively resisting arrest or attempting to evade arrest by flight.

(c) The credibility of the subject's threat as evaluated by the officers present, and the subject's physical capacity/capability to carry out the threat.

(d) The availability of other force options and their possible effectiveness.

(e) Distance and angle to target.

(f) Type of munitions employed.

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

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

### 206.5.4 SHOT PLACEMENT AND DEPLOYMENT DISTANCES

Officers should generally follow their training instructions regarding minimum deployment distances and target areas. The need to immediately incapacitate the subject must be weighed against the risk of causing serious injury or death.

The head and neck should not be intentionally targeted, however any target area or distance may be considered when it reasonably appears necessary to accomplish immediate incapacitation in order to prevent serious injury or death to officers or others.

## 206.6 PAIN COMPLIANCE TECHNIQUES

Pain compliance techniques may be effective in controlling a passive or actively resisting individual. Officers may only apply those pain compliance techniques for which the officer has an objectively reasonable belief that the use of such a technique appears necessary to further a legitimate law enforcement purpose.

(a) Officers should consider the following when using pain compliance techniques:

1. The potential for injury to the officers or others if the technique is not used.
2. The potential for serious injury to the individual being controlled.
3. Whether the pain compliance technique is effective in achieving an appropriate level of control.
4. The nature of the offense involved.
5. The level of resistance of the individual(s) involved.



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6. The need for prompt resolution of the situation.
7. If time permits (e.g., passive demonstrators), other reasonable alternatives.

(b) The application of any pain compliance technique shall be discontinued once the officer determines that compliance has been achieved or other more appropriate alternatives can reasonably be utilized.

### 206.6.1 USE OF FORCE TO SEIZE EVIDENCE

(a) Pressure point techniques are the maximum amount of force authorized to seize evidence (e.g., narcotics) when there is probable cause to believe it is being held or hidden in the mouth of a subject.

(b) Soft/empty hand control is the maximum amount of force authorized to seize blood from a subject pursuant to a mandatory blood draw.



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# TASER Device Guidelines

## 208.1 PURPOSE AND SCOPE

The TASER® is intended to control a violent or potentially violent individual while minimizing the risk of serious injury. It is anticipated that the appropriate use of such a device will result in fewer serious injuries to officers and suspects.

### 208.1.1 PHILOSOPHY

The use of a TASER Device upon a subject by an officer shall only occur when the officer, while in the performance of his lawful duties, has an objectively reasonable belief that it is necessary to gain control of the subject.

The Department recognizes and respects the value of all human life and dignity without prejudice to anyone. It is also understood that vesting officers with the authority to use lawful and objectively reasonable force to protect the public welfare requires a careful balancing of all human interests.

## 208.2 POLICY

Personnel who have completed department approved training may be issued a TASER Device for use during their current assignment. Personnel leaving a particular assignment may be required to return their issued device to the Department's inventory.

Officers shall only use the TASER Device and cartridges that have been issued by the Department. If an officer is issued a TASER®, the device must be carried as a part of a uniformed officer's equipment in an approved holster.

(a) When the TASER Device is carried as a part of a uniformed officer's equipment, the TASER Device shall be carried on the side opposite from the duty weapon.

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

(c) Whenever practicable, officers should carry a total of two or more TASER Device cartridges on their person while carrying a TASER Device.

## 208.3 VERBAL WARNINGS

A verbal announcement 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.

(a) The purpose of the warning is for the following:

1. Provide the individual with a reasonable opportunity to voluntarily comply.
2. Provide other officers and individuals with warning that a TASER Device may be deployed.

(b) The aiming laser should never be intentionally directed into the eyes of another.

(c) The fact that a verbal and/or other warning was given, or the reasons it was not given, shall be documented in any related reports, as well as any responses by the subject.



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## 208.4 USE OF THE TASER DEVICE

As with any law enforcement equipment, 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 TASER Device. Although the TASER Device is generally effective in controlling most individuals, officers should be alert to the potential for failure and be prepared with other options.

Generally, an assisting officer should be present with lethal cover in the event the TASER Device is ineffective or defective and the subject initiates a potentially life threatening confrontation.

Officers should never hold both a firearm and the TASER device at the same time.

### 208.4.1 APPLICATION OF THE TASER DEVICE

Authorized personnel may use the TASER Device when circumstances known to the officer at the time indicate that such application is objectively reasonable to control a subject in any of the following circumstances:

(a) Apprehend a subject fleeing lawful arrest or detention.

(b) A violent or physically resisting subject.

(c) There is reasonable expectation that it will be unsafe for officers to approach within contact range of the subject.

(d) A subject who by words or action has demonstrated an intention to be violent or to physically resist and who reasonably appears to present the potential to harm officers, himself, or others.

1. Officers should give a verbal warning of the intended use of the TASER Device followed by a reasonable opportunity for the subject to voluntarily comply, when practicable.
2. Officers must be able to articulate their use of the TASER Device in an incident report.

### 208.4.2 PROHIBITED USES

The following are prohibited uses of the TASER Device:

(a) The TASER Device shall not be used to torture, psychologically torment, elicit statements or to punish any individual.

(b) Horseplay or practical jokes.

(c) Demonstrations, without the permission of a supervisor.

(d) Against passively resisting subjects.

(e) Individuals who are covered in, or in close proximity to, any combustible material.

### 208.4.3 SPECIAL DEPLOYMENT CONSIDERATIONS

(a) The use of the TASER Device should generally be avoided in the following situations unless the totality of the circumstances indicate that other available options reasonably appear ineffective, impractical, 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 TASER Device.

1. Obviously pregnant females.



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2. Elderly individuals or obvious juveniles.
3. Individuals who are handcuffed or otherwise restrained.
4. Individuals whose position or activity may result in collateral injury (e.g., falls from height, operating vehicles).

(b) Individuals suspected of being under the influence of drugs/alcohol or exhibiting symptoms of excited delirium (e.g., nudity, profuse sweating, irrational behavior) may be more susceptible to collateral problems and should be closely monitored following the application of the TASER Device until they can be examined by paramedics or other medical personnel.

(c) Because the application of the TASER Device in the drive-stun mode (i.e. direct contact without darts) relies primarily on pain compliance and requires close proximity to the subject, additional caution should be exercised. The application in drive-stun mode should be limited to brief applications in which pain compliance would reasonably appear necessary to achieve control.

### 208.4.4 TARGETING CONSIDERATIONS

While manufacturers generally recommend that reasonable efforts should be made to target lower center mass and to avoid intentionally targeting the head, neck, chest and groin, it is recognized that the dynamics of each situation and officer safety may not permit the officer to limit the application of the TASER Device darts to a precise target area. As such, officers should take prompt and ongoing care to monitor the condition of the subject if one or more darts strikes the head, neck, chest or groin until he is released to the care of paramedics or other medical personnel.

### 208.4.5 MULTIPLE APPLICATIONS OF THE TASER DEVICE

Only one officer shall deploy his TASER Device on an individual unless it is obvious the deployment was not effective.

(a) If the first application of the TASER Device appears to be ineffective in gaining control of an individual and if circumstances allow, the officer should consider the following before additional application of the TASER Device:
   1. Whether the probes or darts are making proper contact.
   2. Whether the application of the TASER Device is interfering with the ability of the individual to comply.
   3. Whether other options or tactics may be more effective.

(b) This does not preclude an officer from multiple, reasonable applications of the TASER Device on an individual.

### 208.4.6 REPORT OF USE

All TASER Device discharges shall be documented in the related incident report/supplements and notification made to a supervisor in compliance with Policy 211 (Response to Resistance Inquiry, Reporting and Review).

(a) Specific information on the use of a TASER Device should include, but is not limited to, the following:
   1. Articulable reasons for the use of the TASER Device.
   2. Information on the type of individual who was subject to the TASER Device (e.g., age, sex, health conditions).



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3. Any special circumstances surrounding the use of the TASER Device (e.g., handcuffed prisoner).
4. Whether one or both of the TASER Device darts penetrated a subject's clothing and/or skin.
5. How many applications/cycles of the TASER Device were used.
6. Whether the TASER Device application was successful.
7. How many cartridges were used.
8. Serial numbers of any used cartridge(s).
9. Whether multiple officers used the TASER Device.
10. Any pain compliance use of the TASER Device (e.g., drive stun).

(b) The on-board TASER Device memory will be downloaded through the data port by a supervisor and saved with the related incident reports.

(c) Photographs of probe sites should be taken, Anti-Felon Identification (AFID) tags should be collected and the expended cartridge along with both probes shall be submitted into evidence for future reference. The cartridge serial number should be noted and documented on the evidence paperwork. The evidence packaging should be marked "Biohazard" if the probes penetrated the subject's skin.

## 208.5 MEDICAL TREATMENT

Officers will remove TASER Device darts as trained once the subject is in custody. Used TASER Device darts shall be considered a sharp biohazard, similar to a used hypodermic needle. Universal precautions should be taken accordingly.

All subjects who have been struck by TASER Device darts or who have been subjected to the electric discharge of the device shall be medically assessed prior to booking. Additionally, an 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 subject is suspected of being under the influence of controlled substances and/or alcohol.

(b) The subject may be pregnant.

(c) The subject reasonably appears to be in need of medical attention.

(d) The TASER Device darts are lodged in a sensitive area (e.g., groin, female breast, near the eyes).

(e) The subject requests medical attention.

Subjects who exhibit extreme agitation, violent irrational behavior accompanied by profuse sweating, extraordinary strength beyond their physical characteristics, 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 and should be examined by qualified medical personnel as soon as practicable. Any individual exhibiting signs of distress after such an encounter shall be medically cleared 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 the interview with the individual, any refusal should be included, if possible.



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The transporting officer shall inform any person receiving custody or any person placed in a position of providing care that the individual has been subjected to the application of the TASER Device. All subjects shall be evaluated by the jail nurse prior to booking.

## 208.6 TRAINING

In addition to the initial department-approved training required to carry and use a TASER Device, all employees carrying a TASER Device shall demonstrate proficiency annually.

(a) Employees who have not carried a TASER Device as a part of their assignment for a period of six months or more shall be recertified by a department approved TASER Device instructor prior to again carrying or using the device.

(b) A reassessment of an officer's knowledge and/or practical skill may be required at any time if deemed appropriate by the Training commander.

## 208.7 FUNCTIONALITY CHECK

After a Response to Resistance incident, supervisors shall download the firing data from an employees' TASER Device and comply with the reporting procedures outlined in Policy 211 (Response to Resistance Inquiry, Reporting and Review).

Officers shall download data from their assigned TASER Device when it is reassigned to another officer or retired from active police inventory:

(a) One copy of the data report shall be filed with the officer's property inventory retained by Police Equipment.

(b) One copy of the data report shall be retained by the officer.

### 208.7.1 PROPER MAINTENANCE

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

(a) The supervisor or designee will perform quarterly functionality checks. This check shall occur within the first month of each quarter of the calendar year (January, April, July, October).

(b) The results of the check will be documented on PD 0128A "Unit Quarterly Taser Functionality and CAD Audit Report" and will include all officers whose Tasers were checked, whether or not the internal clock was "reset" and if a Taser was found defective. If defective, the supervisor shall notate corrective action. Examples are:

1. Turned into Police Equipment for repair or replacement
2. Taser cartridge trap doors replaced
3. Low battery replaced

## 208.8 DEPLOYMENT RECORD RETENTION

All TASER Device deployment information shall be maintained by the Department for a minimum of three (3) years.



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# Response to Resistance Inquiry, Reporting, and Review

## 211.1 PURPOSE AND SCOPE

This directive sets forth Department policy and procedures for inquiring, reporting, and reviewing force incidents in response to resistance involving Department personnel. The specific required inquiry, reporting, and review of these incidents is determined by the force level, as defined in this policy.

Personnel may delay compliance with the provisions of this order if the scene is unstable, there is unrest, or other conditions make immediate compliance impracticable. The protection of the public, Department personnel, and maintenance of public safety shall remain a top priority. Compliance with this order shall occur as soon as practicable. The approving supervisor shall ensure the reason for the delay is documented in the supervisor's supplement or inquiry memorandum.

### 211.1.1 DEFINITIONS

**Inquiry**: The preliminary review of the events surrounding a response to resistance incident, including the initial response to the scene and follow-up investigations.

**Reporting**: The process of documenting the information gathered in the inquiry of a response to resistance incident through written, oral and visual means and compiling that information into the appropriate packet for review.

**Review**: The process of evaluating all the given information obtained in the force incident inquiry and reporting stages to determine if the response to resistance was objectively reasonable and within policy guidelines.

### 211.1.2 IDENTIFYING RESPONSE TO RESISTANCE DOCUMENTATION

The following Response to Resistance reports and forms are required as determined by the force level of the incident:

**Response to Resistance Incident Report**: The initial incident report written by the primary reporting employee for all force level incidents. Title Code 8400 shall be added to the incident report by the primary reporting employee to identify the incident as a response to resistance incident. The Use of Force section of the "Details" page shall also be completed.

**Response to Resistance Supplement**: A supplement written to the primary reporting employee's incident report.

**Response to Resistance SIU Inquiry Report**: A separate incident report written by the Special Investigations Unit (SIU) for all Level 1 incidents and in-custody deaths.

**Response to Resistance Level 2 Inquiry Control Sheet (PD0060):** A coversheet completed by the supervisor for all Level 2 incidents.

**Response to Resistance Supervisor Inquiry Memorandum:** A memorandum completed by the supervisor reviewing all Level 2 incidents.



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**Response to Resistance Case Note**: A note that is added to the Incident Report in Versadex.

**Response to Resistance Inquiry Packet**: A packet compiled in response to resistance inquiries to be handled by the appropriate person, unit, or chain-of-command.

- Level 1 inquiry packets are completed by the SIU.
- Level 2 inquiry packets are completed by the supervisor conducting the inquiry.
- Level 3 incidents do not require an inquiry packet as documentation is handled through Versadex case notes.

## 211.2 DETERMINING THE CORRECT FORCE LEVEL

Force levels are broken up into three types: Level 1, Level 2, and Level 3. Each level is defined below by the response to resistance used in the incident. These levels are established for inquiry, reporting, and review purposes only. If there is uncertainty about which level to designate a particular incident then the higher level shall be used.

### 211.2.1 LEVEL 1 FORCE INCIDENTS AND IN-CUSTODY DEATHS

(a) Any force resulting in death.

(b) Any force that resulted in a substantial risk of death.

(c) Any intentional firearm discharge at a person, vehicle, or structure regardless of injury.

(d) Any unintentional firearms discharge resulting in another person's injury or death.

(e) Any force that resulted in serious bodily injury requiring admittance to the hospital, beyond emergency room treatment and release (e.g., serious disfigurement, disability, or protracted loss or impairment of the functioning of any body part or organ), to include a loss of consciousness.

(f) Use of any impact weapon, including kinetic energy projectiles, and improvised weapons, that strikes the head of a subject.

(g) **In-Custody Deaths**: For inquiry, reporting, and review purposes, all in-custody deaths occurring prior to or within 24 hours after booking shall be treated as Level 1 incidents and require concurrent inquiries conducted by SIU and IA, regardless of whether force was used on the subject.

### 211.2.2 LEVEL 2 FORCE INCIDENTS

(a) Any strike to the head by an employee with any weaponless technique.

(b) Use of any impact weapons, including kinetic energy projectiles (other than a Taser), and improvised weapons, to strike a subject and contact is made, regardless of injury. (A strike to the head is a Level 1).

(c) Any deployment of a police canine resulting in a bite to a subject's clothing or skin, or which results in any injury to a subject.

### 211.2.3 LEVEL 3 FORCE INCIDENTS

(a) Use of Oleoresin Capsicum (OC/Pepper Spray) or other chemical agent on a subject.

(b) Any use of a TASER Device.

(c) Use of any impact weapon, including kinetic energy projectiles or any other similar object, in an attempt to strike a subject but no contact is made.



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(d) Use of a baton for a non-striking purpose (e.g., prying limbs, moving, or controlling a subject).

(e) Any force resulting in injury or a complaint of pain beyond the temporary discomfort of unresisted handcuffing, but not rising to a Level 1 or 2 incident.

(f) A weaponless technique is used with or without complaint of injury or pain. (A strike to the head is a Level 2). Examples of weaponless techniques include:

1. Hand/palm/elbow strikes.
2. Kicks or leg sweeps.
3. Pressure points.
4. Take-downs.

### 211.2.4 ELEVATION OF A FORCE LEVEL INCIDENT

If information is uncovered during a response to resistance inquiry to indicate that the original force level falls into a higher category, the force level should be elevated to conduct the appropriate inquiry.

(a) Supervisors have the discretion to elevate any Level 3 force incident to a Level 2 in order to conduct a more extensive inquiry and review of the incident.

(b) An employee's lieutenant, with the approval of the commander or Duty Commander, may elevate any response to resistance incident to a Level 1 force incident.

## 211.3 VIOLATIONS OF LAW OR POLICY

Supervisors receiving a complaint regarding a response to resistance incident will review the available information regarding the incident to determine if any credible evidence a violation of policy or law may have occurred.

(a) Supervisors making a determination based on objective evidence (e.g., MAV shows an allegation is false) that there is **no credible evidence** a violation of policy or law has occurred by the officer shall complete a *Complainant Contact Form* and forward it to IA.

1. The incident shall be closed as information and tracked in the IA database for information purposes only.
2. The force incident shall be handled based on the normal criteria as outlined in this policy and the initiation of an IA investigation is not required.

(b) Supervisors discovering during the normal course of their review, or in response to a complaint, **any credible evidence** a violation of law or policy may have occurred concerning the officer's response to resistance shall follow the guidelines outlined below.

### 211.3.1 CRIMINAL MISCONDUCT

Regardless of the original force level of the incident, if there is **any credible evidence** that criminal misconduct may have occurred by the officer then the incident shall be treated as a Level 1 force incident.

(a) The supervisor shall immediately notify the SIU and IA. The supervisor shall document the time and date the SIU and IA were notified in the supervisor's supplement.

(b) The Chief of Police shall be notified on all credible allegations of criminal conduct.



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(c) SIU and IA shall handle the concurrent investigation of criminal allegations as outlined in the Criminal Investigations and Administrative Investigations policies.

### 211.3.2 POLICY VIOLATION

(a) If there is **any credible evidence** a policy violation may have occurred by the officer then the incident shall be handled as follows:

1. Level 1 force incidents - If the original incident would have been handled as a Level 1 force incident, supervisors shall notify the SIU and IA of the possible policy violation and handle the response to resistance inquiry as a Level 1 force incident. Supervisors shall document the date and time SIU and IA were notified in the supervisor's supplement.
2. Level 2 and Level 3 force incidents - If the original incident would have been handled as a Level 2 or a Level 3 force incident, supervisors shall notify IA of the possible policy violation and handle the response to resistance inquiry as a Level 2 force incident. Supervisors shall document the date and time IA was notified in the supervisor's supplement.

(b) Internal investigations of policy violations shall be handled as outlined in Policy 902 (Administrative Investigations).

## 211.4 EMPLOYEE RESPONSIBILITIES FOR ALL FORCE LEVEL INCIDENTS

The following outlines the required responsibilities of involved employees, employees that witness an incident and employees designated to assist at the scene of any response to resistance incident.

(a) Involved employees shall notify their supervisor as soon as practicable of any force incident or allegation of use of force.

(b) Involved employees shall request EMS as soon as practicable when a subject complains of injury, has visible injuries, or the circumstances indicate that an injury may have occurred. For purposes of this section "Injury" does not include TASER probe marks that are not in a sensitive area of the body. Officers will comply with section 208.5 in regards to post-TASER deployment medical treatment.

(c) Employees not involved in the force incident may be directed by a supervisor to assist at a force incident scene. This may include locating and identifying witnesses to the incident.

1. Employees shall notify a supervisor in the event a witness refuses to give a statement or provide identifying information.
2. Employees shall not detain or delay a witness who refuses to remain at the scene.
   (a) The witness' physical description, license plate, comments, or other identifiers shall be documented in the employee's supplemental report.
   (b) Any photographs or videotape containing images of a witness who refused to remain at the scene shall be turned in with the response to resistance inquiry packet.



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### 211.4.1 EMPLOYEE REPORTING GUIDELINES FOR ALL FORCE LEVEL INCIDENTS

The following outlines the reporting guidelines for involved employees, employees that witness an incident and employees designated to assist at the scene of any response to resistance incident.

(a) An incident report shall be completed by the primary reporting employee and include title code 8400. This report shall be written regardless of whether a report or supplement would normally be written for the initial incident.

(b) Supplements shall be completed by:

1. All other employees who are involved in a force incident.
2. Employees who witness a force incident.
3. Employees assisting at the scene of a force incident.
4. A supervisor is required to complete a supplement to the response to resistance incident report for Level 1 incidents. They may also be required by SIU to complete a supplement to the SIU inquiry report.

(c) The following information shall be included in each report and supplement:

1. The original reason for police presence on the scene.
2. The name and employee number of the supervisor notified of the incident.
3. A detailed description of the circumstances and subject actions that resulted in the use of force.
4. A detailed description of the force used.
   (a) Include specific details regarding any weapon used on a subject (e.g., when OC spray is used you document the number of bursts, duration of each burst, the approximate distance from the subject, the location of spray contact).
5. Subject and witness information.
6. Reports shall not contain "boilerplate" or "pat" language (e.g., "furtive movement" or "fighting stance") without descriptive details of the action.
7. Involved employees shall also complete the force section of the "Details" page in their report/supplement.

(d) All incident reports and supplements shall be completed separately and without discussing the details of the incident with other personnel. "Group reporting" is prohibited. Debriefing after an incident and/or the necessary discussions to further the training requirements of officers in the Field Training Program (FTO) are allowed.

(e) A copy of the response to resistance incident report, any supplements, and any ancillary documents should be submitted to the reviewing supervisor prior to the end of the employee's tour of duty.

## 211.5 DESIGNATION OF SUPERVISOR TO CONDUCT INQUIRY

The supervisor of the employee involved in the force incident shall typically be the primary supervisor conducting the force inquiry. The following exceptions apply:

(a) If an incident involves multiple employees with different supervisors, a lieutenant from the area where the incident occurred, or the Watch Lieutenant, shall assign one supervisor to be the primary inquiring supervisor. The responding supervisor



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will conduct the force inquiry. Additionally, the responding supervisor will notify the other involved employees' supervisor(s) of the force incident and their employee's involvement. This notification will be made by e-mail and will include the incident report number.

(b) A supervisor involved in a force incident shall not review the incident. A supervisor who is at the scene and witnesses the incident, but is not directly involved in the force incident, may conduct the inquiry.

(c) If an employee the rank of sergeant or above is involved in a Level 2 or 3 force incident, another supervisor the rank of the involved employee or higher shall conduct the inquiry.

(d) Corporals may be designated as the inquiry supervisor as follows:

1. Level 1 Incidents - Corporals may not act as the designated supervisor to conduct inquiries for Level 1 Force Incidents.
2. Level 2 Incidents - As long as an employee is in their chain-of-command, corporals may conduct the initial on-scene inquiry of a Level 2 incident when serving as acting sergeant or when the sergeant is not immediately available. The initial Level 2 packet shall be turned over by the end of the shift to the corporal's supervisor, lieutenant or other designated supervisor for final approval or further inquiry.
3. Level 3 Incidents: Corporals may function as the designated supervisor to conduct inquiries for Level 3 force incidents.

## 211.6 LEVEL 1 AND IN-CUSTODY INQUIRY, REPORTING, AND REVIEW REQUIREMENTS

Level 1 force incidents and in-custody deaths occurring prior to or within 24 hours after booking require concurrent inquiries conducted by the SIU and IA. The following sections explain the responsibilities in Level 1 force incidents and in-custody deaths for:

(a) Supervisors.

(b) Special Investigations Unit (SIU).

(c) Lieutenants.

(d) Chain-of-command.

### 211.6.1 SUPERVISOR RESPONSIBILITIES IN LEVEL 1 AND IN-CUSTODY INCIDENTS

Supervisors shall respond to the scene of all Level 1 force incidents and in-custody deaths unless a hostile crowd or other conditions make such a response impracticable. In such incidents, an alternate safe location shall be designated by the supervisor.

(a) Supervisors are responsible for managing the scene until a higher ranking supervisor or the ranking SIU supervisor arrives.

(b) Supervisors should secure and manage the scene upon arrival and:

1. Take all reasonable steps to obtain emergency medical attention for all injured individuals.
2. Ensure involved personnel, subjects, and witnesses are separated, identified and advised that communication regarding the incident with other people is prohibited.
3. Obtain a brief overview of the situation from available sources.



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4. Involved personnel subject to a potential criminal investigation shall be able to speak with an APA union representative and/or their attorneys prior to speaking with a supervisor. If necessary, the supervisor may administratively order any officer from this department to immediately provide public safety information to secure the scene and pursue subjects.
   (a) Public safety information shall be limited to such things as outstanding subject information, number and direction of shots fired, parameters of the incident scene, identity of known witnesses, and similar information.
5. Ensure a crime scene is established:
   (a) Ensure a *Crime Scene Security Log* (PD0175) is maintained to record the time and identifying information of all persons entering and exiting the scene.
   (b) Ensure the *Crime Scene Security Log* is delivered to the SIU investigator.
6. Ensure an appropriate sized perimeter is established, if needed.
7. Assess the need for additional resources and notify the Watch Lieutenant and appropriate lieutenant.
8. Identify the number of subjects involved and coordinate the apprehension of subject(s)who are unaccounted for.
9. Assign employees who were not involved with the force incident to conduct a reasonable canvass in an effort to identify witnesses in the proximity of the incident. Witness information should be provided to on scene investigators as soon as practical and shall be documented in the employee's supplement.
10. Assign employees who were not involved with the force incident to identify any possible sources of video of the scene, such as security cameras, and determine if they contain any pertinent video. Any information regarding sources of pertinent video should be provided to on scene investigators as soon as practical and shall be documented in the employee's supplement.
11. Coordinate the preliminary inquiry with the SIU and IA investigators to include, but not limited to:
    (a) Identifying employees either involved in or witness to the incident.
    (b) Designating the primary reporting officer for the response to resistance incident report.
    (c) Ensuring the preservation of evidence.
    (d) Assisting investigators to ensure statements are taken.

(c) Once the scene has been cleared, supervisors shall be responsible for the following:
1. Completing a supplement to the response to resistance incident report detailing their actions. SIU may direct a supervisor to complete a supplement to the SIU inquiry report as well.
2. Reviewing the primary reporting employees' response to resistance incident report and change the 8400 title code to 8401 to indicate a Level 1 force incident.
3. Identifying Department or individual equipment, training, and tactical issues.
4. Making recommendations for corrective action when appropriate. Recommendations shall be documented in a memorandum forwarded through the chain-of-command.



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### 211.6.2 SPECIAL INVESTIGATIONS UNIT (SIU) RESPONSIBILITIES IN LEVEL 1 AND IN-CUSTODY DEATH INCIDENTS

The ranking SIU supervisor on-scene of a Level 1 incident shall assume command of the scene. SIU shall conduct a response to resistance inquiry and forward the inquiry packet to IA within forty-five (45) calendar days, unless extended by an assistant chief.

### 211.6.3 LIEUTENANT RESPONSIBILITIES IN LEVEL 1 AND IN-CUSTODY DEATH INCIDENTS

On-duty lieutenants responsible for the area in which the response to resistance incident has occurred will respond to the scene to assume scene management and ensure the assigned supervisor coordinates and assists with a thorough and proper preliminary inquiry. When appropriate, lieutenants may place the involved employees on restricted duty with the approval of the employee's commander or the Duty Commander.

### 211.6.4 CHAIN-OF-COMMAND REVIEW RESPONSIBILITIES IN LEVEL 1 AND IN-CUSTODY DEATH INCIDENTS

The chain-of-command, up to and including the appropriate assistant chief, shall review the response to resistance inquiry packet for Level 1 force incidents. All reviewers shall:

(a) Document their review following IA administrative procedures relating to the IA investigation of the incident.

(b) Review the inquiry packet and evaluate the report and supplements for compliance with law and Department policy. Any reports that are incomplete or inadequate shall be returned to ensure corrections are made.

(c) Order further inquiry or additional resources when necessary.

(d) Evaluate and comment on any training, tactical, or equipment issues.

(e) Document any extension approvals for report deadlines. The employee's commander shall ensure SIU and IA are notified of any deadline extensions.

(f) Forward the response to resistance inquiry packet to the next level in the chain-of-command under which the involved employee was working when the incident occurred, within four work days from the time it was received for review.

## 211.7 LEVEL 2 INCIDENT INQUIRY, REPORTING, AND REVIEW REQUIREMENTS

The following sections explain the responsibilities in Level 2 force incidents for:

(a) Supervisors.

(b) Chain-of-Command Review.

### 211.7.1 SUPERVISOR RESPONSIBILITIES IN LEVEL 2 FORCE INCIDENTS

Level 2 force incident inquiries are conducted by the designated inquiry supervisor. A supervisor shall respond to the scene of all Level 2 force incidents unless a hostile crowd or other conditions make such a response impracticable. In such incidents, an alternate safe location shall be designated by the supervisor.

(a) Supervisors should secure and manage the scene upon arrival and:

1. Ensure involved personnel, subjects, and witnesses are identified, separated, and advised that communication regarding the incident with other people is prohibited.



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2. Verbally review the general circumstances of the incident individually with the involved personnel, subjects, and witnesses. Ensure the reporting level is consistent with the facts and assess whether injuries, if present, are consistent with the force applied.
3. Ensure a perimeter is established if needed.
4. Locate injured subjects and ensure medical services have been requested as needed.
5. Assess the need for additional resources and make appropriate notifications.
6. Identify the number of subjects involved. Coordinate the apprehension of subject(s)outstanding.
7. Personally interview the subjects upon whom the force was used, or alleged to have been used, and obtain a statement. The statement should be captured using a MAV recording system. If a statement is not obtained by video or audio, the supervisor shall thoroughly document the information in their inquiry memorandum and explain the circumstances that prevented the recording.
8. Assign employees who were not involved with the force incident to conduct a reasonable canvass in an effort to identify witnesses in the proximity of the incident. Witness information should be provided to on scene supervisor as soon as practical and shall be documented in the employee's supplement. Witness information shall also be documented in the supervisor inquiry memorandum.
   (a) Witness statements should be captured using a MAV recording system. If a statement is not obtained by video or audio, the supervisor shall thoroughly document the information in their inquiry memorandum and explain what circumstances prevented the recording.
9. Assign employees who were not involved with the force incident to identify any possible sources of video of the scene, such as security cameras, and determine if they contain any pertinent video. Any sources of pertinent video should be provided to on scene supervisor as soon as practical and shall be documented in the employee's supplement.
10. Ensure digital images or photographs are taken of:
    (a) The physical condition of the subject and involved personnel to record the presence or lack of injuries.
    (b) The scene where the response to resistance incident occurred.
    (c) Other relevant evidence.
11. Supervisors shall ensure all MAV media is turned in as evidence if it contains any information or statements related to the incident.

(b) Once the scene has been cleared, supervisors shall be responsible for the following:
1. Send email notifications with the incident report number prior to the end of the tour of duty to the:
   (a) Involved employee's chain-of-command up to the commander.
   (b) Reviewing supervisor's chain-of-command up to the commander, if not already included.
   (c) Commander of the area where the incident took place, if not already included.



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(d) IA (Internal.Affairs@ci.austin.tx.us) if the inquiry indicates there is any credible evidence a violation of law or policy may have occurred concerning the officer's use of force that may reasonably lead to formal discipline.

2. Supervisors shall review the primary reporting employee's response to resistance incident report and change the 8400 title code to 8402 for Level 2 force incidents.
3. Complete a response to resistance inquiry memorandum. The inquiry memorandum shall include:
   (a) The incident number of the involved employee's response to resistance incident report.
   (b) A description of any injury to the subject and/or APD personnel including the medical assistance that was provided.
   (c) Any relevant information revealed in interviews with personnel, subjects involved, and witnesses at the scene.
   (d) Information on the digital images or photographs that were taken. If none were taken then the reason why.
   (e) Whether statements were taken and in what format (e.g., MAV, written). If a statement was not taken, or if the statement was not captured on video or audio, the reasons should be documented.
   (f) Detailed information on any circumstances that delayed or prevented response to the scene.
   (g) Identify Department or individual equipment, training, and tactical issues and make recommendations for corrective action, when appropriate.
4. Prepare a response to resistance inquiry packet:
   (a) The initial resistance incident report and any supplements.
   (b) A Level 2 inquiry control sheet.
   (c) Supervisor inquiry memorandum.
   (d) CAD sheet of the incident.
   (e) MAV recordings containing any evidence of the incident or interviews.
   (f) Any ancillary documentation.
5. Complete and forward the response to resistance inquiry packet to the next level in the chain-of-command under which the involved employee was working when the incident occurred, within four work days from the time the incident occurred.

### 211.7.2 CHAIN-OF-COMMAND REVIEW RESPONSIBILITIES IN LEVEL 2 FORCE INCIDENTS

The chain-of-command, up to and including the commander, shall review the response to resistance inquiry packet for Level 2 force incidents.

(a) All reviewers shall:
   1. Review the inquiry packet and evaluate the report and supplements for compliance with law and Department policy.
   2. Document whether the response to resistance was within Department policy:



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(a) Initial the supervisor inquiry memorandum if you agree that the response to resistance was within Department policy.

(b) If necessary, each level of the chain-of-command may write a supplemental memorandum to be included in the inquiry packet.

3. Evaluate and comment on any training, tactical, or equipment issues.
4. Order further inquiry or additional resources when necessary.
5. Any reports that are incomplete or inadequate shall be returned to ensure corrections are made.
6. Forward the response to resistance inquiry packet to the next level in the chain-of-command under which the involved employee was working when the incident occurred within four work days from the time it was received for review.
7. Document any extension approvals for report deadlines. The commander shall ensure IA is notified of any significant deadline extensions, when applicable.

(b) Upon completion of the review, the commander shall:

1. Forward all approved inquiry packets to APD Training.
2. Document any identified individual, command or Department-wide training issues:

(a) If an individual or command training issue is identified, the commander shall ensure training is conducted and a training memorandum is completed and forwarded to the commander of the Training Division for review and appropriate additional action, if any; and/or

(b) Request Department-wide training from the Training Division.

## 211.8 LEVEL 3 INCIDENT INQUIRY, REPORTING, AND REVIEW REQUIREMENTS

Level 3 force incidents require the involved employees to document the incident in a report and notify their supervisors. Supervisors shall conduct a review of Level 3 force incidents as outlined below but may upgrade any Level 3 force incident to a Level 2 force incident in order to conduct a more extensive review.

(a) Supervisors shall respond to the scene of any Level 3 incident involving:

1. Use of OC spray or other chemical agent on a subject.
2. Use of a TASER Device. See the "Report of Use" section of Policy 208 (TASER® Guidelines) for specific information to be included in the report.
3. Use of an impact weapon.
4. Any incident resulting in injury or complaint of pain beyond the temporary discomfort of unresisted handcuffing. Supervisors shall review the general circumstances of the incident with the involved personnel and ensure the reporting level is correct based on the facts.

(b) Supervisors shall review the primary reporting employees' response to resistance incident report:

1. Incomplete or inadequate reports shall be returned for additional details or clarification.
2. Supervisors shall change the 8400 title code in the Versadex incident report and detail page to 8403 for Level 3 force incidents.



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3. Supervisors shall add a Versadex case note to the report to document they were notified, if they responded to the scene, and whether they have reviewed the incident.

(c) If a TASER Device is used in the force incident, the data report shall be downloaded and a copy scanned into the image section of the Versadex incident report or submitted into evidence with the spent cartridge for retention.

(d) Supervisors shall conduct a thorough review of all documents including the response to resistance incident report and any supplements to ensure completeness, accuracy, and quality. Each level of the chain-of-command, up to the commander, shall review the incident and complete a case note to document their review.

(e) Level 3 incidents that involve the use of OC, Taser, or weaponless strikes on a restrained subject will be forwarded to the Force Review Board for their review.

## 211.9 INCIDENTS DURING SECONDARY LAW ENFORCEMENT RELATED EMPLOYMENT (LERE)

Officers involved in a force incident while working secondary law enforcement related employment (LERE) shall be required to comply with this policy. Supervisors in the area where the force incident occurred shall conduct the inquiry. However, for Level 3 force incidents, should the LERE assignment employ two or more officers and one of the officers is a supervisor not involved in the force incident, the LERE supervisor may conduct the review.

## 211.10 INCIDENTS OCCURRING OUTSIDE THE CITY OF AUSTIN

Employees involved in a Level 1, 2, or 3 force incident while taking police action outside of the City of Austin shall notify the proper law enforcement authority having jurisdiction, contact their supervisor, and follow the reporting procedures outlined in this policy.

## 211.11 SPECIAL CIRCUMSTANCES

Any deviation from the above reporting requirements must be approved by an assistant chief and only for special circumstances (e.g., mass arrest situations, emergency crowd control). Commanders may approve a Level 3 incident to be documented in an after-action report for tactical situations arising from a search warrant, SWAT call-out, or other incident requiring an approved operations plan. The after-action report must comply with the reporting and review requirements for a Level 3 incident. An electronic copy of the after-action report shall be forwarded to the Inspections Unit.



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# Force Review Board

## 212.1 PURPOSE AND SCOPE

The Austin Police Department is charged with the important responsibility of objectively evaluating an Officers Response to Resistance. The Force Review Board (FRB) shall identify any policy, training, tactical, equipment, or other improvements related to the force incident that may be needed. The Board shall also review the quality and timeliness of the response to resistance reporting, investigation, and chain-of-command review, and take appropriate action. The Chief may direct the Board to review any Response to Resistance incident.

The FRB is empowered to conduct an administrative review of the following types of incidents:

(a) Level 1 and Level 2 force incident.

(b) In-custody death.

(c) Vehicle pursuits resulting in the serious bodily injury or death to any person.

(d) Any incident causing serious injury or death as a result of an employees actions.

(e) Any firearms discharge other than those in the course of authorized training, practice, legal recreational activities, during an organized competitive event, or the authorized discharge against an animal.

(f) Any incident where an officer uses OC Spray, Taser, or weaponless strikes on a restrained subject.

(g) Any commander may request that an incident occurring within their area of responsibility be reviewed.

### 212.1.1 AUTHORITY OF FORCE REVIEW BOARD

When a FRB is convened, the Board may:

(a) Direct Department personnel to appear before the Board.

(b) Request any private person to appear as a witness.

(c) Access all relevant documents, records, recordings, including any video, audio, text messages, and transcripts of interviews of all involved personnel, including non-departmental witnesses, as provided by law.

The Board shall make recommendations concerning any policy, training, tactical, equipment, or other improvements but does not have the authority to recommend discipline. Recommendations shall be determined by a majority vote of the Board. Any approved recommendations shall be referred to the Chief of Police or designee.

### 212.1.2 CONFIDENTIALITY OF INFORMATION

Documentation provided to the FRB necessary to perform its function has the same legal character as documentation in the possession of Internal Affairs. No member of the FRB may release any information regarding its review of a specific incident to anyone not authorized to review the information without the authorization of the Chief or designee.



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## 212.2 FORCE REVIEW BOARD COMPOSITION

The FRB consists of Voting Members, Non-Voting Members and Presenters. Current Board membership shall be outlined and updated in Policy 111 (APD Standing Committees and Boards).

### 212.2.1 BOARD MEMBER TRAINING

The Training Division Commander shall ensure all FRB members receive continuing professional training in the following subjects:

(a) Departmental force policies, force application, and practices including demonstrations of training techniques.

(b) Departmental force investigation procedures.

(c) Criminal and administrative investigation techniques, practices, and standards presented and/or coordinated by the Training Academy.

(d) Legal updates on force case law presented by representatives from the City Law Department and/or the District Attorney's Office.

(e) Officer-involved shootings, vehicle pursuit-related matters, and in-custody death investigations.

## 212.3 FORCE REVIEW BOARD INQUIRY PACKETS

### 212.3.1 INQUIRY PACKET PREPARATION

A FRB shall not be convened if any Response to Resistance, In-Custody Death or Vehicle Pursuit incident is being investigated by IA until the internal investigation is completed. IA shall provide the completed investigative report packets within four (4) calendar days of IA's receipt of the report(s) to the Chief of Staff and FRB Chairperson. The FRB Chairperson shall convene a FRB within 30 days of receipt of the investigative files from IA.

The FRB Chairperson may request additional information from Internal Affairs and/or the Vehicular Homicide Unit (if the incident is a pursuit resulting in serious bodily injury or death), as needed.

Inquiry Packets that are not subject to an IA investigation are forwarded to APD Training by the chain-of-command. APD Training shall prepare the Packets for presentation to the FRB.

### 212.3.2 INQUIRY PACKET DISTRIBUTION

The Chairperson shall ensure FRB participants are provided a list of all cases that will be reviewed, as well as the Response to Resistance Inquiry Packet Control Sheet and any supervisor memoranda, at least (7) calendar days prior to the FRB. The FRB participants may review the incident report and any case notes via Versadex.

All other ancillary documents, reports and recordings shall be made available at the FRB, including:

(a) Ancillary documents such as supplement reports and written statements.

(b) Communications Division audiotapes, if necessary.

(c) MAV media, if available.

(d) CAD records.



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(e) Medical reports or summary of injuries, if available.

(f) Digital Images or photographs.

(g) Training and force incident records of involved personnel.

(h) Applicable Department policies and procedures.

## 212.4 FORCE REVIEW BOARD PROCEDURES AND RESPONSIBILITIES

The Chief of Staff shall track the status of all FRB's to include:

(a) Date of the Board.

(b) Date the FRB Report is submitted to the Chief.

(c) Findings and recommendations of the Board.

(d) Implementation of the approved recommendations in accordance with this order.

### 212.4.1 CONVENING A FORCE REVIEW BOARD

The FRB Chairperson shall contact IA within twenty-four (24) hours of the scheduled Board to ascertain whether a force complaint is pending. If a complaint is pending relating to the incident, the FRB Chairperson shall notify the Chief of Staff and reschedule the Board after the completion of the internal investigation.

If no investigation is pending, the FRB Chairperson shall preside over the review of the incident to include, but not limited to, the following:

(a) A presentation and review of the Inquiry Packet and all relevant documents and materials.

(b) A discussion regarding:

1. The quality and timeliness of the reporting, investigation, and chain-of-command review.
2. Applicable policy.
3. Relevant tactics.
4. Current practices and training.
5. Any equipment issues.
6. Additional follow-up by the supervisor conducting the inquiry, IA, and/or SIU.
7. Questions from Board members.

(c) If additional inquiry or other follow-up is recommended, the FRB Chairperson shall advise the Chief of Staff, who may direct the supervisor conducting the inquiry, IA, or SIU of the specific issues to be addressed and assign a due date not to exceed thirty (30) calendar days.

(d) Deliberate on the possible need for:

1. Policy revision or the promulgation of new directives.
2. Changes in equipment.
3. Changes in tactics.
4. Changes in practices and training.
5. Additional training:
   (a) Individual.



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(b) Specialized, including training for Response to Resistance investigators.

(c) Department-wide.

6. Improvements in the quality and timeliness of the reporting, investigation, and chain-of-command review of the force incident.

### 212.4.2 ATTENDANCE BY THE OFFICER(S) INVOLVED

For incidents involving the discharge of a firearm, the involved officer and their chain-of-command may be requested to appear before the Board.

For all other incidents reviewed by the Board, the involved officer(s) and supervisor(s) may appear, or the Chairperson may order their appearance.

### 212.4.3 FORCE REVIEW BOARD REPORT

The Chairperson shall ensure a FRB Report is prepared. The original shall be hand delivered by the Chairperson to the Chief or designee within thirty (30) calendar days after the Board adjourns. The FRB Report shall contain the following, as appropriate:

(a) A summary of the incident.

(b) A summary of the Board's deliberations.

(c) A draft Departmental publication identifying training or equipment issues (e.g., Officer Safety or Information Bulletin).

(d) Recommendations concerning equipment.

(e) Recommendations concerning tactics.

(f) Recommendations to develop or revise Departmental policy and procedures.

(g) Recommendations on the quality and timeliness of the reporting, investigation, and chain-of-command review.

## 212.5 FORCE REVIEW BOARD RECOMMENDATIONS AND FOLLOW-UP

(a) Corrective Actions:

1. If the FRB Report contains approved recommendations for corrective actions for specific personnel (e.g., training), the Chief shall assign it to the appropriate assistant chief.

2. The assigned assistant chief shall ensure the approved recommendations are implemented.

   (a) Upon completion of the recommended corrective action(s), the assistant chief shall prepare and forward a memorandum documenting the completion to the Force Review Board and Chief of Staff within thirty (30) calendar days of receipt, unless extended by the Chief.

   (b) Training recommendations require a training memorandum indicating the successful completion of training and shall be forwarded to the Training Division for filing.

(b) Department-Related Recommendations:

1. If the FRB report contains Department-related recommendations (e.g., policy revision, equipment evaluation, tactical changes, Training Bulletins, or improvements in the quality and timeliness of the reporting, investigation, and



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chain-of-command review), the Chief shall assign the required tasks to the appropriate assistant chief.

2. The assistant chief shall implement the approved recommendations and present a status update to the Command Staff at the next Command Staff meeting. Recommendations shall be placed on the agenda until completed.

3. The Chief of Staff shall monitor and document the implementation of Board recommendations and advise the Chief when:

   (a) Implementation is completed.

   (b) An extension has been requested and the reason for the extension request.

   (c) Implementation has not been completed within thirty (30) calendar days and no extension has been requested.

## 212.6 RECORDS RETENTION AND REPORTING

### 212.6.1 RECORDS RETENTION

The FRB Chairperson shall add the original FRB reports and any additional documents/material into the Inquiry Packet and forward it to IA.

IA shall serve as the custodian of records for Force Review Board Reports, Response to Resistance Inquiry Packets, In-Custody Death Inquiry Packets, and Vehicle Pursuit Report Packets if the pursuit resulted in serious bodily injury or death to any person. Records shall be retained consistent with IA's records retention policy.

### 212.6.2 ANNUAL REPORTING

The following annual reports shall be prepared and distributed by the end of the third quarter of the following year to the Chief.

(a) The commander over Internal Affairs shall prepare an annual Response to Resistance analysis report.

(b) The chairperson of the FRB shall prepare an annual analysis of all incidents examined by the FRB in the prior year to identify any patterns and practices that have policy, training, tactical, equipment, quality control, or other implications.



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# Vehicle Pursuits

## 214.1 PURPOSE AND SCOPE

Vehicle pursuits expose innocent citizens, law enforcement officers, and fleeing violators to the risk of serious injury or death. The primary purpose of this policy is to provide officers with guidance in balancing the safety of the public and themselves against law enforcement's duty to apprehend violators of the law. Another purpose of this policy is to minimize the potential for pursuit-related crashes. Vehicular pursuits require officers to exhibit a high degree of common sense and sound judgment. Officers must not forget that the immediate apprehension of a subject is generally not more important than the safety of the public and pursuing officers.

### 214.1.1 PHILOSOPHY

Deciding whether to pursue a motor vehicle is a critical decision that must be made quickly and under difficult and unpredictable circumstances. In recognizing the risk to public safety created by vehicle pursuits, no officer or supervisor shall be criticized or disciplined for deciding not to engage in a vehicle pursuit due to the risk involved. This includes circumstances where department policy would permit the initiation or continuation of the pursuit. It is recognized that vehicle pursuits are not always predictable and decisions made pursuant to this policy shall be evaluated according to the totality of the circumstances reasonably available at the time of the pursuit.

Officers must remember that the most important factors to the successful conclusion of a pursuit are self-discipline and sound professional judgment. Officers' conduct during the course of a pursuit must be objectively reasonable; that is, what a reasonable officer would do under the same circumstances. An unreasonable desire to apprehend a fleeing subject at all costs has no place in professional law enforcement.

## 214.2 DEFINITIONS

**Channel** - A tactic designed to cause a violator's vehicle to follow a particular path by blocking side streets and/or exit ramps with a patrol unit that has its emergency lights on.

**Terminate** - Means to shut off your lights and siren and stop chasing the fleeing vehicle.

**Tire Deflation Device (TDD) -** A device that extends across the roadway designed to puncture the tires of the pursued vehicle. These are also known as Spikes or Tack Strips.

**Vehicle Pursuit** - An event involving one or more law enforcement officers attempting to apprehend a subject who is attempting to avoid arrest while operating a motor vehicle by using high speed or other evasive tactics such as disregarding traffic warning signs, stop signs, red lights, driving off a roadway, turning suddenly, or driving in a legal manner but willfully failing to yield to an officer's signal to stop.

## 214.3 PURSUIT CONSIDERATIONS AND RESTRICTIONS

The following policy is established to provide officers with guidelines for driving with due regard and caution for the safety of all persons using the highway (as required by Tex. Transp. Code § 546.005).



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### 214.3.1 RESTRICTIONS ON VEHICLE PURSUITS

Officers will not engage in a pursuit under any of the following circumstances:

(a) The subject evades after having committed only:
  1. Any Class C Offense, including traffic; or
  2. A non-hazardous traffic violation, regardless of the class of offense.

(b) The subject is committing, or has committed, only a misdemeanor other than suspected DWI/DUI, and his identity is known to the officer.

(c) The officer has a prisoner, subject, or other non-police passenger who has not signed a liability release.

(d) The road surface is wet or otherwise slippery, unless the violator has committed a felony involving violence, and then only when all considerations for safety have been taken into account and the pursuit is still deemed reasonable.

### 214.3.2 FACTORS TO CONSIDER BEFORE INITIATING A PURSUIT

With the exception of the specified restrictions on vehicle pursuits listed in this policy, officers are authorized to initiate a pursuit when it is reasonable to believe that a subject is attempting to evade arrest or detention by fleeing in a vehicle.

(a) The following factors will be considered both individually and collectively when deciding whether to initiate or continue a pursuit:
  1. Seriousness of the known or reasonably suspected crime and its relationship to community safety.
  2. 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.
  3. Apparent nature of the fleeing subject (e.g., whether the subject represents a serious threat to public safety).
  4. Extended pursuits of violators for misdemeanors not involving violence or risk of serious harm (independent of the pursuit) are discouraged.
  5. The identity of the subject has been verified and there is comparatively minimal risk in allowing the subject to be apprehended at a later time.
  6. Safety of the public in the area of the pursuit, including the type of area, time of day, the amount of vehicular and pedestrian traffic (e.g., school zones) and the speed of the pursuit relative to these factors.
  7. Pursuing officer's familiarity with the area of the pursuit, the quality of radio communications between the pursuing units and the dispatcher/supervisor and the driving capabilities of the pursuing officers under the conditions of the pursuit.
  8. Weather, traffic, and road conditions that unreasonably increase the danger of the pursuit when weighed against the risks resulting from the subject's escape.
  9. Performance capabilities of the vehicles used in the pursuit in relation to the speeds and other conditions of the pursuit.
  10. Vehicle speeds.
  11. Other subjects in or on the pursued vehicle (e.g., passengers, co-offenders and hostages).



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12. Availability of other resources such as aircraft assistance.

### 214.3.3 WHEN TO TERMINATE A PURSUIT

Pursuits should be discontinued whenever the totality of objective circumstances known, or which reasonably ought to be known, to the officer or supervisor during the pursuit indicates that the present risks of continuing the pursuit reasonably appear to outweigh the risks resulting from the subject's escape. Officers and supervisors must objectively and continuously weigh the seriousness of the offense against the potential danger to motorists, themselves, and the public when electing to continue a pursuit. This section shall not be construed to authorize a pursuit that is expressly prohibited as outlined in the Restrictions on Vehicle Pursuits section of this policy.

(a) The factors listed in this policy on when to initiate a pursuit are expressly included herein and shall also apply to the decision to discontinue a pursuit. In addition to those factors listed, the following should also be considered in deciding whether to terminate a pursuit:

1. Distance between the pursuing officers and the fleeing vehicle is so great that further pursuit would be futile or require the pursuit to continue for an unreasonable time or distance.
2. Pursued vehicle's location is no longer definitely known.
3. Officers shall discontinue the pursuit when they become aware their vehicle has developed a mechanical malfunction. This includes, but is not limited to:
   (a) Any engine warning light activates on the dash (e.g., brake, ABS, or check engine lights).
   (b) Audible warning tones.
   (c) Physical damage that affects the performance, maneuverability, or functioning of the vehicle.
4. Hazards to uninvolved bystanders or motorists.
5. If the identity of the offender is known and it does not reasonably appear that the need for immediate capture outweighs the risks associated with continuing the pursuit, officers should strongly consider discontinuing the pursuit and apprehending the offender at a later time.
6. Directed by a supervisor.
7. Pursuit speeds:
   (a) Pursuit speeds have become unreasonably unsafe for the surrounding conditions.
   (b) Pursuit speeds have exceeded the driving ability of the officer.
   (c) Pursuit speeds are beyond the capabilities of the pursuit vehicle thus making its operation unsafe.

### 214.3.4 PURSUIT DRIVING CONSIDERATIONS AND RESTRICTIONS

The decision to use specific driving tactics requires the same assessment of factors to be considered concerning pursuit initiation and termination. The following driving tactics apply to units involved in a pursuit:

(a) Officers will space themselves from other involved vehicles, in consideration of their driving skills and vehicle performance capabilities, so they are able to see and avoid hazards or react safely to maneuvers by the fleeing vehicle and other police units.



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(b) Officers should not attempt to pass other units in a pursuit unless the situation indicates otherwise or requested to do so by the primary unit or control supervisor.

(c) In the event that the pursued vehicle drives the wrong way on a roadway, the following tactics should be used:

1. Request Air Support assistance.
2. If a divided roadway, maintain visual contact with the pursued vehicle by paralleling on the correct side.
3. Request other units to watch for exits available to the vehicle.

(d) Officers will not pursue a vehicle driving the wrong way on a:

1. Highway or Freeway,
2. Highway or Freeway frontage / service roads, or
3. any roadways that are:
   (a) directly connected to highway/freeway entry or exit ramps, or
   (b) adjacent to or running parallel to a highway or freeway.

(e) Officers have an obligation to drive with a due regard for the safety of lives and property. Driving the wrong way on a roadway does not necessarily protect the officer from the consequences of a disregard for traffic and/or legal restrictions.

## 214.4 PURSUIT GUIDELINES

Pursuit units shall be limited to three vehicles (two units and a control supervisor); however, a control supervisor may request additional units to join a pursuit if, after assessing the factors outlined above, it appears that the number of officers involved would be insufficient to safely stop the pursuit and/or arrest the subject(s). All other officers will stay out of the pursuit but should remain alert to its progress and location.

(a) An officer or supervisor involved in a pursuit should request aircraft assistance as soon as practicable.

(b) All officers involved in a pursuit shall:

1. Operate their police unit with emergency lights and siren activated (Code 3).
2. Ensure their Mobile Audio Video (MAV) recording system has been activated if their vehicle is equipped with one.

(c) Any officer who drops out of a pursuit may, with permission of a control supervisor, trail the pursuit to the termination point in order to provide necessary information and assistance in the arrest of the subject(s).

1. The term "trail" means to follow the path of the pursuit at a safe speed while obeying all traffic laws and without activating emergency equipment. If the pursuit is at a slow rate of speed, the trailing unit will maintain sufficient distance from the pursuit units so as to clearly indicate an absence of participation in the pursuit.

(d) Pursuit communications shall be handled as follows:

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



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2. If a pursuit contains multiple agencies and/or leaves APD jurisdiction, Communications will determine the appropriate radio channel to use.

### 214.4.1 POLICE MOTORCYCLES AND UNMARKED UNITS

Police motorcycles and unmarked units equipped with emergency lights and siren may initiate a pursuit; however, those officers should terminate their involvement in the pursuit immediately upon arrival of a sufficient number of distinctively marked law enforcement vehicles equipped with emergency lights and siren, or any law enforcement aircraft.

### 214.4.2 POLICE UNITS WITHOUT EMERGENCY EQUIPMENT

Police units not equipped with emergency lights and siren are generally prohibited from initiating or joining in a pursuit. Officer(s) in such vehicles may become involved in emergency activities involving serious crimes or life-threatening situations; however, those officers should terminate their involvement in the pursuit immediately upon arrival of a sufficient number of distinctively marked law enforcement vehicles equipped with emergency lights and siren, or any law enforcement aircraft.

### 214.4.3 UNITS NOT INVOLVED IN A PURSUIT

(a) There shall be no paralleling of a pursuit route by officers not authorized to be in a pursuit.

(b) Officers not directly involved in the pursuit are authorized to proceed safely to controlled intersections ahead of the pursuit and use emergency equipment to warn vehicular and pedestrian traffic in an effort to protect the public. Officers should remain in their assigned area and should not become involved with the pursuit unless directed otherwise by a supervisor.

(c) Non-pursuing personnel needed at the termination of a pursuit should respond in the appropriate manner based on the totality of the circumstances and type of assistance needed.

### 214.4.4 SUPERVISORS INITIATING A PURSUIT

(a) When a supervisor initiates a pursuit, another supervisor working in the same area should acknowledge the pursuit over the radio and assume responsibility as the control supervisor.

1. If a supervisor in the same area is unavailable, and no supervisor volunteers as control supervisor, Communications shall notify the nearest available field supervisor that a control supervisor is needed. Corporals serving as acting sergeants may not assume responsibility as the control supervisor in this situation.

2. Acknowledgment by the appointed control supervisor must be made by radio.

(b) The supervisor who initiates the pursuit may continue pursuing the subject vehicle until such time as patrol units are able to assist, or the pursuit is terminated.

1. As authorized patrol units engage the pursuit, the initiating supervisor will allow those units to take up the first and subsequent positions behind the subject vehicle and call the pursuit.

2. The initiating supervisor shall move to the last position behind the authorized units and assume the role of control supervisor.



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(c) Once the initiating supervisor is in a position to assume the role of control supervisor, they shall advise Communications by radio that they are now control supervisor and the previous control supervisor shall be relieved.

(d) The supervisor acting as control supervisor at the conclusion of the pursuit shall complete all appropriate paperwork.

1. Any other supervisor who acted as control supervisor, or became involved in a supervisory capacity at any time during the pursuit, shall write a supplement documenting his involvement.

### 214.4.5 PURSUITS INITIATED BY OTHER LAW ENFORCEMENT AGENCIES

The agency that initiates a pursuit shall be responsible for conducting the pursuit. Units from this department should not participate in, join, or assume control of a pursuit initiated by another agency unless approved by a supervisor or the Watch Lieutenant. As soon as practicable, a supervisor or the Watch Lieutenant should review a request for assistance from another agency to determine if assistance will be provided.

(a) At no time should a request to join or take over a pursuit from another agency that has entered this jurisdiction be granted if it violates the considerations and restrictions on vehicle pursuits outlined in this policy, with the following exceptions:

1. Authorization to participate in the pursuit may be granted for the sole purpose of ending the pursuit using TDD's or other approved devices and methods as outlined in this policy, regardless of the reason for the pursuit.

2. In the event that a pursuit from another agency terminates within this jurisdiction, approval may be given to provide appropriate assistance to officers from the allied agency including, but not limited to, scene control, containment, subject search, completion of supplemental reports, and any other assistance requested or needed.

(b) Pursuit assistance to an allied agency by officers of this department should terminate at the City limits. Ongoing participation from this department may only continue with the approval of a supervisor.

### 214.4.6 APD PURSUITS ENTERING OTHER JURISDICTIONS

(a) Officers should request communications to notify the appropriate law enforcement agency when it appears that the pursuit may enter another jurisdiction.

(b) When a pursuit enters another agency's jurisdiction, the primary officer or supervisor should determine whether to request the other agency to assume the pursuit by taking into consideration distance traveled, unfamiliarity with the area, and other pertinent factors.

### 214.4.7 LOSS OF PURSUED VEHICLE AND SUBJECT BAILING

(a) When the pursued vehicle is lost, the primary unit should broadcast pertinent information to assist other units in locating the vehicle. The control supervisor will determine if the pursuit should be terminated and whether Air Support should continue searching the area.

(b) When subjects abandon the vehicle and flee on foot, the primary unit will be responsible for coordinating any further search with the permission of the control supervisor.



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## 214.5 PURSUIT UNIT ROLES AND RESPONSIBILITIES

This section outlines the roles and responsibilities of police units involved in a pursuit.

### 214.5.1 PRIMARY UNIT RESPONSIBILITIES

The initial pursuing officer will be the primary pursuit unit and is responsible for the conduct of the pursuit unless unable to remain reasonably close enough to the violator's vehicle. The primary responsibility of the officer initiating the pursuit is the apprehension of the subject(s) without unreasonable danger to themselves or other persons.

(a) The primary unit should notify Communications on the appropriate primary channel corresponding to the area the vehicle pursuit was initiated in and, as soon as practicable, provide the following information:

1. Reason for the pursuit.
2. Location and direction of travel.
3. Speed of the fleeing vehicle.
4. Description of the fleeing vehicle and license number, if known.
5. Number of occupants.
6. The identity or description of the known occupants.
7. Evasive actions being taken by the fleeing vehicle (e.g., disregard of traffic control devices, intentional collisions, driving on the wrong side of the roadway).
8. Information concerning the use of firearms, threat of force, injuries, hostages or other unusual hazards.

(b) Unless relieved by a supervisor or secondary unit, the officer in the primary unit shall be responsible for the broadcasting of the progress of the pursuit. Unless circumstances reasonably indicate otherwise, the primary unit should relinquish the responsibility of broadcasting the progress of the pursuit to a secondary unit or aircraft joining the pursuit to minimize distractions and allow the primary unit to concentrate foremost on safe pursuit tactics.

### 214.5.2 SECONDARY UNIT(S) RESPONSIBILITIES

(a) The second officer in the pursuit is responsible for the following:

1. Immediately notify the dispatcher of entry into the pursuit.
2. Broadcast the progress of the pursuit unless the situation indicates otherwise.

(b) The secondary unit should remain a safe distance behind the primary unit unless directed to assume the role of primary unit (e.g., the primary unit is unable to continue the pursuit).

### 214.5.3 CONTROL SUPERVISOR RESPONSIBILITIES

It is the policy of this department that supervisor control shall be exercised over all vehicle pursuits involving officers from this department.

(a) The immediate supervisor of the officer initiating the pursuit, or if unavailable, the nearest available field supervisor shall assume the responsibility as the control supervisor.

(b) Corporals serving as acting sergeants shall assume the responsibility as the control supervisor during a pursuit initiated in their area if no other sergeant is on-duty



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or immediately available in that area; however, corporals may not be the control supervisor when a sergeant initiates a pursuit.

(c) The control supervisor is responsible for the following:

1. Upon becoming aware of a pursuit, immediately ascertaining all reasonably available information to continuously assess the situation and risk factors associated with the pursuit in order to ensure that the pursuit is conducted within established department guidelines.
2. Engage in the pursuit when appropriate and provide on scene supervision.
3. Exercise management and control of the pursuit even if not engaged in it.
4. Ensuring that no more than the number of required police units needed are involved in the pursuit under the guidelines set forth in this policy.
5. Direct that the pursuit be terminated if, in his judgment, it is unjustified to continue the pursuit under the guidelines of this policy.
6. Ensure that aircraft assistance is requested.
7. Ensure that the proper radio channel is being used.
8. Ensure the notification and/or coordination of outside agencies if the pursuit either leaves or is likely to leave the jurisdiction of this agency.
9. Control and manage APD units when a pursuit enters another jurisdiction.
10. Prepare a post pursuit critique and analysis of the pursuit for training purposes.

### 214.5.4 COMMUNICATIONS RESPONSIBILITIES

Upon notification that a pursuit has been initiated, Communications shall:

(a) Broadcast an alert tone citywide to inform officers that a pursuit is in progress.

(b) Assign an incident number and log all pursuit activities.

(c) Coordinate communications of the involved units and personnel.

(d) Notify and coordinate with other involved or affected agencies, as needed.

(e) Broadcast updates and other pertinent information, as necessary.

(f) Ensure that the Communications supervisor and appropriate lieutenant are notified of the pursuit.

1. If the lieutenant over the area where the pursuit initiated is unavailable or does not respond in a timely manner, the nearest available lieutenant shall be contacted.

(g) Notify the Watch Lieutenant as soon as practicable.

(h) Dispatchers shall keep other areas of the city advised if the pursuit is likely to enter or cross into multiple areas.

(i) Upon verbal confirmation that a pursuit has been terminated, Communications shall again broadcast the designated citywide alert tone signifying the pursuit has been terminated.

### 214.5.5 AIR SUPPORT RESPONSIBILITIES

Once the Air Unit has established visual contact with the pursued vehicle and is capable, it should start calling the actions of the pursuit to allow ground units to focus on driving. The primary and secondary ground units should consider the participation of aircraft assistance when determining whether to continue the pursuit.



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

(b) Once a vehicle pursuit has been terminated, the Tactical Flight Officer may request permission from the control supervisor to allow the Air Unit to track the subject. If permission is granted to track, the Air Unit will advise location and any pertinent information relative to the safety of the public. If the Air Unit indicates that the subject vehicle has stopped, the control supervisor may authorize ground units to proceed to the vehicle location. The control supervisor shall determine the manner in which units respond.

1. If the control supervisor denies permission to track, the Air Unit will break off all contact with the subject.
2. If the Air Unit determines, in the interest of safety, that it can no longer assist or continue tracking the subject, the Air Unit shall notify the control supervisor.

### 214.5.6 WATCH LIEUTENANT RESPONSIBILITIES

Upon becoming aware that a pursuit has been initiated, the Watch Lieutenant should monitor and continually assess the situation and ensure the pursuit is conducted within the guidelines and requirements of this policy.

(a) The Watch Lieutenant has the final responsibility for the coordination, control, and termination of a motor vehicle pursuit and shall be in overall command.

(b) The Watch Lieutenant shall review all pertinent reports for content and forward them to the appropriate assistant chief.

## 214.6 APPROVED PURSUIT INTERVENTION AND TERMINATION TACTICS

Any approved tactic, depending upon the conditions and circumstances under which it is used, may present dangers to the officers, the public, or anyone in the vehicle being pursued. It is imperative that officers act within the bounds of legality, good judgment, accepted practices, and policy.

(a) Certain applications of intervention and termination tactics may be construed to be a use of force, including deadly force, and are subject to Department policies guiding such use and reporting.

(b) In deciding whether to use an approved tactic, officers and supervisors should balance the risks of allowing the pursuit to continue with the potential hazards arising from the use of each tactic to the public, the officers, and subjects in or on the pursued vehicle. With these risks in mind, the decision to use any tactic should be reasonable in light of the circumstances apparent to the officer at the time of the decision.

(c) Unless exigency exists, the use of intervention tactics should be employed only after approval of a supervisor.

### 214.6.1 USE OF FIREARMS

Officers should exercise good judgment and not place themselves in the path of a moving vehicle since doing so may increase the likelihood of having to resort to the use of deadly force.



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(a) Unless it reasonably appears that it would endanger officers or the public, officers are expected to move out of the path of any approaching vehicle.

(b) Officers shall adhere to the guidelines set forth in Policy 202 (Firearm Discharge Situations) in regards to the discharge of a firearm at or from a moving vehicle.

### 214.6.2 TIRE DEFLATION DEVICE (TDD)

The use of a Tire Deflation Device (TDD) should be approved in advance by the control supervisor and deployed only when it is reasonably apparent that only the pursued vehicle will be affected by their use. Officers should carefully consider the limitations of such devices as well as the potential risks to officers, the public and occupants of the pursued vehicle. If the pursued vehicle is a motorcycle, a vehicle transporting hazardous materials, or a school bus transporting children, officers and supervisors should weigh the potential consequences against the need to immediately stop the vehicle.

(a) TDD's shall not be used when a motorcycle unit from any law enforcement agency is involved in the pursuit.

(b) **TDD Deployment**

1. Only officers who have received and successfully completed Department approved training in the application and use of an approved TDD shall use this intervention tactic.
2. Officers who are driving units equipped with a TDD and are authorized to deploy the TDD may proceed Code 3 to a location likely to be in path of the pursuit.
3. TDD units shall advise Communications when they have reached the deployment site and give their location.
4. After a deployment site has been established, the control supervisor may authorize other units to operate Code 3 in order to channel the fleeing vehicle to this location.
   (a) Channeling may include blocking freeway exits and/or major side streets.
   (b) Police units shall not attempt to make a fleeing vehicle take any action other than continuing straight on the road upon which it is already traveling.
   (c) Police units shall activate all emergency lighting while blocking exits or streets.
5. The officer calling the pursuit shall broadcast the identity of the target vehicle to the TDD unit when the pursuit approaches the deployment site. The information should include details of the vehicle such as license plate, color, make and model.
   (a) The target vehicle should be visually confirmed by the TDD unit to reduce errors in deployment.
   (b) All pursuing units should maintain at least a three to five second gap behind the target vehicle to allow sufficient time for the setup and retrieval of the TDD.
   (c) Pursuing vehicles should proceed cautiously upon approaching and crossing the TDD site.



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### 214.6.3 LOW SPEED INTERVENTION

Police vehicles shall not be used to physically force a pursued vehicle off the roadway or to a stop, or to otherwise change its direction of travel or alter its speed unless:

(a) The pursued vehicle is at a *stop or near stop;* and

(b) The police vehicle is maneuvering at low speed; and

(c) Doing so would reduce or eliminate the risk associated with the pursuit continuing.

Before engaging in such actions, officers must consider the unintended consequences of the low speed intervention and recognize that a better course of action may be to terminate the pursuit altogether.

## 214.7 REPORTING AND REVIEW REQUIREMENTS

### 214.7.1 INVOLVED OFFICER(S) RESPONSIBILITY

All officers involved in the pursuit will write a detailed incident report or supplement and submit their MAV media as evidence. This includes the primary officer initiating the pursuit, any secondary officer(s), and any additional officer(s) who assisted with the pursuit (e.g., Officers using a TDD, Air Support).

### 214.7.2 CONTROL SUPERVISOR RESPONSIBILITIES

The control supervisor shall promptly complete an officer involved pursuit packet and forward it to an on-duty lieutenant over the area where the pursuit was initiated. The packet should contain:

(a) Supervisor's supplement report to include the following information:

1. Date/Time of pursuit.
2. Length of pursuit.
3. Involved units and officers.
4. Initial reason for pursuit.
5. Starting and termination points.
6. Disposition: arrest, citation or other release. Arrestee information should be provided if applicable.
7. Injuries and/or property damage.
8. Medical treatment.
9. A preliminary determination whether the pursuit appears to be in compliance with this policy or if additional review and/or followup is warranted.

(b) Pursuit log.

(c) Incident and supplement reports from all involved officers.

(d) CAD call history.

(e) Crash report and diagrams, if applicable.

(f) Copies of all audio and/or video media of the pursuit. If a recording includes audio/video media from a Digital Mobile Audio Video (DMAV) in car-system, supervisors shall state in the supplement report that the video is located on the DMAV system. Supervisors are not required to provide a physical copy of the audio/video media from a DMAV in car-system.



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### 214.7.3 LIEUTENANT RESPONSIBILITIES

After receiving copies of reports, logs, and other pertinent information the lieutenant or designee shall:

(a) Review the information contained in the packet and on the MAV media.

(b) Prepare a critique memorandum which provides the following information:

1. Date/Time of pursuit.
2. Length of pursuit.
3. Weather and traffic conditions.
4. Involved units and officers.
5. Identity of the control supervisor.
6. Initial reason for pursuit.
7. Starting and termination points.
8. Disposition of the subject (e.g., arrest, citation, other release). Arrestee information should be provided if applicable.
9. Injuries and/or property damage.
10. Medical treatment.
11. A preliminary determination whether the pursuit appears to be in compliance with this policy or if additional review and/or followup is warranted.

(c) Forward the officer involved pursuit packet, the MAV media, and the critique memorandum to the initiating officer's commander.

(d) Forward a copy of the pursuit packet and critique memorandum (without the MAV media) to the commanders of any other officers involved in the pursuit.

### 214.7.4 COMMANDER RESPONSIBILITIES

(a) If the initiating officer's commander determines that the pursuit falls within policy guidelines, he shall ensure the information is forwarded to the Vehicular Homicide Unit for retention.

(b) If the initiating officer's commander determines that the pursuit violates policy guidelines, he shall submit an internal complaint to Internal Affairs following the guidelines set forth in Policy 902 (Administrative Investigations).

## 214.8 DEATH OR SERIOUS BODILY INJURY DURING PURSUITS

The Vehicular Homicide Unit shall forward pursuit packets to the chairperson of the Force Review Board when the pursuit resulted in death or serious bodily injury. Following the Board's review, the packet shall be returned to the Vehicular Homicide Unit.



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# Foot Pursuits

## 216.1 PURPOSE AND SCOPE

Foot pursuits are inherently dangerous and require common sense, sound tactics, and heightened officer safety awareness. This policy sets forth guidelines to assist officers in making the decision to initiate or continue the pursuit of subjects on foot.

### 216.1.1 POLICY

It is the policy of this department when deciding to initiate or continue a foot pursuit that officers must continuously balance the objective of apprehending the subject with the risk and potential for injury to department personnel, the public, or the subject.

Officers are expected to act reasonably based on the totality of the circumstances. Absent exigent circumstances, the safety of department personnel and the public should be the primary consideration when determining whether a foot pursuit should be initiated or continued. Officers must be mindful that immediate apprehension of a subject is rarely more important than the safety of the public and Department personnel.

## 216.2 DECISION TO PURSUE

Officers may be justified in initiating a foot pursuit of any individual the officer reasonably believes is about to engage in, is engaging in, or has engaged in criminal activity. The decision to initiate or continue such a foot pursuit, however, must be continuously re-evaluated in light of the circumstances presented at the time.

Mere flight by a subject who is not suspected of criminal activity shall not serve as the sole justification for engaging in a foot pursuit without the development of reasonable suspicion regarding the individual's involvement in criminal activity.

Deciding to initiate or continue a foot pursuit is a decision that an officer must make quickly and under unpredictable and dynamic circumstances. It is recognized that foot pursuits potentially place department personnel and the public at significant risk. Therefore, no officer or supervisor shall be criticized or disciplined for deciding not to engage in a foot pursuit because of the perceived risk involved.

If circumstances permit, surveillance and containment are generally the safest tactics for apprehending fleeing subjects. In deciding whether to initiate or continue a foot pursuit, an officer should continuously consider reasonable alternatives to pursuit based upon the circumstances and resources available, such as the following:

(a) Containment of the area.

(b) Canine search.

(c) Saturation of the area with patrol personnel.

(d) Air support.

(e) Apprehension at another time when the identity of the subject is known or there is information available that would likely allow for later apprehension, and the need to immediately apprehend the subject does not reasonably appear to outweigh the risk of continuing the pursuit.



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## 216.3 FOOT PURSUIT CONSIDERATIONS

An order by a supervisor to terminate a foot pursuit shall be promptly obeyed. Officers should consider alternatives to engaging in or continuing a foot pursuit under the following conditions:

(a) When the officer is acting alone.

(b) When two or more officers become separated, lose visual contact with one another or obstacles separate them to the degree that they cannot immediately assist each other should a confrontation take place. In such circumstances, it is generally recommended that a single officer keep the subject in sight from a safe distance and coordinate the containment effort.

(c) The officer is unsure of his location and direction of travel.

(d) When pursuing multiple subjects and the pursuing officers do not reasonably believe that they would be able to control the subjects should a confrontation occur.

(e) When the physical condition of the officers renders them incapable of controlling the subject if apprehended.

(f) When the officer loses radio contact with Communications or with backup officers.

(g) When the subject enters a building, structure, confined space, or a wooded or otherwise isolated area and there are insufficient officers to provide backup and containment. The primary officer should consider discontinuing the pursuit and coordinating containment pending the arrival of sufficient officers.

(h) The officer becomes aware of unanticipated or unforeseen circumstances that unreasonably increase the risk to officers or the public.

(i) The officer reasonably believes that the danger to the pursuing officers or to the public outweighs the objective of immediate apprehension.

(j) The officer loses possession of his firearm or other essential equipment.

(k) The officer or a third party is injured during the pursuit, requiring immediate assistance and there are no other emergency personnel available to render aid.

(l) The subject's location is no longer definitely known.

(m) The identity of the subject is established or other information exists that will allow for the subject's apprehension at a later time, and it reasonably appears that there is no immediate threat to department personnel or the public if the subject is not immediately apprehended.

(n) The officer's ability to safely continue the pursuit is impaired by inclement weather, darkness, or other conditions.

## 216.4 RESPONSIBILITIES IN FOOT PURSUITS

### 216.4.1 INITIATING OFFICER RESPONSIBILITIES

Unless relieved by another officer or a supervisor, the initiating officer shall be responsible for coordinating the progress of the pursuit.

(a) Early communication of available information from the involved officers is essential so that adequate resources can be coordinated and deployed to bring a foot pursuit to a safe conclusion. Officers initiating a foot pursuit should broadcast the following information as soon as it becomes practicable and available:

1. Unit identifier.



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2. Location and direction of travel.
3. Reason for the foot pursuit.
4. Number of subjects and description.
5. Whether the subject is known or believed to be armed.

(b) Officers are reminded that radio transmissions made while running may be difficult to understand and may need to be repeated.

(c) Absent extenuating circumstances, any officer unable to promptly and effectively broadcast this information should terminate the pursuit. If the foot pursuit is discontinued for any reason, immediate efforts for containment should be established and alternatives considered based upon the circumstances and available resources.

(d) When a foot pursuit terminates, the officer shall notify Communications of his location and the status of the pursuit termination (e.g., subject in custody, lost sight of subject), and shall direct further actions as reasonably appear necessary.

### 216.4.2 ASSISTING OFFICER RESPONSIBILITIES

Whenever any officer announces that he is engaged in a foot pursuit, all other officers should minimize non-essential radio traffic to permit the involved officers maximum access to the radio frequency.

Officers in a position to intercept a fleeing subject, or who can assist the primary officer with the apprehension of the subject, shall act reasonably and in accordance with Department policy based upon available information and their own observations.

### 216.4.3 SUPERVISOR RESPONSIBILITIES

Upon becoming aware of a foot pursuit, the employee's supervisor shall make every reasonable effort to ascertain sufficient information to direct responding resources and to take command, control, and coordination of the foot pursuit.

(a) The supervisor should respond to the area whenever possible; the supervisor does not, however, need not be physically present to exercise control over the pursuit.

(b) The supervisor shall continuously assess the situation to ensure the foot pursuit is conducted within established department guidelines.

(c) The supervisor shall terminate the foot pursuit when the danger to pursuing officers or the public appears to unreasonably outweigh the objective of immediate apprehension of the subject.

## 216.5 REPORTING

(a) The initiating officer shall complete an incident report documenting, at minimum, the following:

1. The reason for initiating the foot pursuit.
2. The identity of involved personnel.
3. The course and approximate distance of the pursuit.
4. Whether a subject was apprehended as well as the means and methods used.
5. Any injuries or property damage.

(b) Any response to resistance shall be reported and documented in compliance with the Department Response to Resistance Policies.



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(c) Assisting officers taking an active role in the apprehension of the subject shall complete supplemental reports as necessary or as directed.

(d) In any case in which a subject is not apprehended and there is insufficient information to warrant further investigation, a supervisor may authorize that the initiating officer need not complete a formal report.



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# Chapter 3 - Field Operation, Custody, and Traffic Enforcement Guidelines

# Patrol Function

## 300.1 PURPOSE AND SCOPE

The purpose of this policy is to define the functions of the patrol unit of the Department to ensure intra-department cooperation and information sharing.

### 300.1.1 FUNCTION

Officers will generally patrol in clearly marked vehicles, patrol assigned jurisdictional areas of Austin, respond to calls for assistance, act as a deterrent to crime, enforce state and local laws and respond to emergencies 24 hours per day seven days per week.

Patrol will generally provide the following services within the limits of available resources:

(a) Patrol that is directed at the prevention of criminal acts, traffic violations and collisions, the maintenance of public order and the discovery of hazardous situations or conditions.

(b) Crime prevention activities such as residential inspections, business inspections and community presentations.

(c) Calls for service, both routine and emergency in nature.

(d) Investigation of both criminal and non-criminal acts.

(e) The apprehension of criminal offenders.

(f) Community oriented policing and problem solving activities such as citizen assists and individual citizen contacts of a positive nature.

(g) The sharing of information between the Patrol and other bureau within the Department, as well as other outside governmental agencies.

(h) The application of resources to specific problems or situations within the community, which may be improved or resolved by community oriented policing and problem solving strategies.

(i) Traffic direction and control.

### 300.1.2 TERRORISM

It is the goal of the Austin Police Department to make every reasonable effort to accurately and appropriately gather and report any information that may relate to either foreign or domestic terrorism. Officers should advise a supervisor as soon as practicable of any activity believed to be terrorism related and should document such incidents with a written report or Field Interview (FI). The supervisor should ensure that all terrorism-related reports and FIs are forwarded to the Investigation Unit Supervisor in a timely fashion.

## 300.2 PATROL INFORMATION SHARING PROCEDURES

The following guidelines are intended to develop and maintain intra-department cooperation and information flow between the various bureaus of the Austin Police Department.

### 300.2.1 CRIME ANALYSIS UNIT

The Crime Analysis Unit (CAU) will be the central unit for information exchange. Criminal information and intelligence reports can be submitted to the Central Records for distribution to all bureaus within the Department through daily and special bulletins.



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### 300.2.2 CRIME REPORTS

A crime report may be completed by any patrol officer who receives criminal information. The report will be processed and forwarded to the appropriate bureau for retention or follow-up investigation.

### 300.2.3 PATROL BRIEFINGS

Patrol supervisors, detective sergeants and special unit sergeants are encouraged to share information as much as possible. All supervisors and/or officers will be provided an opportunity to share information at the daily patrol briefings as time permits.

### 300.2.4 INFORMATION CLIPBOARDS

Several information clipboards will be maintained in the briefing room and will be available for review by officers from all bureaus within the Department. These will include, but not be limited to, the patrol check clipboard, the wanted persons clipboard and the written directive clipboard.

### 300.2.5 BULLETIN BOARDS

A bulletin board will be kept in the briefing room and the Investigation Unit for display of suspect information, intelligence reports and photographs. New Special Orders will be made available for patrol supervisors and will be discussed at briefings and shift meetings. A copy of the Special Order will be placed on the briefing room clipboard.

## 300.3 CROWDS, EVENTS AND GATHERINGS

Officers may encounter gatherings of people, including but not limited to, civil demonstrations, civic, social and business events, public displays, parades and sporting events. Officers should monitor such events as time permits in an effort to keep the peace and protect the safety and rights of those present. A patrol supervisor should be notified when it becomes reasonably foreseeable that such an event may require increased monitoring, contact or intervention.

Officers responding to an event or gathering that warrants law enforcement involvement should carefully balance the speech and association rights of those present with applicable public safety concerns before taking enforcement action. Officers are encouraged to contact organizers or responsible persons to seek voluntary compliance that may address relevant public safety/order concerns.

Officers should consider enforcement of applicable state and local laws, such as Tex. Penal Code § 42.03 (Obstructing Highway or Other Passageway), when the activity blocks the entrance or egress of a facility or location and when voluntary compliance with the law is not achieved.



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# Responsibility to the Community

## 301.1 PURPOSE AND SCOPE

All persons deserve protection by fair and impartial law enforcement and should be able to expect similar police response to their behavior wherever it occurs. Employees will serve the public through direction, counseling, assistance, and protection of life and property. Employees will be held accountable for the manner in which they exercise the authority of their office or position. Employees will respect the rights of individuals and perform their services with honesty, sincerity, courage, and sound judgment.

## 301.2 IMPARTIAL ATTITUDE AND COURTESY

Employees are expected to act professionally, treat all persons fairly and equally, and perform all duties impartially, objectively, and equitably without regard to personal feelings, animosities, friendships, financial status, sex, creed, color, race, religion, age, political beliefs, sexual orientation, or social or ethnic background.

(a) Employees will not express or otherwise manifest any prejudice concerning race, religion, national origin, age, political affiliation, sex, or other personal characteristics in the performance of their duties.

  1. Employees will respect the rights of individuals and will not engage in discrimination, oppression, or favoritism whether by language, act, or omission.

  2. The use of racial or ethnic remarks, slurs, epithets, words or gestures, which are derogatory or inflammatory in nature to or about any person or group of persons is strictly prohibited.

(b) Employees will be tactful in the performance of their duties, control their tempers, exercise patience and discretion, and shall not engage in argumentative discussions even in the face of extreme provocation.

(c) Employees will make every effort to be courteous and respectful toward all persons.

## 301.3 CUSTOMER SERVICE AND COMMUNITY RELATIONS

APD constantly works to establish direct contacts with the community we serve. Without grassroots community support, successful enforcement of many laws may be difficult, if not impossible. Community involvement can be an effective means of eliciting public support, can serve to identify problems in the making, and may foster cooperative efforts in resolving community issues. Input from the community can also help ensure that agency policies accurately reflect the needs of the community.

(a) The conduct of each employee reflects on the agency as a whole and the burden of achieving the agency's community relations objectives is shared. A unified, coordinated effort requires the participation, enthusiasm, and skills of all agency personnel.

(b) Employees will extend reasonable assistance to the public when called upon. Employees must not neglect community services in the belief that the police function is restricted to crime control.



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### 301.3.1 COMMUNITY INVOLVEMENT AND RECRUITMENT PROGRAMS

(a) Police-Community cooperation can be obtained through open channels of communications, thus allowing for the discussion of concerns and problem areas within the community. All avenues must be utilized in promoting the respect and cooperating of the public with the police including, but not limited to:

1. Establishing liaisons with existing community organizations or establishing community groups where they are needed.
2. Assisting in the development of community involvement policies for the agency.
3. Publicizing agency objectives, community problems, and successes.
4. Conveying information transmitted from citizens' organizations to the agency.
5. Improving agency practices bearing on police community interaction.
6. Developing problem oriented or community policing strategies.

(b) Employees should actively conduct or participate in APD's recruitment program. Employees should encourage all qualified individuals to seek a career with the Department and direct them to contact APD's Recruiting or HR Division.



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# Public Recording of Official Acts

## 302.1 PURPOSE AND SCOPE

The Austin Police Department recognizes that members of the general public have a First Amendment right to video record. photograph, and/or audio record APD officers while they are conducting official business or while acting in an official capacity in any public space, unless such recordings interfere with police activity.

## 302.2 INTERACTION WITH COMMUNITY

(a) Officers are reminded that photography, including videotaping, of places, buildings, structures and events are common and normally lawful activities.

1. If a person is taking photographs or recording from a place where he or she has a right to be, officers are reminded that this activity by itself does not constitute suspicious conduct.

(b) In areas open to the public, officers shall allow bystanders the same access for photography as is given to members of the news. Officers shall be aware that:

1. A bystander has the same right to take photographs or make recordings as a member of the media, as long as the bystander has a legal right to be present where he or she is located.
2. A bystander has the right under the First Amendment to observe and record officers in the public discharge of their duties.
3. Public settings include parks, sidewalks, streets, and locations of public protests; but that protection extends also to an individual's home or business, common areas of public and private facilities and buildings, and any other public or private facility at which the individual has a legal right to be present.
4. The fact that a bystander has a camera or other recording device does not, however, entitle the bystander to cross a police line, to enter an area that is closed to the public, or to enter any area designated as a crime scene.

(c) As long as the photographing or recording takes place in a setting at which the individual has a legal right to be present and does not interfere with an officer's safety or lawful duties, officer's shall not inform or instruct people that photographing or recording of police officers, police activity or individuals who are the subject of police action (such as a Terry stop or an arrest) is not allowed; requires a permit; or requires the officer's consent. Additionally, officers shall not:

1. Order that person to cease such activity;
2. Demand that person's identification;
3. Demand that the person state a reason why he or she is taking photographs or recording;
4. Detain that person;
5. Intentionally block or obstruct cameras or recording devices; or
6. In any way threaten, intimidate or otherwise discourage an individual from recording officer's enforcement activities.



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(d) Nothing in this policy prohibits officers from questioning or detaining individuals they reasonably suspect have committed, are committing, or are about to commit any crime.

(e) Officers are reminded that a person commits an offense if the person with criminal negligence interrupts, disrupts, impedes, or otherwise interferes with a peace officer while the peace officer is performing a duty or exercising authority imposed or granted by law.

1. If a person is photographing or recording police activity from a position that impedes or interferes with the safety of officers or their ability to perform their duties, an officer may direct the person to move to a position that will not interfere. However, an officer shall not order the person to stop photographing or recording.
2. If a person is photographing or recording police activity from a position that impedes or threatens the safety of members of the public, the officer shall direct the person to move to a safe position. However, officers shall not order the person to stop photographing or recording.
3. A person's recording of officer's activity from a safe distance, and absent any attendant action that obstructs the activity or threatens the safety of the officers, does not constitute interference.
4. A person has the right to express criticism of the police activity being observed. As long as that expression does not jeopardize the safety of any officer, suspect or bystander; and so long as that expression does not violate the law or incite others to violate the law, the expression does not constitute interference.

(f) Evidence on a Camera or Recording Device

1. If an officer has probable cause to believe that a camera or other recording device contains images or sounds that are evidence of criminal acts, the officer shall request that the person either:
   (a) allow the officer to listen to or view the recording
   (b) Voluntarily provide the device or recording medium (e.g., the memory chip) to the officer; or
   (c) Where possible and practicable, and in the presence of the officer, voluntarily transmit the images or sound via electronic mail to the officer's official government electronic mail account.
   (d) Consent to view or take possession of a recording device or medium must be given voluntarily and in accordance with APD policy 306.4 Consent to Search.
2. If the person provides the device or recording medium to the officer, the officer shall:
   (a) Exercise due care and caution with any of the individual's property or electronic device(s);
   (b) Enter the item into evidence
   (c) Document the officer's request and the individual's response in the narrative of the report
   (d) Contact the on-call Detective responsible for the highest charge and notify them of the media evidence. Officers shall not attempt to view, download, or otherwise access any material contained on the device.



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3. If the individual declines to voluntarily provide the device or recording medium, or to electronically transmit the sound and/or images where possible and practicable, and the officer believes that exigent circumstances exist insofar as the evidence of criminal activity will be lost absent an immediate seizure of the device, the officer shall take control of the device and contact a supervisor

   (a) The Supervisor shall, in consultation with the officer, determine whether exigent circumstances permit the seizure of the device without a warrant. Warrantless seizure is permissible only when:

      1. There is probable cause to believe that the property holds contraband or evidence of a crime; and

      2. The exigencies of the circumstances demand it or some other recognized exception to the warrant requirement is present.

(g) Viewing/Listening to Evidence on a Camera or Recording Device

1. Absent exigent circumstances, officers shall obtain a search warrant before viewing photographs or listening to recordings on a camera or memory chip that has been seized as evidence.

2. In exigent circumstances, where there is reason to believe that an immediate search of the seized material is necessary to prevent death or injury, officers shall contact a supervisor for authorization to review photographs or recordings without a warrant.

3. Photographs or recordings that have been seized as evidence and are not directly related to the exigent purpose shall not be reviewed.

(h) Officers shall not, under any circumstances, erase or delete, or instruct or require any other person to erase or delete, any recorded images or sounds from any camera or other recording.



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# VHS Mobile Audio Video Recording

## 303.1 PURPOSE AND SCOPE

The Austin Police Department has equipped designated police units with a VHS Mobile Audio Video (MAV) recording system. This MAV system is designed to assist and complement employees in the performance of their duties. The MAV is used to record certain activities by providing a visual and/or audio record. Recordings are intended to provide an unbiased record of the incident and to supplement the employee's report.

This policy covers the use of the VHS MAV system. The Digital MAV system guidelines are outlined in Policy 304 (Digital Mobile Audio Video Recording).

## 303.2 VHS MOBILE AUDIO VIDEO RECORDER OPERATION

The VHS MAV system is designed to turn on whenever the unit's emergency lights and/or siren are activated. The MAV system may also be turned on manually by hitting the record button or activating the body microphone. The system remains on until turned off manually.

(a) Employees shall turn off the vehicle's AM/FM radio while the MAV system is recording and there is a subject in the back of the unit.

(b) Employees shall not:

1. Bypass or override the automatic activation of the equipment.
2. Terminate the audio portion of the recording while the video is activated.
3. Erase, alter, or delete any recording produced by the MAV.

(c) Absent legal cause or lawful order, no member of the Department may surreptitiously record any other member of the Department without the expressed knowledge and consent of all parties.

### 303.2.1 REQUIRED MAV TESTING

Employees driving MAV equipped vehicles during field duty assignments where the required use of the MAV is likely (e.g., patrol, metro-tactical shifts, traffic enforcement) must be trained in the operation of the equipment prior to its use.

(a) Employees will test the vehicles MAV equipment:

1. At the commencement of their tour of duty.
2. Anytime they switch cars during a shift.
3. When the MAV media has been replaced for an approved reason.

(b) The MAV equipment test will consist of employees recording the following:

1. Employee name; and
2. Employee number; and
3. The current date and time.

(c) Employees will review the recording to verify the in-car and body microphone is operational, and the date and time is accurate.



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(d) Employees discovering a defect with the MAV system will remove that police unit from service and complete a *Vehicle and Equipment Repair Form*. Vehicles with non-operable MAV systems will not be used unless an emergency situation exists and a lieutenant approves its use. If this occurs, the unit will be removed from service as soon as the emergency subsides.

### 303.2.2 WHEN MAV USE IS REQUIRED

This policy is not intended to describe every possible situation where the system may be used. In some circumstances it is not possible to capture images of the incident due to conditions or location of the camera, however, the audio portion can be valuable evidence and is subject to the same activation requirements.

(a) All units responding to a scene shall activate their MAV system when they:

1. Are attempting to detain or arrest a person; or
2. Have detained or arrested a person; or
3. By nature of the incident, are likely to detain or arrest a person.

(b) Examples of when the MAV system must be activated include, but are not limited to:

1. Traffic stops.
2. Investigatory stops when the subject is on foot or in a vehicle.
3. Pursuits, until completion of enforcement action.
4. DWI investigations including field sobriety tests.
5. Any call for service involving a crime where the recorder may aid in the apprehension and/or prosecution of a suspect, such as:
   (a) Family violence calls.
   (b) Disturbance of peace calls.
   (c) Offenses involving violence or weapons.
6. Warrant service.
7. Any contact that becomes adversarial in an incident that would not otherwise require recording. In those situations, it may be impractical or unreasonable for employees to activate their MAV system before taking police action. It is expected that once the immediacy of the situation is over, employees will activate their MAV system to record the remainder of the incident.

(c) In addition to the required situations, employees may activate the system anytime they believe its use would be appropriate and/or valuable to document an incident.

### 303.2.3 WHEN MAV DEACTIVATION IS AUTHORIZED

Once the MAV system is activated, it shall remain on and shall not be turned off until the incident has concluded.

(a) For purposes of this section, conclusion of an incident has occurred when:

1. All arrests have been made and arrestees have been transported; and
2. All witnesses and victims have been interviewed.



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(b) Recording may cease if an employee is simply waiting for a tow truck or a family member to arrive, or in other similar situations where no further law enforcement action is likely to occur.

### 303.2.4 WHEN MAV USE IS NOT REQUIRED

Activation of the MAV system is not required unless otherwise specified by this policy. Examples of when MAV use is not required may include:

(a) During breaks and lunch periods.

(b) When not in-service and not on a call.

(c) When in-service and not on a call.

## 303.3 REVIEW OF MAV SYSTEM RECORDINGS

(a) Recordings may be reviewed in any of the following situations:

1. By an employee to make sure the MAV system is working during required checks.
2. By an employee to assist with the writing of a report, supplement, or memorandum.
3. By a supervisor investigating a specific act of employee conduct.
4. By authorized department personnel who is participating in an official investigation, such as a personnel complaint, administrative inquiry, or a criminal investigation.
5. By authorized persons for the purpose of reviewing evidence.
6. Recordings may be shown for the purposes of training value. If an involved employee objects to showing a recording, his objection will be submitted to his commander to determine if the training value outweighs the employee's objection.

(b) In no event shall any recording be used or shown for the purpose of ridicule or embarrassing any employee.

(c) Employees shall not obtain, attempt to obtain, or convert for their personal use or for the unauthorized use of another person, any information from Department video files or the confidential files of any other agency.

### 303.3.1 SUPERVISOR INSPECTION

Sergeants will conduct monthly inspections of their employees' MAV recordings to ensure they are complying with MAV policy. These inspections will be electronically documented and sent to the lieutenant within the chain-of-command.

## 303.4 DOCUMENTING MAV SYSTEM USE

Any incident that was recorded with either the video or audio system shall be documented in the employee's report or supplement. If a citation was issued, a notation shall be placed on the back of the records copy of the citation that the incident was recorded.

### 303.4.1 SUBMISSION OF MAV MEDIA AS EVIDENCE

Employees shall turn in their MAV media as evidence for:

(a) All DWI arrests.



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(b) All other Class B misdemeanor or above arrests where the media contains a statement by any witness or suspect.

(c) The recording of any criminal incident where the media records the crime occurring.

(d) The recording of any critical incident.

(e) The recording of any response to resistance incident.

(f) The recording of any serious injury collision or a collision involving a city vehicle.

## 303.5 MAV MEDIA STORAGE AND INTEGRITY

(a) Employees will maintain two MAV media.

1. If an MAV media is submitted as evidence, employees will utilize their backup media prior to going back in service. Employees will acquire a new MAV backup media as soon as practicable.
2. Prior to going back in service the employee will test the MAV equipment as outlined in this policy.

(b) Employees will turn in their assigned MAV media to PCO at the end of their tour of duty. Employees who do not typically share an assigned MAV equipped vehicle (e.g., DWI, Highway Enforcement) are not required to turn in their assigned MAV media to PCO at the end of their tour of duty unless the media has been used completely.

(c) Video media that has been used to capacity and is not booked in as evidence will be retained by PCO for a minimum of 90 days after which time it will be erased, destroyed or recycled.

### 303.5.1 COPIES OF MAV SYSTEM RECORDINGS

Copies of a MAV media recording will be used for official APD business only; this may include public information requests after the recording has been reviewed by the Department Legal Advisor.

(a) Original MAV media recordings may only be released in response to a valid court order or upon approval by the Chief of Police or designee.

(b) In the event that an original recording is released to a court, a copy shall be made and placed in storage until the original is returned.



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# Digital Mobile Audio Video Recording

## 304.1 PURPOSE AND SCOPE

The Austin Police Department has equipped designated police units with a Digital Mobile Audio Video Recording (DMAV) system. This DMAV system is designed to assist and complement employees in the performance of their duties. The DMAV is used to record certain activities by providing a visual and/or audio record. Recordings are intended to provide an unbiased record of the incident and to supplement the employee's report.

This policy covers the use of the DMAV system. The VHS MAV system guidelines are outlined in Policy 303 (VHS Mobile Audio Video Recording).

## 304.2 DIGITAL MOBILE AUDIO VIDEO RECORDER OPERATION

(a) The DMAV system is designed to turn on automatically when any of the following are detected:
   1. Emergency lights.
   2. Siren.
   3. Driver's door opening.
   4. Crash sensor.
   5. Speed in excess of 90 MPH.
   6. Activation of a wireless body microphone.
   7. Manual activation by pressing the record button on the camera, the mobile data computer, or the Video Processing Unit.

(b) Employees shall turn off the vehicle's AM/FM radio while the DMAV is recording and there is a subject sitting in the backseat of the unit.

(c) Employees shall not:
   1. Bypass or override the automatic activation of the equipment.
   2. Erase, alter, or delete any recording produced by the DMAV.

(d) Absent legal cause or lawful order, no member of the Department may surreptitiously record any other member of the Department without the expressed knowledge and consent of all parties.

### 304.2.1 REQUIRED DMAV TESTING

Employees driving DMAV equipped vehicles during field duty assignments where the required use of the DMAV is likely (e.g., patrol, metro-tactical shifts, traffic enforcement) must be trained in the operation of the equipment prior to its use.

(a) Employees will test the vehicles DMAV equipment:
   1. At the commencement of their tour of duty.
   2. Anytime they switch cars during a shift.
   3. When the DMAV media has been replaced for an approved reason.

(b) Employees will classify the video as 10-41.



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(c) The DMAV equipment test will consist of employees recording the following:

1. Employee name; and
2. Employee number; and
3. The current date and time.

(d) Employees will review the recording to verify the in-car and body microphone is operational, and the date and time is accurate.

(e) Employees discovering a defect with the DMAV will remove that police unit from service and complete a *Vehicle and Equipment Repair Form*. Vehicles with non-operable DMAV systems will not be used unless an emergency situation exists and a lieutenant approves its use. If this occurs, the unit will be removed from service as soon as the emergency subsides.

### 304.2.2 WHEN DMAV USE IS REQUIRED

This policy is not intended to describe every possible situation where the system may be used. In some circumstances it is not possible to capture images of the incident due to conditions or location of the camera however the audio portion can be valuable evidence and is subject to the same activation requirements.

(a) All units responding to a scene shall activate their DMAV equipment when they:

1. Arrive on-scene to any call for service; or
2. Are attempting to detain or arrest a person; or
3. Have detained or arrested a person; or
4. By nature of the incident, are likely to detain or arrest a person.

(b) Examples of when the DMAV system must be activated include, but are not limited to:

1. Traffic stops.
2. Pursuits, until completion of enforcement action.
3. DWI investigations including field sobriety tests.
4. Warrant service.
5. Investigatory stops when the subject is on foot or in a vehicle.
6. Any contact that becomes adversarial in an incident that would not otherwise require recording. In those situations, it may be impractical or unreasonable for officers to activate their DMAV system before taking police action. It is expected that once the immediacy of the situation is over, officers will activate their DMAV system to record the remainder of the incident.

(c) In addition to the required situations, employees may activate the system anytime they believe its use would be appropriate and/or valuable to document an incident.

### 304.2.3 WHEN DMAV DEACTIVATION IS AUTHORIZED

(a) Once the DMAV system is activated it shall remain on until the incident has concluded.

1. For purposes of this section, conclusion of an incident has occurred when:
   (a) All arrests have been made and arrestees have been transported; and
   (b) All witnesses and victims have been interviewed.



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2. Recording may cease if an employee is simply waiting for a tow truck or a family member to arrive, or in other similar situations where no further law enforcement action is likely to occur.

(b) Employees may deactivate the audio portion by engaging the mute button on the wireless microphone, for administrative reasons only, as follows:

1. The reason for the audio deactivation must be recorded verbally prior to audio deactivation; and
2. After the purpose for audio deactivation has concluded, employees will reactivate the audio track.

(c) For purposes of this section, an "administrative reason" refers to:

1. Personal conversations unrelated to the incident being recorded.
2. Officer to Officer training (e.g., when a Field Training Officer wishes to speak to a Probationary Officer about a training issue).
3. The conclusion of an incident.
4. Any reason authorized by a supervisor. The identity of the supervisor granting the authorization shall also be stated prior to the audio deactivation.

### 304.2.4 WHEN DMAV USE IS NOT REQUIRED

Activation of the DMAV system is not required unless otherwise specified by this policy. Examples of when DMAV use is not required may include:

(a) During breaks and lunch periods.

(b) When not in-service and not on a call.

(c) When in-service but not on a call.

## 304.3 REQUIRED CLASSIFICATION OF DMAV RECORDINGS

(a) Employees should ensure that all DMAV recordings are accurately classified upon stopping the recording. All recordings, except those classified as "Non-Event," must also include the 9-digit incident number when available using the following format: YYJJJ#### (e.g., 100711267).

(b) Employees shall ensure that all incident recordings have the required information assigned prior to the completion of their next scheduled tour of duty.

(c) For purposes of this section, a "Non-Event" video generally refers to a recording that meets all of the following criteria:

1. Video where no investigatory stop is made;
2. Video that does not include any call for service;
3. Video where no person has been detained or arrested; and
4. Video where no enforcement action is documented.

(d) Employees who do not have the ability to add incident numbers to recordings (e.g. Motors Officers) or who share a common case number across multiple videos (e.g. Officers working STEP) shall ensure that reports and citations reflect the time of recording exactly as shown in the DMAV system.

(e) Detectives are responsible for verifying the classification of recordings for assigned incidents within 30 days of the recording. Detectives are also responsible for reclassifying recordings when necessary to ensure proper retention.



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(f) Supervisors, including corporals, are responsible for verifying the classification of recordings made by their officers for all direct filed charges that are a 3rd degree felony or higher.

## 304.4 REVIEW OF DMAV SYSTEM RECORDINGS

(a) Recordings may be reviewed in any of the following situations:

1. By an employee to make sure the DMAV system is working during required checks.
2. By an employee to assist with the writing of a report, supplement, or memorandum.
3. By a supervisor investigating a specific act of employee conduct.
4. By authorized Department personnel participating in an official investigation, such as a personnel complaint, administrative inquiry, or a criminal investigation.
5. By authorized persons for the purpose of reviewing evidence.
6. Recordings may be shown for the purposes of training value. If an involved employee objects to showing a recording, his objection will be submitted to his commander to determine if the training value outweighs the employee's objection.

(b) In no event shall any recording be used or shown to ridicule or embarrass any employee.

(c) Employees shall not obtain, attempt to obtain, or convert for their personal use or for the unauthorized use of another person, any information from Department video files or the confidential files of any other agency.

### 304.4.1 SUPERVISOR INSPECTION

Sergeants will conduct monthly inspections of their employees' DMAV recordings to ensure they are complying with DMAV policy. These inspections will be electronically documented and sent to the lieutenant within the chain-of-command.

## 304.5 DOCUMENTING DMAV SYSTEM USE

Any incident that was recorded with either the video or audio system shall be documented in the employee's report. If a citation was issued, a notation shall be placed on the back of the records copy of the citation that the incident was recorded.

## 304.6 COPIES OF DMAV SYSTEM RECORDINGS

Copies of a DMAV media recording will be used for official APD business only. This may include public information requests after the recording has been reviewed by the Department Legal Advisor. Copies of DMAV System Recordings will not normally be made unless the person requesting the copy is authorized to view the recording and does not otherwise have access to view the recording using the DMAV system. When a copy is made, it is the responsibility of the person receiving the copy to comply with records retention as outlined in policy.

## 304.7 DMAV RECORDING RETENTION SCHEDULE

All DMAV recordings shall be retained for a period of time that is consistent with the City of Austin's Records Management Ordinance, Chapter 2-11, and any applicable City Records Control Schedules and/or the State Local Government Retention Schedules.



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# Radio and Mobile Data Computer Use

## 305.1 PURPOSE AND SCOPE

Digital radio and data communications are extremely vital elements of effective law enforcement. These communications will be conducted in a professional, concise, and effective manner.

Employees are reminded that all digital radio and data transmissions are recorded and subject to public information requests.

## 305.2 MOBILE DATA COMPUTER USE GUIDELINES

(a) The mobile data computer (MDC) shall be used for official police communications only.

(b) There is no expectation of privacy concerning sending or receiving messages via the MDC system. Messages may be reviewed by supervisors at any time without prior notification.

(c) The MDC will remain docked and the docking switch will be in the locked position when the vehicle is in motion or if the MDC is left unattended unless otherwise approved by a supervisor.

(d) Employees will not intentionally disrupt the GPS signal.

(e) Employees driving vehicles equipped with an MDC shall:

1. Accept all updates to the MDC prior to logging on and while at a hot-spot; however, employees reporting to duty from a location that is not a hot-spot shall ensure the updates are downloaded as soon as practicable.
2. Log on at the start of a shift with complete and accurate information.
3. Log off at the end of the shift.

(f) Employees granted access to the Watch List should limit the number of additional sectors they are watching to two (2) unless needed for an official reason (e.g., monitoring a significant event that could impact all sectors).

(g) When an MDC is utilized in an area where the public might be able to view the screen, the user will take reasonable measures to ensure any information is not viewable by unauthorized persons (e.g., lower the screen, lock the computer).

### 305.2.1 MDC USE WHILE DRIVING

Use of the MDC by the operator should 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 they can be done safely.



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## 305.3 RADIO USE GUIDELINES

### 305.3.1 COMPLIANCE

(a) Employees shall comply with FCC regulations relating to the use of radio communications systems, as well as the established guidelines outlined below:

1. Communications involving the protection of life and property shall be afforded priority.
2. False calls, false or fraudulent distress signals, unnecessary and unidentified Communications and the transmission of unassigned call signals are specifically prohibited.
3. Employees shall monitor the talk-group on which they intend to transmit for a sufficient period to ensure their transmissions will not interfere with others.
4. Duration of radio transmissions must be restricted to the minimum practical transmission time.

(b) Employees shall comply with the Greater Austin/Travis County, Texas, Regional Radio System (GATRRS), Interoperability Plan when necessary, to communicate on interoperability channels that are part of the GATRRS and is related to the use of radio interoperability.

### 305.3.2 RADIO TRANSMISSION PROTOCOL

(a) Only English shall be spoken.

(b) Employees calling dispatch shall identify themselves by their assigned unit number. They should not continue the transmission until acknowledged by the dispatcher.

(c) Employees shall give their unit number and approximate location when responding to the dispatcher.

(d) The employee's primary talk-group dispatcher shall be notified before an employee changes to another talk-group (e.g., a Central West officer switching to the North West talk-group).

(e) Employees shall not call for another employee by name unless their radio or unit number is unknown (e.g., "Baker 101 to Sgt. Doe").

(f) Long transmissions should only be done over a secondary talk-group, as an MDC message, or via a cell phone if available.

(g) Employees shall refrain from seeking advice from a dispatcher regarding a point of law, enforcement action, or Department policy. Employees should consult their immediate supervisor on these matters or obtain the information from their laptop computers.

### 305.3.3 REQUESTING RECORDED TRANSMISSIONS

Employees with a legitimate need to hear or copy a radio or telephone recording may do so by making a request to the Communication supervisor on duty.

## 305.4 ADDITIONAL GUIDELINES

### 305.4.1 DOCUMENTATION OF ACTIVITY

Radio and MDC transmissions are used to record an employee's daily activity. To ensure the most accurate recording of these activities, the following are required:



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(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 shall be entered into the Computer Aided Dispatch (CAD) system by a dispatcher.

(c) Whenever the activity or contact is not initiated by voice, the employee shall record it on the MDC.

### 305.4.2 STATUS CHANGES

(a) Employees shall make changes in status (e.g., arrival at scene, meal periods, in-service) through the MDC system when safe and practicable.

1. If MDC use is not safe or practical, employees shall advise the dispatcher of status changes using proper radio codes.
2. Employees responding to in-progress calls shall advise changes in status over the radio to assist other employees responding to the same incident.

(b) An employee's status shall be made Code 4 when it is determined that no other units are needed. Any additional units still responding to the incident shall change their status to available.

### 305.4.3 HIGH PRIORITY INCIDENTS

Transmissions regarding emergencies (e.g., high-speed pursuits, serious crimes in progress) shall be given priority over all other transmissions. Units not involved in the emergency shall stay off the air until the situation has been resolved.

Units coming in-service during an emergency shall change their status on the MDC. If unable to do so, the unit will switch to an adjoining sector talk-group, advise that dispatcher they are in-service and then switch back to their primary talk-group.

### 305.4.4 EMERGENCY BUTTON ACTIVATION

If the emergency button is depressed on the MDC or Radio, the dispatcher will call the unit and ask if the unit is Code 4.

(a) If there is no emergency the employee should respond "Code 4" and all units shall resume their normal activity.

(b) If there is no response or the employee answers in some other way, the dispatcher shall send available units to assist in locating the unit that is transmitting the emergency. Available units may self assign the call via the MDC and respond as appropriate.

1. Units shall refrain from transmitting on the radio until there is a Code 4, unless they are themselves handling an emergency.
2. When the situation is considered Code 4, all units not on-scene shall go back in service.

### 305.4.5 BOMB THREATS

Bombs and other explosive devices can be detonated by radio waves (e.g., mobile phones, radio, MDC) transmitted in close proximity to the device.

(a) When responding to bomb threats, employees should be conscious of the location of any suspected devices (e.g., parking lot, inside a building, open field) and park their patrol unit accordingly.



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(b) When investigating reports of a bomb threat, employees shall follow Policy 414 (Bomb Threat and Explosive Device Response).

### 305.4.6 CLOSING THE CHANNEL

Closing a radio channel ("holding the air") is done for the safety of officers involved in a call or event that requires the radio remain silent. Events that require a channel be closed will follow these guidelines:

(a) Any supervisor (including a dispatch supervisor) may close a channel to ensure officer safety. If the dispatcher does not apply the channel marker, units involved in the event may request that it be applied.

(b) The dispatcher will broadcast the channel is closed and should enable the channel marker on that channel so that a low audible "beep" will occur every 8-10 seconds. The "beep" is a clear indication that the channel is closed to all non-emergency radio traffic.

(c) When safe and practical, the dispatcher will then broadcast the channel is open and will remove the channel marker

## 305.5 RESPONSIBILITY OF SUPERVISORS

Supervisors shall:

(a) Be responsible for entering complete and accurate roster information into the current electronic system, including capability codes for all qualified personnel.

(b) Use the MDC to monitor incidents and the activity of employees when practicable.

(c) Conduct periodic reviews of CAD messages sent by their subordinates and submit an electronic report, at least quarterly, to the supervisors' lieutenant.

(d) Carefully monitor and supervise the use of the radio to assist employees as needed. Supervisors may monitor additional talk-groups; however, supervisors shall remain available to their primary talk-group. Supervisors are responsible for the radio conduct of their subordinates and should immediately correct improper radio procedures.

(e) Be assigned calls when other units are not available.

(f) Respond to any scene when requested to the location by a subordinate.

(g) Inform and update the Watch Lieutenant of any significant call or critical issue.



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# Search and Seizure

## 306.1 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 Austin Police Department personnel to consider when dealing with search and seizure issues.

## 306.2 SEARCH AND SEIZURE

This policy outlines the following types of searches and seizures:

(a) Exigent circumstances.

(b) Consent.

(c) Search incident to a lawful arrest.

(d) Vehicle inventory.

(e) Probable cause.

(f) Protective frisk based on reasonable suspicion.

(g) Plain view.

(h) Strip/Body cavity search.

(i) Residences, open fields, and abandoned property.

### 306.2.1 SEARCH PROTOCOL

(a) Officers will conduct person searches with dignity and courtesy.

(b) Officers will conduct property searches in a manner that returns the condition of the property to its pre-search status as nearly as reasonably practicable.

(c) Officers should attempt to acquire keys to locked property when a search is anticipated and the time and effort required to gain the keys makes it a practicable option.

(d) It is the responsibility of each individual officer to search a prisoner for weapons or contraband anytime he gains custody of that prisoner, regardless of whether the prisoner was previously searched by another officer.

(e) When safety permits:

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

2. Officers needing to search a person of the opposite gender should do so in front of a Mobile Audio Video (MAV) recording system, if available; otherwise an officer of the same gender as the person should be requested.

   (a) If a Mobile Audio Video (MAV) recording system or an officer of the same gender as the person being searched is unavailable, a second officer or supervisor should be present.

   (b) Officers will use the back side of their hands and fingers to frisk/search sensitive areas of the opposite gender to include the breast, crotch, and buttocks.



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## 306.3 EXIGENT CIRCUMSTANCES

Exigent circumstances permitting entry into premises without a warrant or valid consent generally include any of the following:

(a) The reasonable belief that a person within is in need of immediate aid.

(b) The need to protect or preserve life or avoid injury.

(c) Imminent escape of a suspect.

(d) The reasonable belief that contraband is about to be removed or destroyed.

(e) Public safety.

An exigency created by the officer's own conduct as an excuse for a warrantless entry is not permitted.

## 306.4 CONSENT

(a) Entry into a location or vehicle for the purpose of conducting a search for any item reasonably believed relevant to any investigation is permitted once valid consent has been obtained.Officers should be aware that overuse of the consent search can negatively impact the Department's relationship with our community and only request a consent search when they have an articulable reason why they believe the search is necessary and likely to produce evidence related to an investigation. A search by consent is only allowed if the following criteria are met:

1. Unless assigned to a specialized unit that has received specific training on consent searches, the officer has explained the reason for the consent search request to their supervisor (or their Corporal/Detective if their supervisor is unavailable) and received their approval prior to requesting consent.
2. Consent is voluntary (e.g., clear, specific and unequivocal).
3. Consent is obtained from a person who has the authority to give the consent (e.g., care, custody and control of the location or vehicle).
4. The search does not exceed the scope of the consent given.

(b) Consent must be obtained as the product of a free will. It cannot be obtained through submission to authority, either expressed or implied.

(c) Although officers are not required to conduct searches within the plain view of suspects, those who have the authority to grant or revoke consent should be in a position to communicate a withdrawal of consent should they so desire. If consent was obtained by telephone from a person who has authority to grant the consent, the person should be provided with contact information to revoke the consent.

(d) Absent other legal justification, any related search should be discontinued at any point that consent is withdrawn, even if the withdrawal is made by a different party who is at the scene and who also has authority over the area being searched.

### 306.4.1 HOW TO DOCUMENT CONSENT

(a) Consent requests and authorization for all vehicle and subject stops shall be documented on the Department approved *Consent to Search Form* (PD0100) and should also be recorded by audio and/or video when possible.

1. After the subject consents to the search by signing the Consent to Search Form, the officer can proceed with the search.



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(a) If at anytime after the search has begun the person revokes their consent, the officer will immediately stop and search no further unless sufficient probable cause has already been developed to warrant continuing with the search.

(b) If consent is revoked, the officer will mark the "Search Suspended" box on the *Consent to Search Form*.

2. Officers unable to document a subject's voluntary consent to search by audio and video recording will document in the CAD history why they were unable to document the consent on audio and video

(b) For consent searches not involving a vehicle or subject stop, an officer with supervisory approval may document the voluntary consent using only video and/or audio recording

(c) Employees will document in their report or supplement anytime a consent search is used.

### 306.4.2 HANDLING CONSENT DOCUMENTATION

(a) When consent to search is documented by a Mobile Audio Video (MAV) recording system:

1. The MAV media will be submitted to the evidence room for retention; or
2. The digital recording will be uploaded to the appropriate APD computer/server for storage.
3. When an incident report is written, employees will document where the recording is stored.

(b) Consent to Search Forms will be handled as follows:

1. If contraband is discovered during the search, officers will submit the completed and signed *Consent to Search Form*, to the evidence room to maintain the chain of custody. A copy of the form will be submitted to their supervisor at the end of the shift to be routed through the chain-of-command.
2. If no contraband is discovered during the search, officers will submit the original signed *Consent to Search Form*, to their supervisor at the end of the shift to be routed through the chain-of-command.

(c) When consent search is used by detectives or officers assigned to Specialized Units (e.g., metro tactical):

1. Employees will maintain the original *Consent to Search Form* and MAV recording in their case jacket.
2. A copy of the *Consent to Search Form* will be submitted to their supervisor at the end of the shift to be routed through the chain-of-command.

### 306.4.3 CHAIN-OF-COMMAND REVIEW OF CONSENT FORMS

*Consent to Search Forms* will be forwarded up the chain-of-command.

(a) Each level in the chain will review and initial the *Consent to Search Form*.

(b) After the review is completed, the form will be given to a designated administrative person for scanning into the Departmental records system under the appropriate report number.



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(c) After the form is scanned, the original form will be routed to Central Records for retention unless it has been stored in the evidence room or a case jacket.

## 306.5 SEARCH INCIDENT TO ARREST

The general authority to search incident to a lawful custodial arrest is not qualified or limited by the type of arrest. Objects of the search are weapons, evidence, and/or means of escape.

(a) Persons:

1. When officers make a lawful arrest, they are permitted to conduct a contemporaneous search of the arrestee. Such a search safeguards the arresting officer and others nearby from harm while ensuring that the arrestee will not discard or destroy evidence.
2. It is entirely reasonable for arresting officers to search the area where the defendant might reach in order to grab a weapon or evidence.

(b) Vehicles:

1. A search of a vehicle interior may be made when the arrestee is unsecured and within reaching distance of the passenger compartment at the time of the search.
2. A search of a vehicle interior may be made when it is reasonable to believe that the vehicle contains evidence of the offense of arrest.
3. If officers do not have a valid reason to search a vehicle after making an arrest (e.g. probable cause, inventory), a search warrant will need to be obtained.
4. Officers may examine the contents of any opened or closed container within the passenger compartment, provided the container is within reaching distance of the arrestee and the arrestee is unsecured at the time of the search.
5. Locked containers found within the vehicle passenger compartment may be seized and a search warrant obtained in a timely manner.

## 306.6 VEHICLE INVENTORY

An inventory is a legitimate law enforcement activity that is not a search and that sometimes, incidentally, results in the discovery of evidence. Vehicle inventories will be conducted in accordance with Policy 350 (Vehicle Towing and Impound).

## 306.7 PROBABLE CAUSE

(a) Person:

1. When officers have probable cause to believe that evidence or contraband is located on a person they are permitted to conduct a search of the person.

(b) Vehicles:

1. Officers may conduct a warrantless search of a readily movable vehicle (e.g., automobile, mobile home, boat or airplane) if there is probable cause to believe that evidence or contraband is inside and the search cannot safely be delayed in order to obtain a warrant.
   (a) Officers must have probable cause that contraband is in the vehicle.



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(b) A search of an automobile based on probable cause lawfully extends to all parts of the vehicle in which evidence or contraband could be concealed, including closed compartments and trunks.

(c) Locked containers found within the vehicle may be seized and a search warrant obtained in a timely manner.

(d) The scope of a warrantless search of a lawfully stopped vehicle based on probable cause is no narrower and no broader than the scope of a search under the authority of a warrant.

## 306.8 FRISK (PAT-DOWN) FOR WEAPONS

A frisk is a mere pat-down of the outer clothing, area, vehicle or container to which a detained person may have immediate access. The purpose of a limited weapons frisk after an investigatory stop is not to discover crime, but to allow the officer to pursue the investigation without fear of violence. An officer does not need to be absolutely certain that an individual is armed; the issue is whether a reasonably prudent person would justifiably believe that he or others were in danger.

(a) Persons:

1. A frisk is a limited patting of the outer surfaces of a person's clothing in an attempt to find weapons. A frisk can only be used by officers when they justifiably stop someone and have a reasonable fear for their safety, the safety of the public, or when a cautious and prudent officer under the same or similar circumstances would conduct a pat-down.
2. Normally, officers cannot put their hands under the suspect's outer clothing until they feel something they reasonably believe is a weapon. If the outer clothing is too bulky to allow officers to decide if a weapon is concealed underneath, outer clothing such as overcoats and jackets may be opened to allow a pat down of the inner clothing, such as shirts and trousers.
3. Packages, purses, briefcases and other containers may be frisked during the stop.
4. The scope of a protective frisk is limited to persons and places within arm's reach of a concealed weapon or toward which the subject might lunge.

(b) Vehicles:

1. A protective frisk may include the passenger compartment of an automobile, limited to those areas in which a weapon may be placed or hidden, if the officer possesses reasonable belief that the suspect is dangerous and may gain control of a weapon at any time during the encounter.

## 306.9 PLAIN VIEW

Because an individual does not have an expectation of privacy as to items that are in plain view, no search has taken place in a constitutional sense when an object is viewed from a location where the officer has a right to be.

(a) An item in plain view may generally be seized when all of the following conditions exist:

1. The object must be in plain view; and
2. Officers conducting the seizure must lawfully arrive at the position from which the object is plainly seen; and



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3. Officers must have a lawful right of access to the object itself, apart from lawfully viewing the object; and
4. The object's incriminating character must be so immediately and sufficiently apparent that officers have probable cause to believe the object is contraband or evidence of a crime.

## 306.10 STRIP/BODY CAVITY SEARCHES

Strip and body cavity searches are sometimes necessary for the safety of persons and/or to secure evidence of criminal activity. However, such searches are highly intrusive and must be conducted only when the justification can be clearly articulated, and then done only with proper regard for human dignity and privacy.

(a) All cases of strip or body cavity searches will be documented in an incident report or supplement and include (at a minimum):
   1. Facts known to the officer that justify a strip/body cavity search; and
   2. Name and employee number of supervisor authorizing the search; and
   3. Place that the search was conducted (e.g., bathroom of suspect's residence, jail, doctor's office); and
   4. Name and employee number of all persons involved in the search; and
   5. The areas searched and results of the search.

### 306.10.1 STRIP SEARCHES

Strip searches:

(a) Will be conducted only with the approval of a supervisor.
(b) Will be conducted in privacy, including only the number of officers necessary to maintain a safe situation.
(c) Will be conducted ONLY by members of the same gender as the person to be searched. Should an officer of the same gender not be immediately available, the prisoner will either be secured until one can arrive, or the prisoner will be secured and transported to the jail where a jailer of the same gender will conduct the search.

### 306.10.2 BODY CAVITY SEARCHES

Other than for checking the mouth area, these searches will not be conducted by officers of this department. Should the need arise for this type of search, the prisoner will be transported to the jail where proper hygienic/medical resources are available.

## 306.11 RESIDENCES, OPEN FIELDS, AND ABANDONED PROPERTY

### 306.11.1 RESIDENCES

Every person has a reasonable expectation of privacy inside his home and a search of a residence will not be conducted without a valid search warrant, exigent circumstances, or valid consent. Individuals do not, however, generally have a reasonable expectation of privacy in areas around the home where the general public (e.g., mail carriers and solicitors) would reasonably be permitted to go.

Once lawfully inside a residence, officers may conduct a protective frisk of a subject if the officer has a reasonable belief that the person is armed and dangerous. In addition, the Fourth Amendment permits a limited protective sweep of a residence when the searching



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officer possesses a reasonable belief that the area to be swept harbors an individual posing a danger to those on scene. The sweep should not last longer than is necessary to dispel the reasonable suspicion of danger.

### 306.11.2 OPEN FIELDS

Open fields do not provide the privacy expectation that is unique to the Fourth Amendment's safeguards of a "person's, houses, papers and effects." Officers must be mindful of the requisites of curtilage. The following are the factors the officers need to assess:

(a) The proximity of the area to the home.

(b) Whether the area is included within an enclosure surrounding the home.

(c) The nature of the uses to which the area is put.

(d) Steps taken by the resident to protect the area from observation by people passing by.

### 306.11.3 ABANDONED PROPERTY

Abandonment occurs when a person discards or denies ownership of property in a public right of way or public spaces. To ensure admissibility of evidence, the following factors should be considered:

(a) When making a trash run officers need to consider curtilage factors that fall within open fields.

(b) Officers need to have an affirmative link to create probable cause between the discarded property and the target of the investigation.

(c) The abandonment must be voluntary and not a result of police misconduct.



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# Mobile Fingerprinting Device

## 307.1 PURPOSE AND SCOPE

The purpose of this policy is to establish guidelines for the appropriate use of the Mobile Fingerprinting Device (e.g., Blue Check).

## 307.2 MOBILE FINGERPRINTING DEVICE USE GUIDELINES

Only officers that have been trained in the use of a Mobile Fingerprinting Device may use the device.

(a) The device may be used in an attempt to positively identify a person in the field when an officer has:

1. Lawfully detained a person based on reasonable suspicion that the person may be involved in past, present, or future criminal activity; or
2. Probable cause to arrest the person; or
3. Arrested the person (e.g., custody arrest, field release); or
4. Obtained a person's consent at any time. Consent must be documented as outlined in Policy 306 (Search and Seizure).

(b) The device shall not be used on a juvenile or a person that is suspected to be a juvenile.

### 307.2.1 IMPLIED CONSENT

Consent to submitting to the taking of a subject's fingerprints is implied when the subject is deceased or unconscious. Under implied consent circumstances, officers must receive supervisor approval prior to taking fingerprints.

## 307.3 USE OF FORCE

Officers shall not physically force a person to be fingerprinted.

## 307.4 INVENTORY

The Mobile Fingerprinting Device will be allocated to a specific shift or Unit and assigned to an officer that has been trained in the device.

(a) The device will be part of the trained officer's inventory and the officer is responsible for the device.

(b) If the trained officer leaves the shift or Unit, or promotes, the device shall be reassigned by the supervisor to another trained officer.



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# Misdemeanor Citations

## 308.1 PURPOSE AND SCOPE

Tex. Code of Crim. Pro. art. 14.06 permits law enforcement agencies to use citation release procedures in lieu of arrest for Class A, B, and C misdemeanor offenses with certain exceptions.

This policy does not apply to juveniles or traffic citations. Officers shall refer to the following policies regarding these topics:

(a) Policy 317 (Juveniles).

(b) Policy 342 (Traffic Citations).

## 308.2 STATUTORY REQUIREMENTS

A citation, or field release, is when the violator is released in the field without being transported to a jail facility.

## 308.3 MISDEMEANOR CITATION CONSIDERATIONS

(a) The following shall be considered when making the determination to issue a misdemeanor citation:

1. The subject has sufficient identification; and
2. The officer has no substantial reason to believe the subject will fail to appear; and
3. The officer has reason to believe that release by citation will result in termination of the violation; and
4. The subject did not resist detention, assault anyone during the offense, or appear to be combative or violent.

(b) For a misdemeanor offense that can be enhanced due to prior convictions, a criminal history check should be performed to determine if a custody arrest is more appropriate.

### 308.3.1 MISDEMEANOR CITATION USE

Officers are authorized to use verbal or written warnings to resolve minor violations when appropriate.

(a) **Class A and Class B Misdemeanor Citations**

1. On-duty officers who make the decision to take enforcement action on a subject who violates a Class A or Class B offense eligible for a misdemeanor citation shall issue a citation when all considerations outlined in this policy have been met.
2. Supervisor approval is required to make a custody arrest in lieu of a citation for eligible Class A or Class B offenses that meet all the considerations outlined in this policy.

(b) **Class C Misdemeanor Citations**



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1. Officers enforcing a Class C misdemeanor, other than traffic, should use the considerations outlined in this policy for the issuance of a citation. Officers shall select the least intrusive or severe method, which will:
   (a) Stop existing criminal conduct.
   (b) Remove the imminent threat of violence or criminal conduct.
   (c) Prevent persons from endangering themselves or others.

### 308.3.2 DISQUALIFYING CIRCUMSTANCES

A citation shall not be issued if the following situations are present:

(a) The subject is so intoxicated that he could be a danger to himself or to others. Release may occur as soon as this condition no longer exists.

(b) The subject requires medical examination or medical care or is otherwise unable to care for his own safety.
   1. An arrestee shall not be released from custody for the sole purpose of allowing that subject to obtain medical care and with the intention of immediately re-arresting the same individual upon discharge from the hospital unless it can be determined that the hospital can bill and collect from a third-party payment source.

(c) There are one or more outstanding arrest warrants for the subject.

(d) The subject could not provide satisfactory evidence of personal identification.

(e) A full custody arrest is called for, or the officer has reason to suspect the subject is involved in a more serious offense and a custody arrest would serve to gather evidence to support another charge.

(f) There is a reasonable likelihood that the offense(s) would continue or resume, or that the safety of persons or property would be imminently endangered by the release of the subject arrested.

(g) The subject arrested demands to be taken before a magistrate or has refused to sign the citation.

(h) There is reason to believe the subject would not appear at the time and place specified in the citation. The basis for this determination shall be specifically stated.

(i) The offense is DOC 12 (Exposure) and the exposure appears to have been committed deliberately, maliciously, or with sexual motivation.

### 308.3.3 SUPERVISORY ORDERS

Supervisors will not order any subordinate to cite a person suspected of a misdemeanor violation of law witnessed by the supervisor but not witnessed by the subordinate unless:

(a) The supervisor articulates the probable cause upon which the citation is based as soon as practicable; and

(b) The supervisor is listed on the citation.

### 308.3.4 INSTRUCTIONS TO CITED PERSON

The citing officer shall, at the time he asks the defendant to sign the notice to appear, call attention to the time and place for appearance and take any other steps he deems necessary to ensure that the defendant understands his written promise to appear (Tex. Code of Crim. Pro. art. 14.06).



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## 308.4 CLASS A AND CLASS B MISDEMEANOR CITATIONS

In addition to the above considerations, officers must meet all of the following requirements in order to issue a Class A or B misdemeanor citation:

(a) The offense is eligible for release by citation; and

(b) The violator is not a juvenile; and

(c) The violator must have sufficient identification so his identity can be validated during court testimony. The violator must be able to present this identification when he appears for his court date; and

(d) The violator committed the offense in:

1. Travis County and the violator resides in Travis County; or
2. Hays County and the violator resides in Hays County.

### 308.4.1 ELIGIBLE OFFENSES

The following Class A and B misdemeanors are eligible for a release by citation:

(a) Possession of Marijuana less than two (2) ounces - (Class B).

(b) Possession of Marijuana of two (2) ounces but less than four (4) ounces - (Class A).

(c) Criminal mischief where the value of the damage inflicted is $50 or more but less than $500 - (Class B).

(d) Graffiti where the value of the damage inflicted is less than $500 - (Class B).

(e) Theft where the value of the property stolen is $50 or more but less than $500 - (Class B).

(f) Theft of Service where the value of the property stolen was $20 or more but less than $500 - (Class B).

(g) Driving While License Invalid - (Class B only).

### 308.4.2 DOCUMENTATION AND FILING PROCEDURES

The following documentation and required procedures shall be used when issuing a Class A or B Misdemeanor citation:

(a) Officers shall complete a(n):

1. Incident report with the appropriate title code(s); and
2. PC affidavit that shall be notarized by a second officer.

(b) Write the incident number on any photos or receipts.

(c) Attach a copy of the citation, PC affidavit, and any photos and/or receipts together to be turned in to the Class A or B Misdemeanor drop box by the end of the officer's tour of duty.

(d) Follow the guidelines of Policy 701 (Property and Evidence Collection Procedures) when submitting narcotic or other evidence in relation to a Class A or Class B Misdemeanor Citation.

### 308.4.3 SPECIFIC CLASS A AND CLASS B MISDEMEANOR CITATION REQUIREMENTS

Additional Reporting Requirements for Specific Violations:



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(a) Theft and Theft of Service: Include a description on the affidavit of the item(s)/service stolen.

(b) Driving While License Invalid (DWLI): Include the reason, date, and counties for current and prior suspensions, as well as the specific reason for the enhancement to a Class B Misdemeanor.

1. Class C violations may be handled by issuance of a traffic citation.

## 308.5 CLASS C MISDEMEANOR CITATIONS

Incident reports are generated by Central Records from the information on Class C Misdemeanor citations issued by officers. Having accurate and sufficient information (e.g. witness/victim information, property involved, brief narrative) on the front and back of a citation is critical for Central Records to complete these reports.

Class C Misdemeanor citation may only be used when the offense is a Class C Misdemeanor other than a traffic violation. Guidelines for issuing traffic citations are outlined in Policy 342 (Traffic Citations).

### 308.5.1 SPECIFIC CLASS C MISDEMEANOR CITATION REQUIREMENTS

The following charges have specific additional requirements when issuing a citation:

(a) **Misdemeanor Possession of Drug Paraphernalia**

1. Class C misdemeanor citations may be issued to subjects found in possession of drug residue. The citation shall be titled Possession of Drug Paraphernalia.
2. An incident report with the appropriate title code(s) shall be completed.
3. The drug residue (non-usable amount), or object with drug residue, shall be seized and submitted according to policy 701.4.2, SUBMITTING NARCOTICS AND NARCOTIC PARAPHERNALIA.
4. The misdemeanor citation(s) shall be turned in by the end of the officer's tour of duty.
5. This citation shall not be used in lieu of a Possession of Marijuana charge.

(b) **Thefts and Shoplifting**

1. Class C misdemeanor citations may be issued for theft or shoplifting if the property value is under $50.
2. An incident report with the appropriate title code(s) shall be completed.
3. The stolen property (evidence) shall be properly photographed and returned to the business.
4. A sales receipt from the business shall be obtained clearly showing the value of the stolen property without sales tax.
5. The misdemeanor citation(s), photograph and sales receipt(s) shall be turned in by the end of the officer's tour of duty.
6. A Class C - Attempted Theft citation shall not be used in lieu of a Class B theft.



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# Body Worn Digital Recording Systems

## 313.1 PURPOSE AND SCOPE

The use of Body Worn Digital Recording (BWDR) system provides an unbiased audio/video recording of events that employees encounter. These recordings can be useful for the documentation of evidence, the preparation of offense reports, and future court testimony. These recordings can also protect employees from false allegations of misconduct and be of use when debriefing incidents or evaluating performance.

This policy covers the use of the Department issued and personally owned BWDR systems.

## 313.2 DEPARTMENT ISSUED BODY WORN DIGITAL RECORDING SYSTEM

(a) Employees equipped with a department issued BWDR system must be trained in the operation of the equipment prior to its use. BWDR equipment will be used in accordance with the BWDR operations manual.

(b) Employees who discover an operational defect with the BWDR system will attempt to correct the system following the received training on the device (I.E.: Reseating cables, Cycling the power, etc.). If the BWDR is found to have a physical defect or malfunction, the Employee will notify the supervisor, and write up the device for service describing the events leading up to failure.

(c) Employees shall not:

1. Bypass or attempt to override the equipment.
2. Erase, alter, or delete any recording produced by the BWDR.

### 313.2.1 WHEN DEPARTMENT ISSUED BWDR SYSTEM USE IS REQUIRED

This section is not intended to describe every possible situation where the system may be used. In some circumstances it may not possible to capture images of an incident due to conditions or location of the camera, however the audio portion can be valuable evidence and is subject to the same activation requirements.

(a) All units responding to a scene shall activate their department issued BWDR equipment when they:

1. Activate the DMAV recording prior to arriving on-scene; or
2. Have detained or arrested a person; or
3. Are attempting to detain or arrest a person; or
4. By the nature of the call for service, are likely to detain or arrest a person.

(b) Examples of when the department issued BWDR system must be activated include, but are not limited to:

1. Traffic stops
2. Pursuits, until completion of enforcement action
3. DWI investigations including field sobriety tests
4. Warrant service
5. Investigatory stops



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6. Any contact that becomes adversarial in an incident that would not otherwise require recording. In those situations, it may be impractical or unreasonable for employees to activate their BWDR system before taking police action. It is expected that once the immediacy of the situation is over, employees will activate their BWDR system to record the remainder of the incident.

(c) In addition to the required situations, employees may activate the system anytime they believe its use would be appropriate and/or valuable to document an incident.

(d) There may be instances in which an officer is required to take immediate action to an event that occurs directly in front of them which may not allow time to activate their BWRD. In these circumstances, the officer shall activate their BWDR as soon as practical that allows the officer to safely contain the situation.

#### 313.2.2 WHEN DEPARTMENT ISSUED BWDR SYSTEM DEACTIVATION IS AUTHORIZED

Once the BWDR system is activated it shall remain on until the incident has concluded.

(a) For purposes of this section, conclusion of an incident has occurred when:

1. All arrests have been made and arrestees have been transported; and
2. All witnesses and victims have been interviewed.

(b) Recording may cease if no further law enforcement action is likely to occur (e.g., waiting for a tow truck or a family member to arrive.)

#### 313.2.3 WHEN DEPARTMENT ISSUED BWDR SYSTEM USE IS NOT REQUIRED

Activation of the BWDR system is not required:

(a) During break and lunch periods

(b) When not in service and not on a call

(c) When in service but not on a call.

#### 313.2.4 BODY WORN DIGITAL RECORDINGS AS EVIDENCE

(a) Employees will download all recordings of an evidentiary value captured on any BWDR system they are carrying by the end of their tour of duty.

(b) Employees will also copy the following recordings onto a DVD or CD and submit them as evidence as outlined in Policy 701 (Property and Evidence Collection Procedures):

1. Any criminal investigation, regardless of whether an arrest was made; or
2. Any critical incident as defined in Policy 901 (Administrative Investigations); or
3. Any Level 1 or Level 2 response to resistance incident.

(c) Downloaded incidents not needed as evidence or other official APD business will be erased after 45 days from the date of the recording.

### 313.3 PERSONALLY OWNED BWDR SYSTEMS

Employees may purchase and use their own BWDR system though its usage is not required by policy; however, employees choosing to use a personally owned BWDR system shall adhere to this policy.



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(a) Employees will notify their supervisors that they have a personally owned recording device and will surrender the device upon demand of a supervisor.

(b) Employees will not knowingly record other employees without their consent.

(c) All recordings made while working in any capacity as an Austin Police employee are subject to review by the Austin Police Department.

(d) Employees only need to submit recordings of an evidentiary value as evidence when using a personally owned BWDR system. Recordings will be copied onto a DVD or CD and submitted as outlined in Policy 701 (Property and Evidence Collection Procedures).

## 313.4 REVIEW OF ALL BWDR SYSTEM RECORDINGS

This section outlines the review of department issued and personally owned BWDR system recordings.

(a) Recordings may be reviewed:

1. By an employee to make sure the BWDR system is working
2. By an employee to assist with the writing of a report, supplement, or memorandum
3. By authorized persons for the purpose of reviewing evidence
4. By a supervisor investigating a specific act of employee conduct
5. By authorized Department personnel participating in an official investigation, such as a personnel complaint, administrative inquiry, or a criminal investigation.

(b) Recordings may be shown for the purpose of training. If an involved employee objects to showing a recording, his objection will be submitted to his commander to determine if the training value outweighs the employee's objection.

(c) In no event shall any recording be used or shown to ridicule or embarrass any employee.

(d) Employees shall not obtain, attempt to obtain, or convert for their personal use or for the unauthorized use of another person, any information obtained by a BWDR system. Employees shall not make personal copies or attempt to upload recordings to social networking sites (e.g., You-Tube, Facebook)



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# Handling Juveniles

## 317.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidance and direction for processing and handling juvenile offenders within APD's jurisdiction. Juveniles are afforded equal protection under the law; however, there are differences in the manner in which juveniles are handled under Texas law.

Employees are responsible for participating with and supporting the ideals set forth in Title 3 of the Texas Family Code. These provisions are:

(a) To provide for the protection of the public, and public safety.

(b) Consistent with the protection of the public and public safety:

1. To promote the concept of punishment for criminal acts; and
2. To remove, when appropriate, the taint of criminality from children committing certain unlawful acts; and
3. To provide treatment, training, and rehabilitation that emphasizes the accountability and responsibility of both the parent and the child for the child's conduct.

(c) To provide for the care, the protection, and the wholesome moral, mental, and physical development of children coming within its provisions.

(d) To achieve these purposes in a family environment whenever possible, separating the child from the child's parent only when necessary for the child's welfare or in the interest of public safety and, when the child is removed from the child's family, to give the child the care that should be provided by parents.

(e) To provide a simple judicial procedure through which the provisions of this title are executed and enforced and in which the parties are assured a fair hearing and their constitutional and other legal rights recognized and enforced.

### 317.1.1 DEFINITIONS

**Child/Juvenile**: a person who is (Tex. Fam. Code § 51.02(2)):

(a) 10 years of age or older and under 17 years of age, or

(b) 17 years of age or older and under 18 years of age who is alleged or found to have engaged in delinquent conduct or conduct indicating a need for supervision as a result of acts committed before becoming 17 years of age.

- *The ages of children who come within various classifications of offenses may vary in each instance. Note carefully the age limitations in each situation as set forth by law.*

**Conduct Indicating a Need For Supervision**: Conduct, other than a traffic offense, that is punishable by a fine only or would not be a criminal offense if committed by an adult (e.g., runaway, curfew violation). (Tex. Fam. Code § 51.03 (b))

**Custody**: A child is considered "in custody" when they would be considered "under arrest" if the child was an adult.



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**Delinquent Conduct**: Conduct, other than a traffic offense, that if committed by an adult is punishable by imprisonment or confinement in jail. (Tex. Fam. Code § 51.03 (a))

**Detention**: A detention situation exists when an officer detains a child for a short period for investigative purposes.

**Status Offender**: Generally, a child who is accused, adjudicated, or convicted for conduct that would not, under state law, be a crime if committed by an adult. (Tex. Fam. Code § 51.02(15))

### 317.1.2 CONFIDENTIALITY

The confidentiality of names of juveniles and their records is mandated by state law. The following guidelines will be strictly followed:

(a) The names of juvenile offenders will not be released to the news media or any other person not involved in the judicial or diversion process.

(b) A juvenile defendant or juvenile suspect shall not be named in any public document, including an affidavit for an arrest warrant involving an adult co-defendant or in an affidavit for a search warrant. However, there may be times when an investigator believes that naming a juvenile in the affidavit is essential. In those cases, an assistant district attorney assigned to juvenile court should be contacted in order that alternatives (other than naming the juvenile) can be explored.

(c) Information on juveniles collected during the course of business may be released/disseminated under the following circumstances:

1. Information required to be collected for the "juvenile justice information system" will be forwarded to the Department of Public Safety (DPS);
2. Information compiled during investigation of a criminal combination may be released to other criminal justice agencies or any court having jurisdiction over a child;
3. Information concerning missing children may be entered into NCIC; and
4. Information concerning children adjudicated of sexual offenses and required to register with the Department as sex offenders will be forwarded to DPS.

(d) Physical files and records concerning juveniles shall not be open to public inspection, and shall be open to inspection only by a juvenile justice agency or criminal justice agency.

(e) If an investigator believes obtaining a warrant for the arrest of a juvenile offender is necessary the investigator will present the probable cause affidavit and arrest warrant to a magistrate for approval and signature.

1. The municipal court clerk currently issues the warrant a "J" number but will not retain the affidavit or warrant on file.
2. The investigator will provide the original arrest affidavit and warrant to the Warrant Office to be entered. The original warrant and affidavit will be retained by the Warrant Office until the juvenile is taken into custody.
3. Upon apprehension of the juvenile the original affidavit and warrant will be forwarded to Gardner-Betts. Copies of the affidavit and warrant will be retained in the investigative file.



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(f) An affidavit for a search warrant on a juvenile offender should be submitted to a juvenile court judge to obtain the search warrant. Record of the search warrant will be retained by the juvenile court.

(g) All juvenile arrest files and records, when not in use, shall be secured. Under no circumstances will juvenile arrest records be mingled with adult records.

## 317.2 CUSTODY OF JUVENILES

### 317.2.1 TAKING A JUVENILE INTO CUSTODY

(a) Section 52.01 of the Texas Family Code states that a child may be taken into custody:

1. Pursuant to an order of the Juvenile Court.
2. Pursuant to the laws of arrest.
3. By a law enforcement officer, if there is probable cause to believe that the child was engaged in:
   (a) Conduct that violates a penal law of this state or a penal ordinance of any political subdivision of this state; or
   (b) Delinquent conduct or conduct indicating a need for supervision.
4. By a probation officer if there is probable cause to believe that the child has violated a condition of probation imposed by the juvenile court.
5. Pursuant to a directive to apprehend.

(b) In place of taking a child into custody, state law allows a peace officer to issue a field release citation for a traffic offense or an offense, other than public intoxication or possession of marijuana, punishable by fine only.

(c) State law does not require that a warrant be issued to take a child into custody for a past offense, as long as there is probable cause to believe that the child committed the offense. In making warrantless arrests, patrol officers will follow the direction of an investigative unit and/or their supervisor.

(d) Officers will apply the same probable cause standard for juveniles as that used for adult offenders.

(e) Officers are encouraged to contact their Sector Detective Unit for advice regarding the probable cause for arrest, the type of charge, disposition of the juvenile, or to provide any other assistance needed.

### 317.2.2 EMERGENCY MEDICAL TREATMENT

Children taken into custody that are believed to suffer from a serious physical condition or illness and requires prompt treatment should be seen by EMS and/or transported to a medical facility.

### 317.2.3 REQUIRED PARENT NOTIFICATION

In contrast to detention situations, the law requires that a child's parent/guardian be promptly notified when the child is in police custody.

(a) If a child is taken to a Juvenile Detention Facility, intake personnel will typically make the parent notification. However, at times, they may need assistance from APD when a parent/guardian cannot be contacted by phone. In that case, intake personnel may request that APD attempt to contact the parents in person by calling Communications.



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(b) In the event that a child taken into custody is brought directly to an APD facility to be interviewed, it is the responsibility of the arresting officer to make parent/guardian notification or coordinate that notification with the appropriate investigator.

(c) Officers shall indicate on the juvenile facility booking form and in an incident report information regarding contact with the juvenile's parent/guardian.

### 317.2.4 SEPARATION REQUIREMENTS

Juveniles shall not be transported in the same vehicle with adults who are suspected of or charged with criminal acts. Juveniles shall be separated at any and all times by sight and sound from adults detained in the same building. Separation requires that adults and juveniles in detention are unable to see each other or to converse (Tex. Fam. Code § 51.12).

### 317.2.5 RELEASING A JUVENILE FROM CUSTODY

(a) When releasing a juvenile from custody, officers should take reasonable steps to release him to his custodial parent or guardian.

(b) If a custodial parent or guardian is not available and officers need to release the juvenile to someone else, the following guidelines shall be followed:

1. Run a check for any protective order regarding the adult with whom placement of the juvenile is being considered.
2. Complete warrant and criminal history checks to ensure the juvenile is not being placed with a wanted or dangerous felon.
3. Contact Child Protective Services' Law Enforcement Number at (800) 877-5300 and request a CAPS (Child/Adult Protective Services) check be done to ensure the juvenile is being placed in a safe environment with no abuse history through CPS. The CPS worker answering the phone will need the following information on the person with whom you want to place the child:
   (a) Name, address, and any other pertinent identifying information.
   (b) The CPS worker will ask you for a phone number to call in order to verify your identity and provide any history on the subject. Officers shall provide the phone number for the Communications supervisor. (This process should take approximately 10 minutes).
4. Fully identify the person with whom the juvenile is being placed and any CPS related information in the incident report.

## 317.3 JUVENILE DISPOSITIONS AND REQUIRED DOCUMENTATION

An officer who has detained or arrested a child for conduct indicating a need for supervision, delinquent conduct, or a traffic offense will use the following guidelines for disposition of the child.

The paperwork and procedures for taking custody of a juvenile varies depending on the type of conduct.

### 317.3.1 CONDUCT INDICATING A NEED FOR SUPERVISION

(a) **Class C Misdemeanors:** are punishable by fine only and fall under the jurisdiction of Municipal Court. Juveniles who commit Class C Misdemeanors shall be issued citations.



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(b) **Curfew Violations**:

1. Daytime
   (a) If the child/juvenile is an AISD student, they shall be returned to school, issued a citation and released to school authorities.
   (b) If the child/juvenile is not an AISD student, or cannot be returned to the appropriate school district and released to school authorities, they shall be issued a citation. The officer shall attempt to contact a custodial parent or guardian to respond to the scene and take custody of the child/juvenile. If the officer is not able to contact a custodial parent or guardian, the officer shall follow the guidelines for "Releasing A Juvenile From Custody" as outlined in this policy.
2. Nighttime
   (a) Children/Juveniles violating the nighttime curfew ordinance shall be issued a citation. The officer shall attempt to contact a custodial parent or guardian to respond to the scene and take custody of the child/juvenile. If the officer is not able to contact a custodial parent or guardian, the officer shall follow the guidelines for "Releasing A Juvenile From Custody" as outlined in this policy.

(c) **Runaways:** When an officer establishes that a juvenile is a runaway, every attempt should be made to transport the runaway home for release to a custodial parent or guardian, or have the custodial parent or guardian meet the officer at the scene for release. If the officer is not able to contact a custodial parent or guardian, the officer shall follow the guidelines for "Releasing A Juvenile From Custody" as outlined in this policy. If a juvenile cannot be released to an appropriate adult, the following guidelines shall be followed:

1. Transporting
   (a) If the initial runaway report was generated by any agency within Travis County, the juvenile shall be taken to Life Works. Any forms required by the facility shall be completed.
   (b) If the runaway report was generated by an agency outside of Travis County, the juvenile shall be taken to Gardner-Betts. A booking sheet shall be completed.
2. Reporting
   (a) If the original report was generated by APD, a supplement shall be written to the original report.
   (b) If the original report was generated by any agency other than APD, an incident report shall be initiated and titled "Recovered Runaway."

(d) **Possible Custody Situations**: The following situations are typically considered conduct indicating a need for supervision though sometimes circumstances dictate that transport to a detention facility may be required. If a juvenile is transported to a detention facility for any of the following offenses, the officer is required to complete a booking sheet.

1. **Driving Under Influence (DUI)**: Officers shall adhere to the guidelines outlined in Policy 355 (DWI Enforcement) for how to handle Juvenile DUI/DWI arrests.
2. **Family Violence Assault By Contact/Threat**: If necessary to preserve the peace and eliminate the possibility of further violence, a juvenile may be taken



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into custody and transported to the appropriate juvenile detention facility if they are involved in a family violence situation and commit a Class C misdemeanor offense such as "assault by contact" or "assault by threat" in the presence or view of a peace officer.

### 317.3.2 DELINQUENT CONDUCT

(a) Juveniles taken into custody for delinquent conduct (Class B misdemeanors or above) shall be processed and booked as follows:

1. **Travis County**: The juvenile shall be transported to the APD ID Section for processing, followed by booking at Gardner-Betts. Any accompanying paperwork shall be turned in to the Gardner-Betts intake officer.

   (a) If a juvenile is ***being combative and it is unsafe*** to bring them to the APD ID Section, officers may request an APD ID Technician to meet them at Gardner-Betts to process the juvenile there.

2. **Williamson County**: The juvenile shall be transported to the Williamson County Juvenile Justice Center for processing and booking. Any accompanying paperwork (e.g., booking sheet, receipts, pictures) shall be forwarded to the appropriate Area Command Investigative Unit for disposition.

3. **Hays County**: Upon taking a juvenile into custody in Hays County, officers shall call the 24 hour intake number for the Hays County Juvenile Detention Center at (512)393-5220, ext 11201 for approval prior to transport. If the officer is denied approval for intake, the officer shall notify his immediate supervisor and follow the guidelines for "Releasing A Juvenile From Custody "as outlined in policy. The juvenile shall be transported to the APD ID Section for processing, followed by booking at the Hays County Juvenile Detention Center. Any accompanying paperwork shall be turned in to the Hays County Juvenile Detention Center intake officer.

(b) In certain instances, processing of a Juvenile is not required. Juveniles may be transported directly to the appropriate Juvenile Detention Facility and booked when:

1. Any warrant or directive to apprehend issued by TYC or Juvenile Court (e.g., probation violation warrants, escape from TYC warrants).
2. Any warrant or directive to apprehend a child where the child was already processed for the original charge.
3. Any offense that occurred prior to Jan. 1, 1996.

(c) If a juvenile is taken into custody for DWI, the juvenile shall be transported directly to an Intoxilyzer room and requested to perform any tests prior to processing and booking.

(d) If an officer is booking a juvenile for delinquent conduct and also chooses to file a Class C charge, the officer shall issue the juvenile a misdemeanor citation for the Class C violation(s). Class C charges shall NOT be placed on the booking sheet.

(e) A juvenile taken into custody for delinquent conduct shall not be released to a parent/guardian until the child has been processed and booked at the appropriate Juvenile Detention Facility.

### 317.3.3 TRAFFIC OFFENSES

Juvenile traffic violators should be handled in the same manner as adult violators.



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## 317.4 INFORMATION NEEDED BY A JUVENILE DETENTION FACILITY

Under the provisions of the Family Code, pending a hearing, a child taken into custody will be released immediately by the Juvenile Court to a parent unless certain designated circumstances exist. Officers should inform intake personnel the following facts, when known:

(a) The child is likely to abscond or be removed from the jurisdiction of the court.

(b) Suitable supervision, care or protection is not being provided to the child by a parent, guardian or other person.

(c) The child has no parent, guardian or other person able to return them to the court when required.

(d) The child may be a danger to themselves or may threaten the safety of the public if released.

(e) The child has previously been found to be a delinquent child or has been previously convicted of a penal offense punishable by a term in jail or prison and is likely to commit an offense if released.

## 317.5 JUVENILE INTERVIEWS, INTERROGATIONS AND STATEMENTS

### 317.5.1 TYPES OF STATEMENTS

(a) The following types of statements made by juvenile suspects are admissible as evidence under the Family Code:

1. **Res Gestae** - spontaneous statements made by children may be used as if they were made by an adult.

2. **Statements leading to the discovery of evidence** - defined as oral statements of fact or circumstances that are true, which tend to establish the child's guilt, such as finding secreted or stolen property or the instrument with which the child states the offense was committed.

3. **Custodial Statements** - An oral or written statement by a child in custody, detention or confinement is admissible if, before giving the statement, the child has been given the Miranda warning by a magistrate. This warning must be given out of the presence of police officers or prosecutors. An exception would be under circumstances when it is deemed necessary to have an officer present for the magistrate's protection.

   (a) **Oral Statements**: The statement must be recorded by an electronic recording device (tape recorder or video camera) and, before making the statement, the child receives the Miranda warning by a magistrate as described above and the warning is made part of the recording.

   (b) **Written Statements**: The written statement must be reviewed with the juvenile, and signed, in front of the magistrate and out of the presence of police officers or prosecutors unless necessary for the magistrate's protection.

(b) The Family Code does not preclude the admissibility of other types of statements, including those that "do not stem from custodial interrogation." The admissibility of such statements will depend upon the circumstances surrounding the taking of the statement and the facts of the case.



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### 317.5.2 WORKING WITH PARENTS

A child's parent or guardian has personal legal responsibility for the child's welfare and behavior. The Department recognizes this responsibility and police officers will work with parents as closely as possible in interviewing children. Examples of procedures that help parents are:

(a) Explaining a child's illegal or suspicious behavior as soon as possible.

(b) Responding with patience and understanding to questions that are defensive or reflect a parent's fears about police procedures and the court system.

(c) When reasonable, giving parents advance notice that their child will be interviewed or interrogated.

### 317.5.3 GENERAL GUIDELINES FOR INTERVIEWING JUVENILES

(a) The Department encourages officers to adjust their interviewing style to be sensitive to each person's age and experience, remaining consistent with the Department's commitment to treat all people with respect. The more approaches an officer can use, the more cooperation they can achieve with each child.

(b) **Interviews**: An interview takes place when a juvenile witness or victim of a crime is questioned. It is not necessary to administer rights or to have the parents or guardians present. If a child implicates themselves during the interview, the interview shall be stopped and the procedures for interrogation followed.

(c) **Age Considerations:**

1. If the child is too young or mentally incompetent to render a decision, the parents or guardians should be present.
2. Interviewing children under the age of 13 should be done at the Center for Child Protection, especially when the child is the victim of a violent offense.

### 317.5.4 GENERAL GUIDELINES FOR INTERROGATING JUVENILES

(a) **Interrogations**: An interrogation is the questioning of a juvenile who is suspected of a status or criminal offense.

1. **On-scene Interrogation**: Street interrogations should be avoided until after the juvenile can be processed unless it is absolutely necessary for the preliminary investigation. However, street interviews often present exigent circumstances that demand immediate action from the responding officer. Suspects, weapons and evidence may be lost if information is not immediately obtained. Officer safety, safety of the public, and the need to obtain basic information are considerations that patrol officers must deal with in making decisions regarding the street interrogation of a juvenile. The general rules of interrogation and admissibility of evidence apply to juveniles, with additional requirements existing for custodial interrogations.
2. **Non-Custodial Interrogations:**
   (a) Juveniles are not in custody when they are voluntarily brought in by a parent or guardian. Therefore, no magistrates' warning is required prior to taking a confession under these circumstances.
   (b) Officers should be aware of any factor that might negate the non-custodial status of the interrogation and affect the admissibility of the statements obtained. For example, giving a child a ride to the station, even if the child accompanied the officer voluntarily and with the consent of their parents,



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could be interpreted by the courts as an indication that the juvenile was "in custody."

(c) Juveniles who have given voluntary non-custodial confessions will not be immediately taken into custody. They will be released to a parent/guardian. If probable cause for arrest is developed through the confession or otherwise, a juvenile warrant may be obtained. Failure to follow this procedure could taint the voluntariness of the confession.

3. **Custodial Interrogations**: The Miranda warning administered by a magistrate must precede all custodial confessions. Prior to conducting a custodial interrogation of a juveniles, employees will confer with the juvenile and parents or guardians to explain agency and juvenile justice system procedures. The custodial interrogation of a juvenile may take place in two types of situations; the exact procedures to be followed vary depending on the situation.

(a) **At a Juvenile Processing Office**: The interrogation of a juvenile may take place at a juvenile processing office if the juvenile is transported there immediately after the juvenile is taken into custody. While at the juvenile processing office the guidelines of Family Code Section 52.025 must be strictly adhered to:

1. The child may not be left unattended.
2. The child is entitled to be accompanied by a parent, guardian, or attorney.
3. The child may not be detained in the juvenile processing office for longer than six (6) hours.
4. Under normal circumstances, no more than 2 detectives should be actively engaged in the interrogation of the child.

(b) **At a Juvenile Detention Facility**: To interview a juvenile who has been booked into Gardner-Betts or the Williamson County Juvenile Justice Center, APD must request the juvenile be returned to APD custody for an interrogation or other followup. Gardner-Betts or Williamson County Juvenile Justice Center personnel will rule whether the request will be granted.

1. The investigator will call Gardner-Betts or the Williamson County Juvenile Justice Center in advance to arrange for a custody transfer.
2. Unless the interview occurs at the detention facility, the interview will only take place in a designated Juvenile Processing Office that is in accordance with CCP Sec. 52.025.
3. Upon completion of the interview/statement the juvenile must be returned to the custody of Gardner-Betts or the Williamson County Juvenile Justice Center.

## 317.6 FINGERPRINTS AND PHOTOGRAPHS

(a) Except as listed in section (d) below, juveniles may be photographed or fingerprinted only under the following circumstances consistent with provisions of the Family Code:

1. With consent of the Juvenile Court (e.g., via a court order).
2. If the child is taken into custody for conduct that is a felony, or a misdemeanor punishable by confinement in jail.



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3. If the child is not in custody and the child's parent or guardian voluntarily consents in writing to the photographing or fingerprinting of the child.

(b) The fingerprints of a juvenile suspect in a criminal case where latent prints were obtained may be used for comparison purposes only if the prints were obtained in a manner allowed by the Family Code.

(c) The photograph of a juvenile suspected in connection with a criminal case where it is believed the photograph will help in the identification of the offender (e.g., a photo lineup) may be used only if it was obtained in a manner allowed by the Family Code unless it is publicly available (such as in a school yearbook).

(d) **Exceptions**: Restrictions on fingerprinting/photographing juveniles do not apply in the following situations:

1. If the photographs/fingerprints are obtained as part of the registration process for a juvenile required to register as a sex offender under CCP Section 62.
2. If the child is a victim or witness, and photographs are needed for evidentiary or documentary purposes (e.g., photographs of injuries, or videotaped statement of a child victim/witness).
3. If a child has had access to a crime scene but is not a suspect, and their prints are needed for comparison to latents for elimination purposes.



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# Detentions, Field Interviews, and Field Photographs

## 318.1 PURPOSE AND SCOPE

The purpose of this policy is to establish guidelines for conducting and documenting detentions, interviews, and taking and retaining photographs of subjects in the field.

### 318.1.1 DEFINITIONS

**Consensual Encounter** - Occurs when an officer contacts an individual but does not create a detention through words, actions or other means. In other words, a reasonable individual would believe that his contact with the officer is voluntary.

**Custody** - A person is in "custody" only if, under the circumstances, a reasonable person would believe that his freedom of movement was restrained to the degree associated with a formal arrest. Custody can be construed as actual or constructive; therefore it is incumbent upon the officer to be conscious of the subject's belief about whether or not he is free to leave.

**Detention** - The brief stopping of an individual based on reasonable suspicion for the purposes of determining the individual's identity and resolving the officer's suspicions.

**Field Observation (FO) Card** - The documentation of a subject stop when there is not a corresponding incident report, supplement or citation for the stop.

**Field Photographs** - Posed photographs taken of a person during a contact, detention or arrest in the field. Undercover surveillance photographs of an individual and recordings captured by the normal operation of a Mobile Audio Video system when persons are not posed for the purpose of photographing are not considered field photographs.

**Reasonable Suspicion** - Occurs when, under the totality of the circumstances, an officer has articulable facts that criminal activity may be afoot and a particular person is connected with that possible criminal activity.

## 318.2 GENERAL POLICY

(a) Officers will identify themselves when they initiate a duty-related contact with a person, when practicable, unless their identity is obvious.

(b) Officers will explain the reason for the contact and the purpose of anticipated police action, , when practicable.

(c) Officers will act with as much restraint and courtesy toward persons interviewed, detained or arrested as is possible under the circumstances.

(d) Nothing in this policy is intended to discourage consensual encounters. Frequent and random casual contacts with consenting individuals are encouraged by the Austin Police Department to strengthen our community involvement, community awareness and problem identification.



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## 318.3 DETENTIONS

Detentions are "seizures" under the Fourth Amendment. Officers may stop and question individuals when reasonable suspicion that the person may be involved in past, present or future criminal activity exists.

(a) In justifying the stop, officers should be able to point to specific facts which, when taken together with rational inferences, reasonably warrant the stop. Such facts include, but are not limited to, the following:

1. The actions, appearance or demeanor of an individual suggests that he is part of a criminal enterprise or is engaged in a criminal act. Some factors include:

   (a) The subject is carrying a suspicious object.

   (b) The subject's clothing bulges in a manner that suggests he is carrying a weapon.

   (c) The hour of day or night is inappropriate for the subject's presence in the area.

   (d) The subject's presence in the particular area is suspicious.

2. The subject is located in proximity to the time and place of an alleged crime.

3. The officer has knowledge of the subject's prior criminal record or involvement in criminal activity.

(b) Officers may detain persons they lawfully stop for a reasonable length of time in an attempt to:

1. Verify their identity. (Officers should be familiar with Penal Code Section 38.02. Persons are not required to identify themselves unless they are under arrest; however, if they are legally detained and choose to identify themselves, they must do so accurately.)

2. Account for their conduct and/or their presence.

3. Discover whether a crime occurred.

4. Determine person's involvement.

(c) Officers shall release a person from an investigative stop if:

1. The person eliminates the officer's reasonable suspicion of criminal involvement; or

2. The officer fails to develop the probable cause necessary to arrest within a reasonable time.

### 318.3.1 HANDCUFFING DETAINEES

(a) Situations may arise where it may be reasonable to handcuff an individual who is lawfully detained.

(b) Officers should weigh the safety interests of all persons involved against the intrusion upon the detainee when deciding to place handcuffs on, or remove handcuffs from, a detainee.

(c) Unless arrested, the use of handcuffs on detainees at the scene of a search warrant should continue for only as long as is reasonably necessary to assure the safety of officers and others.



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### 318.3.2 DETAINING FOREIGN NATIONALS

(a) Federal courts have consistently held that undocumented presence is not a crime but a federal civil violation only enforceable by federal officers.

1. Officers shall not detain persons solely for determining immigration status.
2. After a lawful detention, officers may continue to detain foreign nationals for alleged undocumented presence in the U.S. if the U.S. Immigration and Customs Enforcement (ICE) is contacted and can respond to take custody within a reasonable time.

(b) Officers detaining a foreign national shall notify the appropriate consular official upon request or when the detention exceeds two hours. The Communications Division will maintain a current telephone list of foreign embassies and consulates and a list of mandatory notice countries.

1. Officers shall document in the narrative of the appropriate incident report the date and time Communications was notified of the foreign national's detention and his claimed nationality.

(c) The following additional policies cover handling foreign nationals:

1. Policy 319 (Custody Arrests) outlines procedures for arresting foreign nationals who do not claim to have immunity.
2. Policy 330 (Foreign Officials Claiming Immunity) outlines procedures for detaining and arresting foreign officials who claim to have immunity.

### 318.3.3 DETAINING FEDERAL AND STATE LEGISLATORS

Policy 319 (Arrests) outlines procedures for arresting Federal and State Legislators.

## 318.4 CONSENSUAL ENCOUNTERS

Officers are encouraged to initiate interviews with people of the community in order to gain a thorough knowledge and become an integral part of the community.

(a) Officers may talk to a person at anytime, for any reason, in performance of their duties.

(b) An interview should be conversational and not confrontational.

(c) A consensual encounter is not a stop or arrest and there is no intent to inhibit any rights or freedoms of a person. The person has the right to:

1. Fail to respond to the officer.
2. Refuse to identify himself.
3. Walk away from the officer.

(d) Negative inferences will not be made based on a persons refusal to cooperate in the interview.

(e) Photographs of persons interviewed during a consensual encounter shall not be taken without the person's permission.

## 318.5 FIELD INTERVIEWS, STATEMENTS, AND CONFESSIONS

The basis of a statement or confession is to corroborate the elements of an incident. Written and oral statements or confessions should not be utilized as the sole basis for filing charges; any statement or confession should be corroborated by other legally obtained evidence or



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verified in an appropriate manner. Officers should keep in mind the following things when interviewing/interrogating a subject:

(a) During a non-custodial interview, an officer will usually allow a subject to leave after taking the statement or confession. A warrant can be obtained at a later time to take the subject into custody.

(b) There may be occasions when information is disclosed that changes the focus of the investigation toward the subject, where the facts and circumstances of the case dictate that he is no longer free to leave changing the non-custodial interview to a custodial interrogation.

(c) When an officer begins accusatory questioning of a subject who is not free to leave, the subject would generally be considered under "arrest" and the interview/interrogation would be "custodial."

(d) Once a subject requests to speak with an attorney or indicates a desire for legal representation, the interview/interrogation will cease.

### 318.5.1 MIRANDA WARNING

(a) Officers will administer the Miranda Warning to a subject during a custodial interview/interrogation when questioning begins to focus on the person stopped, becoming accusatory regarding a specific offense.

(b) The Miranda Warning will be administered by audio/video recording (e.g., in-car Mobile Audio Video Recording system) using the following process :

1. Read the Miranda card to the subject in its entirety; and
2. Ensure the subject acknowledges, understands, and voluntarily waives his rights by:
   (a) Write the officer's name and the date, time, and incident number on the face of the card; and
   (b) If practical, request the subject to initial next to each Miranda right and sign the card. If the subject has verbally acknowledged understanding and waiving his rights but does not sign the card, the interview/interrogation may still continue.
3. Officer safety should not be compromised during a field interview/interrogation in order to record acknowledgment of rights.

## 318.6 FIELD PHOTOGRAPHS

(a) Field photos should only be used for:

1. Identification of a subject or a subject's automobile.
2. Identification of a subject's condition (e.g., injuries, tattoos, evidence stains on clothing, jewelry, distinctive clothing/shoe patterns).
3. Documenting evidence.

(b) Access to field photographs shall be strictly limited to law enforcement purposes.

(c) Force shall not be used to obtain photos in a detention situation.



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### 318.6.1 FIELD PHOTOGRAPHS TAKEN WITH CONSENT

Field photographs may be taken when the subject of the photograph knowingly and voluntarily gives consent. The officer shall document the consent in the appropriate incident report, supplement or FO card.

### 318.6.2 FIELD PHOTOGRAPHS TAKEN WITHOUT CONSENT

Field photographs may be taken without consent only if taken during a detention that is based on reasonable suspicion of criminal activity and the photograph serves a legitimate law enforcement purpose related to the detention.

(a) 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.

(b) Mere knowledge or suspicion of gang membership or affiliation is not a sufficient justification for taking a photograph without consent.

(c) 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.

### 318.6.3 JUVENILE PHOTOGRAPHS

Juveniles may only be photographed:

(a) With consent of the juvenile court (e.g., via a court order).

(b) If the child is taken into custody for delinquent conduct that is punishable by confinement in jail (Class B misdemeanor or higher).

(c) If the child is not in custody and the child's parent or guardian voluntarily consents in writing to the photographing of the child.

### 318.6.4 PROHIBITED RECORD KEEPING

All field photographs must be downloaded to the electronic database or turned in as evidence.

(a) Officers shall not:

1. Keep a personal or shift-level copy of any photograph taken during a field stop for non-law enforcement purposes.
2. Post a field photograph of any person not currently wanted by a law enforcement agency.

### 318.6.5 SUPERVISOR RESPONSIBILITY

While it is recognized that field photographs often become valuable investigative tools, supervisors should monitor such practices for compliance with Department policy. This is not to imply that supervisor approval is required before each photograph.

## 318.7 FIELD EYEWITNESS IDENTIFICATION

Proper procedures for handling field identifications are outlined in the Field Identifications section of Policy 403 (Follow-up Investigations).



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# Arrests

## 319.1 PURPOSE AND SCOPE

This policy outlines the guidelines for warrant and warrantless arrests. The following policy cannot address every situation that an officer might encounter; however, in exercising arrest authority, officers should be guided by what is contained in this document. Nothing in this policy should be interpreted as authorizing or restricting an officer's arrest authority as defined by the Code of Criminal Procedure.

### 319.1.1 ARRESTS REQUIRING SUPERVISOR APPROVAL

Officers shall obtain supervisor approval on the following types of arrests prior to booking the subject into jail:

(a) Any arrest where an officer is the victim (e.g., assault on a police officer, resisting arrest or search).

(b) Evading arrest.

(c) Arrest for multiple traffic.

(d) Refusal to sign a citation.

(e) Failure to identify.

(f) Any full custody arrest for an offense meeting the criteria for a Class A or Class B Misdemeanor Citation as outlined in Policy 308 (Misdemeanor Citations).

(g) Any Class C warrant arrest inside a private residence.

(h) Any arrest where a foreign official is claiming immunity as outlined in Policy 330 (Foreign Officials Claiming Immunity).

### 319.1.2 SUPERVISORY ORDERS

Supervisors will not order any subordinate to arrest a person suspected of a misdemeanor violation of law witnessed by the supervisor but not witnessed by the subordinate unless:

(a) The supervisor articulates the probable cause upon which the arrest is based as soon as practicable; and

(b) The supervisor completes a supplement to the incident report.

## 319.2 WARRANT ARREST GUIDELINES

(a) Officers will arrest any person found to have an outstanding warrant, provided the arrest can be made in compliance with Department policy.

(b) Officers legally inside a residence that finds any resident found to have an outstanding:

1. Felony, Class A or Class B warrant will arrest the person.
2. Class C warrant will not arrest the person unless authorized by a supervisor.

### 319.2.1 WARRANT SERVICE GUIDELINES

Officers attempting to conduct a warrant service shall adhere to the following guidelines:

(a) Before any warrant service is attempted at a private residence or place of employment (as listed in the PICKUP supplement) officers shall:



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1. Review the incident report in its entirety to determine if and when a previous warrant service has been attempted.
   (a) Officers shall not normally return to a location to serve a warrant where an attempt has been previously made unless additional information has been developed suggesting the offender has returned.
2. Verify the warrant status by contacting the Central Records/Warrant Unit or Teletype, either directly or through Communications.
3. Supervisors shall be notified and a "Threat Assessment Form" (APD Form 11) shall be completed prior to any warrant service where a forced entry is planned or anticipated.

(b) Officers receiving information that a person with an arrest warrant is inside a third party private residence may NOT enter and search for the violator. Courts have held that this includes, but is not limited to a home, apartment, or hotel/motel room. The exception to this rule is when:

1. The officer is in possession of a valid search warrant for that specific residence/location. (There is no requirement for a search warrant of PUBLIC areas of a commercial establishment); or
2. The officer has received consent from the person/s in care, custody and control of the location. Consent procedures are outlined in Policy 306 (Search and Seizure); or
3. The officer can clearly articulate exigent circumstances that delaying entry would expose a person to serious injury or death or allow the violator to escape.

(c) Warrant service attempts that did not result in the arrest of a subject shall be documented immediately by DIRECT ENTRY of a supplement to the original incident report in Versadex. The following information is required in the supplement:

1. Date/time of each attempt; and
2. Address(s) and/or location(s) of attempt(s); and
3. Identity of person(s) contacted; and
4. Information relating to the search of a location (e.g., was permission granted or refused, vacant); and
5. Useful information relating to a subject (e.g., new location, vehicles, employment, acquaintances); and
6. Identification of all officers involved in warrant service.

(d) Warrant service resulting in an arrest of the wanted subject shall be documented immediately by DIRECT ENTRY of a supplement to the original incident report into Versadex. The following information is required:

1. "CANCEL CANCEL CANCEL" in the subject line and at the top of the supplement; and
2. Date/time of service; and
3. Address(s) and/or location(s) of service; and
4. Information relating to search of location (e.g., was permission granted or refused, vacant); and
5. Identification of all officers involved in warrant service.



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### 319.2.2 WARRANT HIT AND CONFIRMATION

During the course of a lawful detention or arrest, an officer may run a subject for warrants.

(a) When a "hit" is received on a local, TCIC or NCIC warrant inquiry, confirmation from APD or the originating agency must be obtained prior to taking official action. Confirmation shall be the authorization for placing the person in jail for the warrant.

1. The person may be detained until confirmation is made by APD or the originating agency.
2. Should circumstances make a custody arrest impractical, a person detained solely for a Class C warrant may be released with the approval of a supervisor.
3. If a warrant confirmation is not received within 10 minutes, the arresting officer may either release the subject or continue to await a response.

(b) If a subject is arrested for an APD warrant, officers shall:

1. Obtain the original APD warrant from the Central Records/Warrant Unit during normal business hours; or
2. Have Communications/Teletype fax or email the warrant to the jail after confirmation.
3. Warrants from other agencies should be faxed or emailed to the jail by the originating agency after confirmation.

### 319.2.3 WARRANT ARRESTS AT PRIVATE RESIDENCES

(a) Officers legally inside a residence shall arrest any resident found to have an outstanding Felony, Class A or Class B misdemeanor warrant.

(b) Officers shall not normally arrest a resident for a Class C warrant unless authorized by a supervisor.

## 319.3 WARRANTLESS ARREST GUIDELINES

These guidelines are based upon the idea that the use of an arrest, followed by prosecution, is not the primary or exclusive method available to officers and the Department.

(a) Minor infractions of the law may not be sufficient to justify an arrest. Officers should be concerned with what the law says and what the law was designed to accomplish. Laws generally serve as the tools officers use to protect residents' rights and to maintain peace in the community. If enforcement of the law does not serve these purposes, arrests can rarely be justified.

(b) One of our concerns is the maintenance of public order, looking toward a preventive rather than a punitive approach to crime.

(c) Officers are not required to exhaust all alternatives, or go through the alternatives in succession before making an arrest, but may resort to that method that will most quickly and safely bring the situation under control.

(d) Officers may consider any factors that are reasonably believed to be relevant, based upon observations and in light of personal knowledge, training and experience.

(e) Officers are expected to be able to state and describe the reason(s) for a particular course of action upon the request of a reviewing supervisor or the Arrest Review Unit.

(f) Arrests will not generally be made outside the jurisdiction of this department except in cases of hot and/or fresh pursuit, while following up on crimes committed within the City, or while assisting another agency. On-duty officers who discover criminal activity



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outside the jurisdiction of the City should, when circumstances permit, consider contacting the agency having primary jurisdiction before attempting an arrest.

### 319.3.1 IN-CUSTODY ARREST SITUATIONS

(a) **Felony, Class A and Class B Misdemeanors**

1. Violators who commit a Class A or Class B offense and meet all the requirements for a Misdemeanor Citation as outlined in Policy 308 (Misdemeanor Citations) shall be issued a citation in lieu of arrest unless otherwise authorized by a supervisor.
2. Custody arrests shall be made for all other offenses greater than a Class C where there is a lawful arrest authority.

(b) **Class C Misdemeanors**

1. Class C misdemeanors should *generally* be enforced by a field release citation. Officers shall select the least intrusive or severe course of enforcement action but should initiate a custody arrest if the issuance of a citation will not:
   (a) Stop existing criminal conduct; or
   (b) Remove the imminent threat of violence or criminal conduct; or
   (c) Prevent persons from endangering themselves or others.
2. A custody arrest for minor offenses should be made when there is reason to believe the actor is, or has been, involved in a more serious offense and the arrest will serve to gather evidence of that additional offense.

### 319.3.2 WARRANTLESS ARRESTS AT A PRIVATE RESIDENCE

(a) **Misdemeanors**

1. Officers shall not forcibly enter a private home to arrest a person for a misdemeanor violation. This includes officers in hot pursuit of a subject, and cases in which the subject has escaped from custody and fled into a private home.
2. Custody arrests shall not normally be made for a misdemeanor offense inside a home unless authorized by a supervisor. However, the following misdemeanor custody arrests inside a home shall be made and do not require a supervisor's approval:
   (a) The offense is committed in the officer's presence.
   (b) Family Violence incidents. Officers shall comply with current Department policy regarding Family Violence.
   (c) The offense is a violation of a valid protective order.
3. Except as noted above, when a violation occurs in a private home or the person flees into a private home, it is preferable for the officer or a citizen to file a complaint and have warrants issued for the person's arrest.
4. Persons should not be arrested and charged with being intoxicated if they are on their own property. Subjects may be arrested if they are creating a disturbance on their own property and can be viewed by other persons, and the disturbance cannot be ended in any other manner. However, if they are not creating a disturbance and no other violation exists, no arrest shall be made.



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(b) **Felonies**

1. Officers who are legally inside a private residence and observe a felony being committed, or develop probable cause to believe a felony has been committed and there is no time to get a warrant, may make an arrest.
2. Before officers forcibly enter a private home to arrest for a felony, they should, whenever possible, obtain the approval of a supervisor and act only when the supervisor is present.
3. When officers develop probable cause to believe a felony is being committed inside a private home and a bona fide emergency exists (exigent circumstances), they may enter to arrest the violator.
4. Officers in hot pursuit of a felony violator who flees into a private home may enter to effect the arrest.
5. Officers receiving information that a felony violator is inside a private residence (courts have held that this includes but is not limited to a home, apartment, or hotel/motel room) may only enter and search for the violator when:
   (a) They are in possession of a valid search warrant for the location; or
   (b) They have received consent from the person(s) in care, custody and control of the location. Consent can be written or recorded electronically with audio and/or video; or
   (c) They can clearly articulate that delaying entry would expose a person(s) to serious injury or death, or allow the violator to escape; or
   (d) They have personally observed the felony violator enter the residence at that time.

### 319.3.3 ADDITIONAL FELONY ARREST PROCEDURES

(a) Most felony arrests require direct notification to the appropriate Investigative Unit.

(b) Officers can make the notification by phoning the Investigative Unit during normal business hours, the on-call detective after business hours, or the Unit's voice mail line designated for such notification or the city email designated for that investigative unit (i.e. apdburglary@austintexas.gov). Investigative Units will have a detective available on-duty or on-call 24 hours a day if guidance is needed or they have specific questions that need to be answered at that time (i.e. validity of arrest, etc).

1. The arresting officer is responsible for consulting with their supervisor prior to notifying any *on-call* detective after business hours.
2. Supervisors are responsible for ensuring the appropriate Investigative Unit is contacted when necessary.

(c) The Investigative Unit will:

1. Help ensure the validity of the arrest; and
2. Provide assistance with the appropriate wording of probable cause affidavit(s); and
3. Respond to the crime scene, if necessary, to provide additional expertise.

(d) For charges that will be direct filed, consultation with an on-call detective does not replace the required review of arrest paperwork by Arrest Review.



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## 319.4 SPECIAL CIRCUMSTANCES SURROUNDING ARRESTED PERSONS

### 319.4.1 IMPOUNDING VEHICLES

(a) If the owner/operator of a vehicle has been arrested, the vehicle shall be impounded and preserved for evidence processing if it:

1. Is the instrument, fruit, or evidence of a crime; or
2. Contains an instrument, fruit or evidence of a crime.

(b) If the owner/operator of a vehicle has been arrested but the vehicle is not needed for evidentiary purposes, the arresting officer may impound the vehicle.

1. At the officers discretion, the vehicle may be released to a responsible person present at the scene if the owner/operator requests it.
   (a) The person taking custody of the vehicle must be in possession of a valid driver's license and be capable of providing care, custody and control of the vehicle.
   (b) The identity of the person (name, DOB, driver's license, address) who takes custody of the vehicle shall be noted in the officer's incident report.

(c) When a subject's vehicle has been impounded due to an arrest and it is determined that the subject will be released rather than booked into jail, a supervisor may authorize the waiving of any applicable impound fee.

1. The supervisor will contact the authorized impound company and advise to release the vehicle without charge.
2. The fact that the fee was waived, and the name and employee of the supervisor authorizing the waiver, shall be documented in the officer's incident report.

### 319.4.2 CHILDREN IN CUSTODY OF ARRESTED PERSONS

When arrested persons have a child less than 17 years of age in their care, custody and control at the time they are arrested, it is the responsibility of the arresting officer or a designated officer on-scene to ensure the safe placement of the child.

(a) Whenever possible, officers should take reasonable steps to accomplish the arrest of a parent or guardian out of the presence of a child.

(b) Officers shall first attempt to locate a competent adult, at the request of the arrested party, to come and take custody of any children. Should a competent adult be located, the officer shall:

1. Run a check for any protective order regarding the adult with whom placement of the child/children is being considered.
2. Complete warrant and criminal history checks to ensure the child/children is not being placed with a wanted or dangerous felon.
3. Contact Child Protective Services' Law Enforcement Number at (800) 877-5300 and request a CAPS (Child/Adult Protective Services) check be done to ensure the child/children is being placed in a safe environment with no abuse history through CPS. The CPS worker answering the phone will need the following information on the person with whom you want to place the child:
   (a) Name, address, and any other pertinent identifying information.



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(b) The CPS worker will ask you for a phone number to call in order to verify your identity and provide any history on the subject. Officers shall provide the phone number for the Communications supervisor. (This process should take approximately 10 minutes).

4. Fully identify the person with whom the child/children is being placed and any CPS related information in the incident report.

(c) If a competent adult is not located after a reasonable amount of time, the arresting officer shall contact Victim Services to take custody of any children and assist with their placement with Child Protective Services. Victim Services shall assume responsibility for assistance in placing children as per agreements with Child Protective Services.

(d) Law enforcement officers in the State of Texas under the Family Code, Chapter B, are given the same powers as Child Protective Services in the following situations:

1. Section 262.104: Taking possession of a child in an emergency without a court order.
2. Section 262.110: Taking possession of child in an emergency with intent to return home.

### 319.4.3 ANIMALS IN CUSTODY OF ARRESTED PERSONS

When prisoners have an animal with them at the time of their arrest and no responsible person is available to take custody of the animal, it shall be taken to the City Animal Shelter for safekeeping until the prisoner's release. Officers shall note in the incident report who took custody of the animal.

## 319.5 SPECIAL ARREST SITUATIONS

### 319.5.1 FOREIGN NATIONALS

(a) These guidelines apply to foreign nationals who do not claim diplomatic or consular immunity.

1. For handling detentions of foreign nationals, refer to Policy 318 (Detentions, Field Interviews and Field Photographs).
2. For foreign nationals who claim some form of immunity, refer to Policy 330 (Foreign Officials Claiming Immunity).

(b) Officers shall arrest foreign nationals only under the following circumstances:

1. There is a valid warrant issued for the person's arrest.
2. There is probable cause to believe that the foreign national has violated a federal criminal law, a state law or a local ordinance.

(c) Officers shall not arrest foreign nationals solely for alleged undocumented entry into the U.S.

(d) The U.S. is obligated under the Vienna Convention on Consular Relations, international treaties, and customary international law to notify consular officials when foreign nationals make such a request, are arrested, or are detained for more than 2 hours.

1. Arresting officers shall immediately inform any foreign nationals of their right to have their consular official notified concerning the arrest. If foreign nationals



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ask that such notification be made, the arresting officer shall inform the intake officer at the booking facility.

2. The Communications Division will maintain a current telephone list of foreign embassies and consulates and a list of mandatory notice countries.

(e) After a criminal arrest, officers may detain foreign nationals for alleged undocumented presence in the U.S. if the U.S. Immigration and Customs Enforcement (ICE) is contacted and can respond to take custody within a reasonable time.

(f) Foreign consular officials have the right to visit their arrested or detained nationals unless the person objects to the visit.

(g) Officers shall document in the narrative of the appropriate incident report the date and time Communications was notified of the foreign nationals arrest/detention and his claimed nationality.

### 319.5.2 FEDERAL AND STATE LEGISLATORS

Numerous federal and state legislators have offices within the City of Austin. During official legislative sessions, including travel to and from sessions, senators and representatives are immune from citations and arrest except for felonies and breaches of the peace.

(a) Officers shall notify their supervisor when enforcement action (e.g., arrest, citation) is taken against a senator or representative.

(b) Supervisors shall ensure the Watch Lieutenant is notified.

## 319.6 CITIZEN'S ARREST

The purpose of this section is to provide guidance for handling arrests made by citizens pursuant to state law.

### 319.6.1 CITIZEN ARREST AUTHORITY

A citizen may arrest another under the following circumstances:

(a) When the offense is committed in the citizen's presence or view and the offense is one classified as a felony or a breach of the peace (Tex. Code of Crim. Pro. art. 14.01).

(b) When there are reasonable grounds to believe property is stolen, a citizen may seize the stolen property and the person suspected of committing the theft and bring the person and the property before a magistrate or to a peace officer for that purpose (Tex. Code of Crim. Pro. art. 18.16).

### 319.6.2 OFFICER RESPONSIBILITIES

Officers approached by a citizen making an arrest must determine whether there is probable cause to believe that such an arrest would be lawful. Officers should not detain or restrain a subject beyond that which reasonably appears necessary to safely investigate the matter and determine the lawfulness of the arrest.

(a) When officers determine there is probable cause to believe the arrest is lawful, they may exercise one of the following options as outlined by Department policy:

1. Take the individual into physical custody for booking; or

2. Release the individual pursuant to a field release citation.



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(b) When officers determine there is insufficient arrest authority or that there does not appear to be probable cause for a lawful arrest, they will promptly release the arrested individual.

1. Officers should advise the parties that no arrest will be made at that time and that the circumstances will be documented in an incident report. Officers will document the basis of the release in the incident report.
2. If the citizen is the victim of a crime that does not have a warrantless arrest authority and the person wants to file charges, officers should give the citizen the incident number and the phone number for the Investigative Unit that will perform any follow-up review.

## 319.7 ASSISTING OTHER AGENCIES

### 319.7.1 ASSISTING WITH OTHER AGENCIES WARRANT SERVICE

(a) Officers encountering or dispatched to assist out of city law enforcement agency personnel or bail/bond apprehension agents with a warrant service shall contact a supervisor and consult with them prior to ANY warrant service attempts.

(b) If granted permission to assist in the warrant service, officers shall follow all warrant service guidelines outlined in this policy including:

1. Contacting the Fugitive Apprehension Unit during business hours and/or Communications to verify warrant status. Confirmation from the originating agency that the warrant is valid must be obtained prior to taking official action.
2. Checking involvement on the address for prior warrant service attempts. Officers shall not return to a location to serve a warrant where an attempt has been previously made, unless additional information has been developed suggesting the offender has/will return.

(c) If an arrest of the wanted subject is made:

1. Officers shall transport the subject to jail for booking and/or magistration in accordance with CCP 15.16 and 15.17.
2. Warrant confirmation and any other warrant paperwork should be submitted with the booking sheet.
3. Officers will not turn an arrested subject over to a bail/bond apprehension agent under any circumstances.

(d) All warrant service attempts and arrests for out of city agency personnel or bail/bond apprehension agents shall be documented as outlined in the warrant service section of this policy.

### 319.7.2 ARRESTS BY OTHER AGENCIES

When an arrest is made by another law enforcement agency within the confines of its geographical jurisdiction and the Department is asked for assistance, necessary assistance will be provided in compliance with Department policy governing relations with other law enforcement agencies. All follow-up investigations, booking, and filing of complaints shall remain the responsibility of the arresting agency.

(a) Under CCP Article 14.03(d) and (g), peace officers have statewide arrest authority in many situations, even when outside the peace officer's jurisdiction. APD may be



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called upon to take custody of a subject for any arrest made in the City of Austin by a peace officer whose jurisdiction does not include the City of Austin:

1. APD officers shall handle the case complying with CCP 14.03(d) or (g).
2. The outside agency arresting officer is required to complete the necessary supplemental reports.
3. Any arrest made by an off-duty officer from another jurisdiction that does not meet the requirements of CCP 14.03 (d) or (g) shall be handled as a citizen's arrest.



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# Care and Transport of Prisoners

## 321.1 PURPOSE AND SCOPE

Department values mandate that persons taken into custody will not be abused, and the individual rights of prisoners must be protected at all times. Until arrested persons are accepted at the booking facility, their care and custody shall be the responsibility of the arresting/transporting officers.

## 321.2 HANDLING PRISONERS

### 321.2.1 RESTRAINT GUIDELINES

(a) Suspects being arrested and transported in police vehicles shall be handcuffed or otherwise restrained as described below:

1. Prisoners will generally be restrained with hands behind the back. If handcuffs are used, they shall be double locked.
2. In case of advanced age, injury, physical disability, or other circumstances where arrested persons are incapable of placing their hands behind their back, but circumstances warrant restraint, the officer may:
   (a) Use flex cuffs.
   (b) Apply handcuffs with the hands to the front.
   (c) Choose not to use a restraining device. If the prisoner is not restrained, two officers should be used to transport the prisoner as safely as possible.
3. The use of an authorized waist chain, waist belt, or travel belt is authorized:
   (a) At a prisoner processing center, which includes transport from the center to the booking facility;
   (b) By officers in a specialized unit, if the use is authorized by Standard Operating Procedures;
   (c) When the use is specifically authorized as part of an operations plan, or
   (d) When authorized by a supervisor in cases where an officer feels an arrested subject may:
      1. attempt to escape,
      2. resist transport to any location,
      3. or the transport involves an unusual length of time or distance.
      4. The supervisor's name shall be noted in the offense report or supplement. For this section, Corporals may grant approval.
4. Officers shall adhere to Policy 204 (Leg Restraint Device) for guidelines on using an authorized waist chain, waist belt, or travel belt.
5. Officers may purchase, at their own cost, a waist chain, waist belt, or travel belt that has been approved by the Equipment Committee.
6. Restraints should be drawn to a secure fit but not so tight as to cause a restriction in blood flow.



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(b) Officers shall not:

1. Use restraints to punish, display authority, or as a show of force.
2. Secure a person to any part of a vehicle.

### 321.2.2 SEARCHING PRISONERS

Officers shall adhere to Policy 306 (Search and Seizure) when conducting searches.

### 321.2.3 WARNING ABOUT POSITIONAL ASPHYXIA

Positional asphyxia occurs when the physical position of the body interferes with normal respiration. Such a position can be induced by the use of one or more restraints. Officers in control of a restrained person must be alert to the physical position of the person in order to minimize the possibility of positional asphyxia.

## 321.3 TRANSPORTING ARRESTED PERSONS

The law imposes a duty of care on the transporting officer to protect prisoners from injury.

### 321.3.1 GENERAL GUIDELINES

(a) Any vehicle used to transport prisoners shall be searched for weapons and contraband at the beginning of a tour of duty, before and after each prisoner transport, and at the end of a tour of duty.

(b) All prisoners shall be seatbelted and placed in an upright position while in a police vehicle.

(c) The prisoner must be under observation at all times to reduce opportunities for escape, disposal or destruction of contraband, and/or attack on the transporting officer.

(d) Safety Barrier:

1. When a vehicle is equipped with a safety barrier, the prisoner shall always be transported within the confines of the safety barrier. Officers shall position prisoners in the passenger side rear seat so they can be observed through the rear view mirror.
2. If the vehicle is not equipped with a safety barrier, a single prisoner shall be placed in the front seat where the transporting officer can maintain observation and control of the prisoner.

(e) Once secured in the vehicle, prisoners should not be allowed to talk with anyone other than police or medical personnel.

(f) While transporting a prisoner in a vehicle equipped with an MAV device, officers shall have the rear seat camera activated, or the front camera activated and faced toward the prisoner.

(g) Prisoners will be transported without unnecessary delay. Officers shall use the MDC to change their status when transporting prisoners to a jail/detention facility or police station, and again upon arrival.

(h) While transporting prisoners, officers shall not respond to any calls for service or initiate any enforcement action unless it is a situation where risk of serious bodily injury or death to a third party is imminent and the risk to the prisoner is minimal. Officers shall notify the dispatcher of any incident that may require a police response.



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### 321.3.2 SPECIAL SITUATIONS

(a) **Officer/Prisoner of Opposite Gender, or Juveniles**

1. When transporting prisoners of the opposite gender, or juveniles, the transporting officer shall notify the dispatcher of the:
   (a) Intended destination and beginning odometer reading to the nearest tenth of a mile; and
   (b) Ending location and odometer reading to the nearest tenth of a mile upon arrival at the intended destination.

(b) **Violent or Mentally Disturbed Persons**

1. To reduce the risk of injury to transporting officers and other prisoners, only one violent or mentally disturbed prisoner will be transported per vehicle at a time. No other prisoner will ride in the same vehicle with a violent or disturbed person.

(c) **Ill, Injured or Disabled Prisoners**

1. Transporting of the ill, the injured, or prisoners with a disability should be done with the officer's safety and the physical comfort of the prisoner in mind. Circumstances may require that the arresting officer transport the prisoner by EMS, prisoner transport van, or by a specially designed vehicle that can be requested through City or commercial entities.
2. Each circumstance should be considered on an individual basis; prisoners shall not be allowed to retain any instrument that could be used as a weapon against the transporting officer.
3. Ill or injured prisoners in custody of an officer should be restrained, if possible, to prevent escape or to prevent injury to officers or medical personnel.
   (a) The officer will consider the prisoner's special circumstances before applying any restraining device.
   (b) The prisoner should not be restrained in such a way that proper medical attention is prevented.
4. If medical personnel request removal of restraining devices to treat an injured prisoner, the restraints will be removed.
   (a) The custodial officer shall always remain with the prisoner unless directed to depart from a treatment area by medical personnel for treatment purposes.
   (b) The officer shall remain nearby to prevent violent acts or escape.

(d) Spit Hoods

1. Spit hoods are safety hoods used to prevent contaminants from being transmitted by a prisoner or detainee.
2. Spit hoods should be used when dealing with prisoners or detainees that have attempted or threatened to bite or spit.
3. Officers shall ensure that the spit hood is properly fitted and secured.
4. Medical personnel may remove the spit hood as needed.



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### 321.3.3 ESCAPE

(a) In the event an escape occurs while transporting a prisoner, the officer shall immediately notify the dispatcher and request assistance. The officer should provide, at a minimum, the following information:

1. Complete physical description;
2. Direction and method of travel;
3. If any weapons and/or accomplices were used to effect the escape; and
4. The nature of the offense which resulted in the original arrest.

(b) A supervisor shall be notified.

(c) A complete search of the area will be conducted. This search may include the following measures:

1. Establishing a perimeter.
2. Requesting canine.
3. Requesting air support.
4. Notifying surrounding agencies, if appropriate.

(d) The officer shall complete all necessary incident reports to ensure the preparation of an arrest warrant if the prisoner is not located.

## 321.4 SUBSTANCE INDUCED EXCITED DELIRIUM

(a) Substance Induced Excited Delirium is a condition brought on by the use of drugs or the lack of required medication. Subjects in this state often have easily identifiable symptoms and behavioral patterns. For the safety of both officers and subjects, recognition of this condition is imperative. This is especially true in cases when more than two or three symptoms are exhibited at the same time by the same person. Some of the symptoms exhibited may include:

1. Bizarre and/or aggressive behavior such as self-inflicted injuries, jumping into water, hiding behind objects, or public disrobing (due to high body temp).
2. Irrational or incoherent speech or shouting;
3. Dilated pupils, shivering, high body temperature, or profuse sweating;
4. Fear, paranoia, or panic;
5. Violence toward others, objects, or in general;
6. High resistance to pain (standard defensive tactics and OC spray may be ineffective);
7. Unexpected physical strength.

(b) For safety, officers should only engage a subject displaying symptoms of Substance Induced Excited Delirium when adequate back-up assistance is present.

(c) Subjects who display these symptoms and initially resist arrest violently may become suddenly calm. They may seem to be sleepy and resting. This is termed "sudden tranquility" and usually indicates an immediate need for medical attention.

(d) Once the prisoner is in custody, EMS shall be contacted immediately to evaluate a subject exhibiting these symptoms.



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## 321.5 PRISONERS REQUIRING MEDICAL ATTENTION

The intent of the Department is to quickly provide each ill or injured prisoner with medical attention. Prisoners shall be treated for injuries before being booked into jail. This includes subjects who have been subjected to Response to Resistance techniques. (Refer to Chapter 2 on Response to Resistance Policies).

### 321.5.1 MEDICAL ATTENTION PRIOR TO BOOKING

(a) Officers shall either request EMS or transport a person to an appropriate medical facility when any of the following criteria are present:

1. Large lacerations (greater than one inch in length), which are less than 12 hours old.
2. Actively bleeding lacerations (greater than 3/4 inch).
3. Obvious deformity of bones of the extremities, or open fractures.
4. Swelling to the face to the extent vision/breathing is difficult or impaired.
5. Possible heart attacks. Symptoms of heart attacks would include the chest pains, pain extending down the left arm, and/or difficulty breathing.
6. Alcohol or drug intoxication to the extent that the prisoner is unconscious.
7. Any condition in which the prisoner cannot move his extremities.
8. Neck pain following an auto collision.
9. Overdoses.

(b) Unconscious persons:

1. Unconscious persons will not be transported to a jail facility. Officers shall request EMS to respond to the scene for examination, treatment and/or transport.
2. Prisoners who become unconscious during regular transport will be taken to the nearest medical facility, or officers will request EMS to respond to their current location (whichever is the most expeditious).

(c) Prisoners who are examined by EMS at the scene, but refuse treatment/transport, will be transported to the booking facility.

1. If an individual refuses medical treatment/transport, the refusal should be witnessed by another officer and/or medical personnel and fully documented in the incident report. Whenever practicable, such refusal should be captured by audio/video recording.
2. Officers will provide the intake jail nurse with EMS attendants' names and numbers for future reference.

(d) Prisoners transported by EMS will be accompanied by an officer inside the ambulance if requested by EMS personnel; otherwise, an officer will follow the ambulance in a police vehicle to the hospital.

### 321.5.2 HOSPITAL GUIDELINES

Once at a hospital, prisoners will be guarded by the transporting officer until treated and released by a physician or admitted for medical attention. Under NO circumstances will officers release and/or leave unguarded prisoners who are violent or who officers have reason to believe may become violent.



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(a) Medial Release from Hospital

1. Once released from the hospital, prisoners will be transported to the jail along with the proper discharge documentation.
2. The jail will require documentation to show that prisoners have received/refused medical attention from the hospital.
3. The jail nurse/medical officer should be briefed on prisoners' injuries and subsequent treatment/refusal.

(b) Admittance to Hospital

1. In circumstances where prisoners are arrested on for non-violent offenses and there is no reason to believe the prisoner will become violent, a supervisor may authorize the prisoner's release if the prisoner is being admitted into the hospital. Prisoners will not be released from custody if they are under arrest for an offense involving violence or have outstanding warrants higher than a Class C Misdemeanor.
2. Prisoners may be released from custody provided there is sufficient identifying information available to obtain a warrant and meet the following criteria:

    (a) Felony Offense

        1. All Charges, other than direct file narcotic related charges, require authorization to release from the:

            1. Investigative unit responsible for the highest charge, and
            2. on duty Patrol Lieutenant over the area where the subject was arrested; or, if unavailable, any on duty Patrol Lieutenant.

        2. Narcotic related charges, that can be direct filed, only requires authorization from the on duty area Patrol Lieutenant; or, if unavailable, any on duty Patrol Lieutenant.

    (b) Class A and B misdemeanors arrests require authorization from a sergeant or above. Corporals, only when in the capacity of acting sergeant, may grant authorization for release and only for their immediate subordinates.

    (c) Class C misdemeanor arrests except for public intoxication, prisoners may be issued a misdemeanor citation. If the prisoner refuses to sign the citation, a notation will be made on the signature line that the person was admitted to the hospital and refused to sign. Municipal Court can file the case based upon the citation.

    (d) On public intoxication arrests where prisoners are under arrest solely for public intoxication and have been taken to the hospital, officers may request a supervisor after four hours from the time of arrest to determine if continued custody is required.

        1. If the supervisor determines that the prisoner is no longer intoxicated to the extent that he is a danger to himself or to others, release may be authorized.
        2. If the prisoner is released, supervisors will complete a supplement to the incident report detailing their assessment and authorization for release.



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3. When a prisoner is authorized for release under this policy, the arresting officer is responsible for completing all necessary paperwork as if the charge was being direct filed and forwarding that paperwork to the investigative unit responsible for the charge.
4. Prisoners not authorized or approved for release and admitted to the hospital shall be guarded until they are magistrated as follows:
   (a) 10 PM until 7 AM (Monday-Friday)- By an officer from the patrol area in which the arrest was made. The on-duty lieutenant or designee for that area is responsible for scheduling patrol officers to guard the prisoner during these hours.
   (b) 7 AM until 10 PM (Monday-Friday)- By the Investigative Unit responsible for the highest arrest charge of the case.
      1. The Investigative Unit supervisor is responsible for scheduling detectives to guard the prisoner during these hours.
      2. The responsible Investigative Unit will have the prisoner magistrated as soon as possible and notify the appropriate jail facility so they can begin guarding the prisoner.
   (c) Weekends (10PM, Friday- 7AM, Monday)- By an officer from the patrol region in which the arrest was made, unless the investigative unit responsible for the highest arrest charge of the case has detectives assigned to an on-call status that can be called in to relieve the patrol officer and have the prisoner magistrated.
      1. The on-duty lieutenant or designee for that region is responsible for scheduling patrol officers to guard the prisoner during these hours, and to contact the unit responsible for the highest arrest charge for assistance.
      2. If the investigative unit responsible for the highest arrest charge has detectives assigned to an on-call status, then the investigative unit supervisor is responsible for scheduling detectives to guard the prisoner during these hours.
   (d) No visitors shall be admitted while the prisoner is being guarded.
   (e) Officers guarding a prisoner shall always keep him in sight unless a medical procedure requires otherwise.
   (f) Supervisors shall rotate guard assignments at least every four hours.

### 321.5.3 PRISONERS EXHIBITING SYMPTOMS OF CONTAGIOUS DISEASE

(a) Officers arresting persons with outward signs of contagious disease, or who complain of known infections or disease, will isolate the prisoner from others.
   1. EMS shall be called to determine the prisoner's condition.
   2. Prisoners requiring medical attention as a result of the disease shall be transported by EMS.
   3. After taking appropriate health safety precautions, officers shall follow the Hospital Guidelines outlined in this policy.

(b) Officers taking prisoners to the Travis, Hays, or Williamson County jail facility who are known to have a contagious disease or who are exhibiting symptoms of a contagious disease will notify the jail supervisor immediately upon entering the facility.



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## 321.6 HANDLING OF PRISONERS AWAY FROM JAIL AREA

(a) When signing out prisoners from any jail or correctional facility for any purpose, Department personnel shall:

1. Ensure the prisoner they are taking into custody is positively identified; and
2. Determine if there are any security or safety issues associated with the prisoner (e.g., escape risk, history of violence, medical problems).

(b) Department personnel removing a prisoner from the jail or correctional facility for any purpose shall sign the prisoner out and will be responsible for the return of the prisoner.

1. Department personnel will ensure the prisoner is thoroughly searched for weapons, contraband, or items that might be used as implements of escape prior to returning them to the custody of jail or correctional facility personnel.

(c) Department personnel who sign out prisoners to transport them back to the scene of the crime or any other location to continue their investigations are responsible for the safe transport of that prisoner.

(d) Wherever the prisoner is taken, the officer having custody will be responsible for ensuring that no weapon, and/or instrument that could be used as a weapon or implement of escape is accessible to the prisoner.

(e) Department personnel shall, whenever possible, avoid walking a prisoner who is not handcuffed through crowded hallways or other public areas.

(f) Prisoners may be taken to public bathrooms only after the area has been checked for weapons and cleared of other persons. Employees shall accompany prisoners and keep them under visual observation at all times.

(g) Anytime Department personnel accompany a prisoner to court and that prisoner is considered a security hazard, the judge shall be notified.



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# Booking and Arrest Review

## 323.1 PURPOSE AND SCOPE

This policy outlines the booking and arrest review guidelines.

## 323.2 BOOKING GUIDELINES

### 323.2.1 SECURING WEAPONS

Officers shall abide by all policies, procedures and any required security safeguards regarding weapons or implements of escape when conducting any type of business (e.g., booking, prisoner transport, interview) at any correctional/detention facility.

(a) Firearms, ammunition, TASER Devices, batons, flashlights, knives, OC spray and any other personal equipment that could be used as a weapon shall be secured in the police vehicle or the provided lock boxes prior to entering the booking facility.

(b) Officers shall ensure the shotgun in the police vehicle is securely locked in the rack or trunk of their police vehicle.

### 323.2.2 BOOKING PRISONERS

(a) Officers shall ensure that jail personnel are advised of any security or safety risk presented by the prisoner (e.g., escape risk, history of violence, medical problems).

(b) Prisoners shall remain handcuffed until the booking process begins. After receiving approval by a jail intake officer, APD officers will relinquish custody to jail personnel.

(c) Unless directed or approved to do so by the jail supervisor on duty, officers shall NOT enter the confinement area of the jail.

(d) Officers shall complete all required County Sheriff's Office booking and arrest documentation.

(e) Once the booking process is complete, all completed booking paperwork shall be submitted to the booking desk personnel.

(f) On all APD warrants containing a Detective Notification Form, the arresting officer shall notify the detective in the manner indicated on the form.

## 323.3 DIRECT FILING CHARGES AND ARREST REVIEW APPROVAL

Officers shall not circumvent this process when booking a subject into jail.

### 323.3.1 DIRECT FILING CHARGES

All required arrest paperwork (e.g., direct file probable cause affidavits/complaints, EPO) shall be reviewed by Arrest Review. Except when at Travis County Central Booking, this review may be made by phone, email or fax from the jail facility where booking occurs.

(a) **Travis County**

1. Officers shall prepare the required arrest paperwork and direct file each misdemeanor and felony charge unless directed not to by a Detective. In those instances, the Detective shall follow-up and file appropriate charges within 24 hours (misdemeanors) and 48 hours (felonies). The arresting officer shall note



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the Detective's name in the incident report and advise Arrest Review of the Detective who has taken responsibility for filing charges.

(b) **Williamson or Hays County**

1. Charges must be filed when the prisoner is booked.

### 323.3.2 ARREST REVIEW

(a) The Arrest Review Unit will work with the officer to make certain the affidavit/complaint articulates the required probable cause for the charges filed.

(b) If Arrest Review does not agree with an arrest as originally made, the officer shall work with the Arrest Review Unit to determine the appropriate charge(s).

1. In cases of dispute over the probable cause of an arrest or charge(s) filed, the arresting officer's supervisor shall be contacted and is responsible for resolving the dispute.
2. The arresting officer's supervisor shall make the final decision on the charges or whether to release the arrested person.

(c) On arrests that require Investigative Unit approval, Arrest Review shall verify with the officer that a detective from the appropriate Unit was notified. If required, the arresting officer will place a copy of the incident report and probable cause affidavit/complaint in the Investigative Unit's tray at Arrest Review or at the appropriate substation.

(d) Arrest Review shall ensure probable cause affidavits/complaints that are rejected by the reviewing magistrate are corrected to the extent possible to avoid the release of a prisoner before charges can be filed.

### 323.3.3 MAKING MODIFICATIONS TO AN ARREST

When an officer discovers that charges need to be changed or dropped, or that additional charges need to be added after a prisoner has been booked into jail, the following procedures shall be followed prior to a probable cause affidavit being signed by a judge:

(a) **Travis County**

1. If officers are still at Arrest Review, they shall fill out the "Charge Status Report" and/or "Additional Charges" form and submit the form(s) to the Arrest Review detective. Officers shall make the appropriate changes to their reports.
2. When a detective who has been assigned a felony discovers a modification is in order, they shall use the electronic mail system to order the change.

(b) **Williamson or Hays County**

1. Officers shall go to the jail booking desk and correct/change the charges on the arrest report (booking sheet). They shall make the appropriate changes to their probable cause affidavit and reports.
2. When a detective who has been assigned a case discovers a modification is necessary, the detective shall call the appropriate office for the County Attorney or District Attorney for specific instructions. For documentation purposes, an updated report shall be faxed to the appropriate County or District Attorney's Office and to the jail's booking desk.
   (a) In Williamson County, the county attorney prosecutors handle all juvenile crimes (felony and misdemeanor), all protective orders, CPS and Department of Family and Protective Services cases.



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# Police Observer Program

## 324.1 PURPOSE AND SCOPE

This policy provides guidelines for the Police Observer Program. The Police Observer Program provides an opportunity for eligible citizens and civilian employees to experience how the Department works first hand.

### 324.1.1 CITIZEN OBSERVERS

The Austin Police Department Police Observation Program is offered to eligible citizens who desire to ride as observers in an APD police vehicle. An applicant may be declined or disqualified from participating for a number of reasons, including but not limited to the following reasons:

(a) Persons under the age of eighteen (18) shall not be permitted to ride as an observer in a police unit unless prior approval has been granted by the Chief or designee (e.g., Explorer Program).

(b) Persons with outstanding warrants of any type shall not ride as an observer.

(c) Persons requesting to ride as an observer who are found to have a criminal history shall not be allowed to ride without the approval of an on-duty lieutenant or appropriate commander.

(d) Citizens may only ride once per month unless otherwise approved by the appropriate commander; however, City Council members and personnel from the City Manager's Office may ride more than once per month provided they comply with the rest of this policy.

(e) Persons who have a pending lawsuit against the Department shall not be allowed to ride as an observer while the lawsuit is active.

(f) For staffing and operational issues, supervisors may decline to have an observer ride on a particular shift; if the observer is otherwise approved to participate, supervisors will make every effort to assign the observer to another shift or to reschedule the observer for a future time.

(g) Participation may be terminated by an officer at any time because of the unacceptable behavior of the observer. In such a case, the officer will notify a supervisor about the situation.

### 324.1.2 DEPARTMENT EMPLOYEE OBSERVERS

(a) On-duty civilian employees and APD auxiliaries may ride as an observer with the approval of their supervisor and the appropriate lieutenant or designee. The *Police Observer Information Form* is not required.

(b) Off-duty civilian employees and APD auxiliaries riding as an observer will comply with this policy except they are not required to list their address on the *Police Observer Information Form*. Off-duty employees are not allowed to ride more than once per month without approval of the appropriate commander.

(c) No APD employee shall ride as an observer while on restricted duty, limited duty, injury leave, or during a suspension.



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### 324.1.3 OBSERVERS FROM OTHER LAW ENFORCEMENT AGENCIES

Sworn and civilian employees from other law enforcement agencies may ride with on-duty APD employees only if they are engaged in active operations with our department (e.g., training, familiarization) and the request has been approved by an assistant chief or designee. If such officers desire to ride merely as off-duty police observers, they must comply with regulations set out in this policy as a citizen observer.

### 324.1.4 MEDIA OBSERVERS

(a) Media observers must be coordinated through the APD Public Information Office (PIO).

(b) Media observers will abide by all rules and regulations for police observers.

(c) Media observers encountering crime scenes or police incidents will be considered working members of the media concerning access to restricted areas.

## 324.2 POLICE OBSERVER REQUESTS

Unless otherwise exempted by this policy, all participants of the Police Observer Program shall complete the Request for Approval to Ride in an APD Unit section of the *Police Observer Information Form* [PD0094] in its entirety. This form also includes the guidelines all observers are required to follow.

(a) Generally, police observer requests shall be scheduled by the administrative staff of the Region in which the person wishes to ride.

(b) Employees contacted by a member of the public wishing to ride as an observer should provide the person with the administrative phone number of the appropriate Region.

(c) If the observer request is denied, a representative of the Department will contact the applicant and advise him of the denial.

(d) Persons participating in this program as the guest of an officer must comply with this policy and the guidelines established on the *Police Observer Information Form.*

1. Officers shall have the guest observer complete the *Police Observer Information Form* and forward it to their supervisor for approval.
2. Supervisors shall forward the form to the appropriate administrative staff for filing.

### 324.2.1 PROCESSING POLICE OBSERVER REQUESTS

(a) **Approving Police Observer Request Forms**

1. Administrative staff or supervisors receiving a completed *Police Observer Information Form* shall:
   - (a) Review the form for completeness, including signature and date.
   - (b) Conduct all required checks and document the results on the *Police Observer Information Form*:
     1. Does not have any active warrants (NCIC, TCIC and local); and
     2. Does not have a criminal history; and
     3. Is not restricted or banned from being an observer:
        1. Restricted and banned observers are listed and maintained in a Rider Database located in the public APD Ride Along folder of Outlook.



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2. Restricted and banned observers requesting more information concerning the ban should be referred to the appropriate commander.

(c) Sign and date the form, indicating approval.

2. Administrative staff who process police observer packets shall forward the completed packet to the appropriate supervisor after scheduling the observation date and time with the observer.

(b) **Day of Police Observation**

1. Supervisors are additionally responsible for:

(a) Assigning the observer to an officer if the assignment has not been made; and

(b) Ensuring the observer is in compliance with the guidelines outlined in the *Police Observer Information Form.*

2. Upon completion of the observation, the *Police Observer Information Form* shall be forwarded to the appropriate administrative staff for entry into the Rider Database.

### 324.2.2 RULES AND REGULATIONS FOR POLICE OBSERVERS

(a) If observers violate any of the guidelines outlined in the *Police Observer Information Form*, or their behavior prevents officers with whom they are riding from doing their job effectively, the following will occur:

1. Prior to the riding period - The observer shall be advised by the supervisor or officer that they are not permitted to ride until they are in compliance. Supervisors may require the observer to reschedule if he cannot comply with the guidelines.

2. During the riding period - The observer shall be returned to the APD facility where the supervisor may either immediately terminate the riding session or allow the rider to finish that session if the problem can be readily corrected.

(b) If the problem cannot be corrected:

1. The officer to whom the observer was assigned shall complete a memorandum detailing the actions of the observer. The memorandum shall be forwarded through the chain-of-command to the appropriate commander.

2. Commanders shall make the determination as to whether or not the observer should be banned from further rides with the Department. If the determination is made that a ban should be imposed, commanders shall advise the administrative staff to update the Rider Database, and retain the memorandum and rider forms for one (1) year.

## 324.3 OFFICER RESPONSIBILITIES

(a) Officers shall advise the dispatcher that a participant in the Police Observer Program is present in the vehicle before going into service. Officers shall consider the safety of the observer at all times.

(b) Officers should use sound discretion when encountering a potentially dangerous situation. The dispatcher shall be advised of the situation and, if necessary, may have another police unit respond to pick up the observer. Participation may continue



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with another officer or the ride may be terminated and the observer returned to the APD facility where the ride initiated.

## 324.4 CONTROL OF POLICE OBSERVER

Officers shall maintain control over observers and instruct them in the conditions that will limit observers' activity. This includes, but is not limited to, the following:

(a) Observers shall follow the officer's directions. Officers may return observers to the original APD facility if observers interfere with the performance of any duties.

(b) Observers shall not become involved in any investigation, handling of evidence, or discussions with victims or subjects.

(c) Observers shall not handle any police equipment unless instructed to do so by an officer.

(d) Observers may be allowed to continue riding during the transportation and booking process provided this does not jeopardize their safety. Officers and observers shall follow all booking facility (e.g., TCSO, WILCO) guidelines.

(e) Officers shall not allow any observer into a private residence without consent of the individual in control of the property unless there is an emergency or exigent circumstances exist.

(f) Officers shall not allow observers to be present in any situation that would jeopardize their safety or cause undue stress or embarrassment to a victim or any other citizen.



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# News and Media Relations

## 326.1 PURPOSE AND SCOPE

The purpose of this policy is to seek a balance between permitting the free flow of information to the public and the media while protecting both the prosecution's case and the rights of the accused from possible prejudicial publicity. Public information and positive media relations are an integral part of the operation of any public service agency and APD is no exception. Most citizens have little contact with law enforcement and their opinions of the police are often formed by our Department's portrayal in the media. The release of public information and maintenance of good media relations is a crucial element of APD's mission. Employees must maintain a good rapport with the public and the media and deal with them in a courteous manner. The media has a legitimate function in our society and the public trust of the police can be enhanced through media relations.

APD is committed to informing the community and members of the news media of events that are handled by, or involve, the Department. Employees will cooperate fully in meeting the relevant information needs of the public and the news media. Every reasonable effort should be made to obtain requested information, so long as the release of that information conforms to federal and state laws, and follows established Department guidelines.

## 326.2 RELEASE OF PUBLIC INFORMATION

APD's Public Information Office (PIO) is responsible for collecting police information and then fairly, equitably and efficiently disseminating it to the public and media. PIO's primary function is to act as a liaison between the public, the news media and the Department and to coordinate all of the Department's release of public information. However, any employee may release non-protected information to the media.

During regular weekday business hours, PIO personnel will respond to the scene as determined by PIO. After office hours the on-call PIO will coordinate with the ranking on-scene officer and make the determination if PIO needs to respond. If the on-call PIO does not respond to the scene, they will send pager notification to the media with information about the incident. The ranking on-scene officer will be responsible for media interviews at the scene.

### 326.2.1 MEDIA REQUEST GUIDELINES

Any media request for information or access to a law enforcement situation shall be referred to the designated PIO representative, or if unavailable, to the ranking on-scene officer. Prior to releasing any information to the media, employees shall consider the following:

(a) Employees releasing information will ensure that the information is releasable and sheds a positive light on the City, APD and the law enforcement community. Information of a controversial nature will be directed to the PIO.

(b) In situations involving multiple law enforcement agencies, every reasonable effort should be made to coordinate media releases with the authorized representative of each involved agency prior to the release of any information by this department.

(c) Under no circumstance should any member of this department make any comment(s) to the media regarding any law enforcement incident not involving this department without prior approval of the Chief of Police.



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Media personnel are not exempt from any federal or state law, or any local ordinance and will be treated in the same manner as any other person violating the law.

Employees who encounter issues with the media should initiate a memorandum through their chain-of-command to the PIO Commander clearly outlining the situation and identifying, if possible, those involved.

### 326.2.2 OTHER METHODS OF PUBLIC INFORMATION RELEASE

(a) Austin Warning and Communications System (AWACS)

1. A City alphanumeric pager system designed to provide a rapid method of getting emergency information to the public through the media. It also can be used to provide the media with information about other newsworthy events.

(b) News Releases and News Conferences

1. Written information released by the Department for the media will be coordinated by PIO. News releases will be emailed to news organizations. In addition, press conferences will be coordinated by PIO. Notification of news conferences will be done through news releases, "ring downs", or by AWACS.

(c) Employee Interviews

1. Media interviews with an employee may be arranged through PIO or directly with the employee.
   (a) Employees contacted directly by the media and who have questions or do not want to provide an interview can refer the media representative back to PIO; or
   (b) Employees contacted directly by the media and who want to provide an interview will:
      1. Notify their supervisor if the interview is regarding an open or ongoing investigation and request approval before conducting the interview; and
      2. Notify PIO either before or shortly after the interview.

(d) Police Records

1. Copies of police and crash reports must be purchased from APD's report sales.

## 326.3 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:

(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 will not be allowed to interfere with emergency operations and criminal investigations. Media personnel may not resist, obstruct or otherwise interfere with an officer in the lawful execution of his duty. However, the mere presence of a member of the media, the taking of pictures or the asking of questions does not, in itself, constitute unlawful interference.

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



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investigation operations. All information released to the media should be coordinated through PIO 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 Lieutenant. 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 shall be subjected to media visits or interviews without the consent of the involved employee.

(d) Media interviews with individuals who are in custody shall not be permitted without the approval of the PIO Manager, Investigative Unit supervisor and the expressed consent of the person in custody.

(e) Media access to working areas of the Department shall be coordinated through PIO and should extend only for the length of time necessary to achieve a specifically approved objective of the media.

A tactical operation should be handled in the same manner as a crime scene, except the news media should 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. During the tactical operation, all comments to the media shall be coordinated through a supervisor or PIO.

## 326.4 SCOPE OF INFORMATION SUBJECT TO RELEASE

Requests for information shall be handled as follows:

(a) **Open Records Requests** - Policy 116 (Security and Release of Records and Information) deals with the release of information in the form of an Open Records request. Employees receiving an open records request should contact the Open Records Coordinator in Central Records. Public and/or media requesting information not contained in the public portion of police reports may file an open records request with the Department.

(b) **Juvenile Information** - At no time shall identifying information pertaining to a juvenile arrestee, victim or witness be publicly released without prior approval of a competent court.

(c) **Police Photograph (Mug Shot)** - Mug shots of subjects become public after subjects are convicted of those crimes for which they are arrested. Mug Shots will only be released through PIO. A mug shot may be released prior to conviction if:

1. The case detective has authorized its release;
2. The subject has been charged; or
3. If the release of the mug shot will not hinder the investigation.

(d) **9-1-1 Tapes or In-Car Video Tapes** - Requests for APD 9-1-1 tapes need to be submitted in writing. Media requests for these tapes should be sent through the open records coordinator assigned to PIO.

(e) **Identities of Deceased Persons** - In death investigations, the name of the deceased shall not be released by an employee until Victim Services or the Medical Examiner's



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Office has had a reasonable time to notify the next-of-kin. What constitutes a "reasonable time" will vary depending upon the circumstances of each case. Public release of the name of the deceased will be made through PIO or the Medical Examiner's Office.

(f) **Arrest Information** - By law, the public and/or media has access to the following arrest information:

1. Arrestee's name, age, race, and sex;
2. Location of arrest;
3. Names of the arresting officers; and
4. Charges filed.

(g) **Internal Affairs (IA) Investigations** - Information regarding an internal investigation is confidential and will be released through PIO only after authorization by the Office of the Chief. Premature and/or unauthorized statements made concerning confidential information is a violation of Department policy and may have an adverse effect on, or seriously jeopardize, an investigation. Only the IA Commander, and/or PIO personnel may confirm:

1. An internal investigation is being conducted;
2. The name of the employee involved; and
3. The nature of the allegation or incident.

(h) **Statistical Information** - Media requests for statistical data should be coordinated and released through PIO.

(i) **Media Riders** - Media riders must be coordinated as outlined in Policy 324 (Police Observer Program).

### 326.4.1 RESTRICTED INFORMATION - GENERAL

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) Confidential peace officer personnel information.

(b) Copies of traffic crash reports (except to those authorized pursuant to Tex. Transp. Code § 550.065).

(c) Criminal history information.

(d) Information that would tend to endanger the safety of any individual or jeopardize the successful completion of any ongoing investigation.

(e) Information pertaining to pending litigation involving this department.

(f) Information obtained in confidence.

(g) Any information that is otherwise privileged or restricted under state or federal law.

### 326.4.2 RESTRICTED INFORMATION - WARRANTS

To protect the safety and rights of officers and other persons, advance information should not be provided to the news media regarding search warrant or arrest warrant actions planned by law enforcement personnel, nor should media representatives be solicited or invited to be present. Any exceptions require prior approval of the Chief of Police.



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At no time shall the media be brought into a private residence during the execution of a search or arrest warrant.

## 326.5 DEPARTMENT WEBSITE

PIO is responsible for the APD website (www.ci.austin.tx.us/police ). PIO will coordinate requests for information to be included on the website and develop and/or assist in the development of page layout for any additions to the APD website.



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# Bias-Based Profiling

## 328.1 PURPOSE AND SCOPE

The Austin Police Department strives to provide law enforcement services to our diverse community with due regard to the racial, cultural or other inherent differences of those we serve. It shall be the policy and practice of this department to provide law enforcement services and to enforce the law equally and fairly without discrimination toward any individual(s) or group. Race, ethnicity or nationality, religion, gender, sexual orientation, economic status, age, cultural group, disability, or affiliation with any other similar identifiable group shall not be utilized as the basis for providing differing levels of law enforcement service or the enforcement of the law.

## 328.2 DEFINITION

**Bias-Based Profiling** - Any pattern or practice that includes, but is not limited to, stopping, detaining, frisking, or searching of subjects by police officers based on an individual's race, ethnicity, nationality, religion, gender, sexual orientation, economic status, age, cultural group, disability, or affiliation with any other similar identifiable group rather than on the individual's behavior or on information identifying the individual as having engaged in criminal activity.

**Racial Profiling** - Bias-based profiling specifically dealing with initiating a law enforcement action based on an individual's race, ethnicity or nationality. (Tex. Code of Crim. Pro. art. 3.05, and 2.132(b)(1)).

## 328.3 POLICY

Police action must be based upon credible information known to the officer, which leads them to believe that an individual is, has been, or is about to be engaged in activity that is in violation of the law. Any other motivation for such actions is strictly prohibited.

(a) The practice of bias-based profiling shall not be tolerated by the Department.

(b) Officers shall ensure that the stopping, detaining, frisking, and/or searching of residents is based upon solid legal principles that conform to their training in arrest, search, and seizure.

(c) While the practice of racial profiling is strictly prohibited, it is recognized that race or ethnicity may be legitimately considered by an officer in combination with other legitimate factors to establish reasonable suspicion or probable cause (e.g., subject description is limited to a specific race or group).

## 328.4 TRAINING

All sworn members of this department will complete all Texas Commission on Law Enforcement Officers Standards and Education (TCLEOSE) mandated training on the subject of bias-based profiling.

## 328.5 COMPLAINTS

The Austin Police Department will investigate all complaints involving bias-based profiling by any employee as outlined in Policy 902 (Administrative Investigation Procedures).



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### 328.5.1 DISCIPLINARY ACTION

Officers are not subject to disciplinary action based solely on the statistical data collected as a result of this policy. It is the motivating action(s) and/or inaction(s) of officers that will constitute the basis of any internal disciplinary action.

## 328.6 REQUIRED DOCUMENTATION

The Austin Police Department profoundly rejects the practice of bias-based profiling and attempts to accurately document officer-initiated contacts with the public. Documentation requirements are located in Policy 402 (Incident Reporting and Documentation).

## 328.7 ANNUAL REPORT

The Chief of Police shall submit an annual report as required by Tex. Code of Crim. Pro. § 2.132(b) to TCLEOSE and each governing body served by this agency. Further, unless exempt under Tex. Code of Crim. Pro. art. 2.135, each year prior to March 1, the Chief of Police shall provide to TCLEOSE and to each governing body served by this agency a report containing an analysis of the information required by Tex. Code of Crim. Pro. art. 2.133 (Tex. Code of Crim. Pro. art. 2.134(b)).



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# Foreign Officials Claiming Immunity

## 330.1 PURPOSE AND SCOPE

The Vienna Convention on Consular Relations sets forth certain rights of foreign officials from member countries when they are arrested, detained or imprisoned by U.S. law enforcement officials in this country. This policy provides direction to officers when considering a physical arrest or detention of a foreign officials claiming Diplomatic Immunity.

As noted herein, the United States is a party to several bilateral agreements that obligate authorities to notify the consulate upon the person's detention, regardless of whether the detained person requests his consulate to be notified.

A list of specific countries that the United States is obligated to notify is maintained by the U.S. Department of State. CTECC will maintain contact information for the U. S. Department of State, a current telephone list of foreign embassies and consulates, and a list of mandatory notice countries.

### 330.1.1 DEFINITIONS

**Foreign National -** Anyone who is not a citizen of the United States. A person with dual U.S. and foreign citizenship is not a foreign national.

**Foreign Official** - A foreign national serving in the capacity of ambassador, United Nations representative, consular officer, or other diplomatic agent who may be entitled to certain immunity. In certain cases, immediate family members of a foreign official are also entitled to certain immunity.

**Immunity -** Refers to various protections and privileges extended to the employees of foreign governments who are present in the U.S. as official representatives of their home governments. These privileges are embodied in international law and are intended to ensure the efficient and effective performance of their official "missions" (i.e., embassies and consulates) in foreign countries. Proper respect for the immunity to which an individual is entitled is necessary to ensure that U.S. diplomatic relations are not jeopardized and to maintain reciprocal treatment of U.S. personnel abroad.

Although immunity may preclude U.S. courts from exercising jurisdiction, it is not intended to excuse unlawful activity. It is the policy of the U.S. Department of State's Office of Foreign Missions (OFM) that illegal acts by foreign service personnel should always be pursued through proper channels. Additionally, the host country's right to protect its citizens supersedes immunity privileges. Peace officers may intervene to the extent necessary to prevent the endangerment of public safety or the commission of a serious crime, regardless of immunity claims.

### 330.1.2 ENFORCEMENT PROCEDURES FOR FOREIGN NATIONALS NOT ENTITLED TO IMMUNITY

Policy 319 (Custody Arrests) outlines specific procedures for handling foreign nationals who are not entitled to immunity.



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## 330.2 LEVELS OF IMMUNITY

The specific degree of immunity afforded to foreign service personnel within the U.S. is directly related to their function and position in this country.

### 330.2.1 DIPLOMATIC AGENTS

Diplomatic agents (e.g., ambassadors and United Nations representatives) are afforded the highest levels of immunity. They are exempt from arrest or detention and are immune from all criminal (and most civil) prosecution by the host state. The family members of diplomatic agents enjoy these same immunities. Currently there are no diplomatic agents permanently assigned to Texas; but they do occasionally visit the state.

### 330.2.2 CONSULAR OFFICERS

Consular officers are the ranking members of consular posts who perform various formal functions on behalf of their own governments. Typical titles include consul general, consul and vice consul. These officials are immune from arrest or detention, except pursuant to a felony warrant. They are only immune from criminal and civil prosecution arising from official acts. Official acts immunity must be raised as an affirmative defense in the court of jurisdiction, and its validity is determined by the court. Under this defense, the prohibited act itself must have been performed as an official function. It is not sufficient that the consular agent was on-duty or in an official capacity at the time of the violation. The family members of consular officers generally enjoy no immunity, however, any family member who enjoys a higher level of immunity is issued an identification card by the Department of State (DOS) enumerating any privileges or immunities on the back of the card. Examples are consular officers and family members from Russia or China.

### 330.2.3 HONORARY CONSULS

Honorary consuls are part-time employees of the country they represent and are either permanent residents of the U.S. or U.S. nationals (unlike career consular officers, who are foreign nationals on temporary assignment to the U.S.). Honorary consuls may be arrested and detained; limited immunity for official acts may be available as a subsequent defense. Family members have no immunity. There are less than 100 honorary consuls in Texas.

## 330.3 IDENTIFICATION

All diplomatic and consular personnel who are entitled to immunity are registered with the Department of State and are issued distinctive identification cards by the Department of State Protocol Office. These cards are the best means of identifying foreign service personnel. They include a photograph, identifying information, and, on the reverse side, a brief description of the bearer's immunity status. Unfortunately, these identification cards are not always promptly issued by the Department of State. In addition to the Department of State identification card, Foreign Service personnel should also have a driver license issued by the Department of State Diplomatic Motor Vehicle Office (DMVO), which in most circumstances replaces the operator's license issued by the state.

### 330.3.1 VEHICLE REGISTRATION

Vehicles that are owned by foreign missions or foreign service personnel and their dependents are registered with the Department of State OFM and display distinctive red, white and blue license plates. Vehicles assigned to diplomatic or consular officers will generally have license plate labels with the words diplomat or consul. Vehicles owned by honorary consuls are not issued OFM license plates; but may have Texas license plates with an honorary consul label. A driver's identity or immunity status should not



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be presumed from the type of license plates displayed on the vehicle. The status of an OFM license plate should be run via the National Law Enforcement Telecommunications System (NLETS), designating U.S. as the state, if the officer has reason to question the legitimate possession of the license plate.

## 330.4 ENFORCEMENT PROCEDURES FOR FOREIGN OFFICIALS CLAIMING IMMUNITY

The following procedures provide a guideline for handling incidents involving foreign officials who claim some form of immunity:

### 330.4.1 CITABLE OFFENSES

A citation shall be issued at the scene for all violations warranting such action regardless of the violator's immunity status. The issuance of a citation is not considered an arrest or detention under current Department of State guidelines. Whenever a citation is issued to a subject claiming immunity, these additional procedures shall be followed by the arresting officer:

(a) Supervisors shall be promptly notified and should respond to the scene when possible. Supervisors shall ensure the Watch Lieutenant is notified of the incident.

(b) Identification documents are to be requested of the subject.

(c) The title and country represented by the subject are to be recorded on the back of the officer's copy of the citation for later reference. Do not include this information on the front of the citation.

(d) The subject shall be requested to sign the citation. If the subject refuses, the identity and immunity status of the individual shall be conclusively established.

    1. Verified diplomatic agents and consular officers, including staff and family members from countries with which the U.S. has special agreements, are not required to sign the citation. The word "refused" shall be entered in the signature box and the violator shall be released.

    2. Verified consular staff members, excluding those from countries with which the U.S. has special agreements, are generally obligated to sign the citation but a signature shall not be required if their immunity status is uncertain.

(e) The violator shall be provided with the appropriate copy of the citation.

(f) Officers and supervisor will adhere to the reporting procedures outlined below in this policy.

### 330.4.2 DETENTION AND CUSTODY ARREST GUIDELINES

(a) Diplomatic agents and consular officers are immune from arrest or detention unless they have no identification and the detention is to verify their diplomatic status. Proper identification of subjects claiming immunity is imperative in potential custody situations.

    1. Subjects who are placed under arrest and claim diplomatic or consular immunity shall not be physically restrained before verification of the claim unless restraint is necessary for the protection of the officer or others.

    2. Supervisors shall be promptly notified and should respond to the scene when possible. Supervisors shall ensure the Watch Lieutenant is notified of the incident.



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(b) Field verification of the subjects identity is to be attempted as follows:

1. Identification cards issued by the Department of State Protocol Office are the only valid evidence of diplomatic or consular immunity. The following types of identification cards are issued: Diplomatic (blue bordered), Consular (red bordered), Official (green bordered). The Department of State identification cards are 3-3/4 inches by 1-1/2 inches and contain a photograph of the bearer.
2. Initiate telephone verification with the Department of State. Newly arrived members of diplomatic or consular missions may not yet have official Department of State identity documents. Verify immunity by telephone with the Department of State any time an individual claims immunity and cannot present satisfactory identification, the officer has reason to doubt the claim of immunity, or there is a possibility of physical arrest. Officers can contact CTECC for the appropriate contact phone numbers.
3. Members of diplomatic or consular missions may also have other forms of identification. These include identification cards issued by the Office of Emergency Services, local law enforcement agencies, the foreign embassy, or consulate; driver licenses issued by the Department of State; and, Department of State license indicia on the vehicle. All these items are only an indication that the bearer may have some form of immunity.

(c) Subjects verified through the above procedures as being officials entitled to immunity may not be subject to a custody arrest; the procedures below shall be followed instead. These procedures should also be used in the event immunity cannot be verified but another form of identification indicates that immunity is probable. **Supervisor approval is required for all custody arrests and releases when a claim of immunity is involved.**

1. If the release of the violator will not create an additional hazard, adequate information to properly identify the violator shall be obtained then the official shall be released. The necessary release documents (e.g., citation) should only be issued under the proper conditions.
2. If the violator appears to have been driving while under the influence, field sobriety tests should be offered. The subject shall not be permitted to drive and alternative transportation should be arranged:
   (a) All facts of the incident shall be documented in accordance with this policy in a Driving While Intoxicated (DWI) Incident Report and/or any other relevant report form. Prosecution is still appropriate and should be pursued.
   (b) The DWI Unit shall contact the Department of State, as soon as practicable, to verify the violator's status and immunity. Within five working days of the stop, the DWI Unit shall send to the Bureau of Diplomatic Security Office of Foreign Missions of the Department of State a copy of the citation and/or any accident or other written report documenting the incident (Tex. Transp. Code § 543.011 et seq.). The Department of State will take appropriate sanctions against errant foreign service personnel, even where prosecution is not undertaken by the agency.

(d) Foreign consular officials have the right to visit their arrested or detained nationals unless the person objects to the visit.

(e) Officers and supervisor will adhere to the reporting procedures oulined below in this policy.



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## 330.5 TRAFFIC CRASHES

Persons involved in a traffic crash who possess a Department of State OFM Diplomatic Driver License issued by the DMVO, shall have "D" coded in the license "class" box of the Traffic Crash Report. The actual driver license class (e.g., 1, 2, 3, or A, B, C, M) shall be entered on the traffic report. If subsequent prosecution of the subject is anticipated, the subject's title, country and type of identification presented should be recorded for future reference.

(a) Supervisors shall be promptly notified when a foreign official claiming immunity is involved in a crash and respond to the scene when practicable. Supervisors shall ensure the Watch Lieutenant is notified.

(b) Issuance of a citation or arresting a subject claiming immunity at a crash scene shall be handled as outlined in the previous section of this policy.

### 330.5.1 VEHICLES

Vehicles which are owned by subjects with full immunity may not be searched, stored or impounded without the owner's permission. Such permission may be assumed if the vehicle has been stolen. These vehicles may, however, be towed the necessary distance to remove them from obstructing traffic or creating any other hazard.

## 330.6 REPORTING PROCEDURES

(a) A photocopy of all reports and documents (e.g., citations, incident reports, crash reports) related to the incident which involves an identified diplomat and/or immunity subject shall be immediately forwarded to the office of the Chief of Police through the officer's chain-of-command, regardless of whether the claim of immunity is verified. The words "Immunity Claim" shall be marked on the top photocopy, together with a notation of the subject's title, country and type of identification presented, if applicable.

(b) In addition to the reports and documents, a follow-up cover memorandum should be submitted for incidents where the investigation indicates the violation was flagrant, the subject was uncooperative, or involved any other unusual aspects of the enforcement contact where further action by the Department of State may be necessary.

(c) The supervisor apprised of the incident shall ensure that all related documents, including any supervisor's notes, materials and/or logs are forwarded to the office of the Chief of Police without delay. The Chief of Police's office will verify that notification to the Department of State and all necessary follow-up occur.



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# Traffic Enforcement

## 342.1 PURPOSE AND SCOPE

Officers shall enforce traffic regulations in a uniform, impartial manner. It is imperative for public acceptance that individuals committing identical offenses under similar conditions/circumstances be accorded the same treatment by an officer. To cite one person for an offense and warn another for the same offense committed to the same degree, under similar conditions and circumstances, is improper.

The guidelines established in this policy are applicable to both adults and juveniles.

## 342.2 TRAFFIC ENFORCEMENT POLICY

(a) On-duty officers in uniform should stop the operator of any vehicle committing a traffic violation when practical to do so.

(b) On-duty officers not in uniform may make traffic stops only if the vehicle used in making the traffic stop is equipped with emergency lights and a siren.

(c) After stopping the violator, officers shall exercise good judgment in deciding what enforcement action should be taken (e.g., warning, citation, arrest).

(d) A traffic citation should only be issued when:

1. The violator has sufficient identification; and
2. The officer has no substantial reason to believe the violator will fail to appear; and
3. The officer has reason to believe that release by citation will result in termination of the violation; and
4. The violator(s) did not resist detention, assault anyone during the offense, or appear to be combative or violent; and
5. The violator is willing to sign the citation.



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The following charts cannot cover each situation or violation; this is only a guide for commonly used citation titles.

## Hazardous Violations

| Violation Type | Citation Title | Guide |
|---|---|---|
| Speed Tolerances | Speeding | Over Limit -- Posted Speed Zone (Radar) – may allow at least nine (9) mph in excess of the specified speed. Cite at ten (10) mph or greater over the limit |
| | Speeding-School Zone | School Zones – should allow four (4) mph in excess of the specified speed. Cite at five (5) mph or greater. |
| | Speeding | Officers may cite at any speed if the facts, circumstances or conditions would justify enforcement at a lower speed. Examples can be, but are not limited to: Wet, icy, or slick road conditions, residential area, construction zones, and special events involving pedestrian and/or bicycle traffic. Officers must be able to articulate why the speed was not reasonable or prudent for the circumstances. |
| Speed over limit – "posted area" (radar & non-radar) | Speeding | Lower to at least 1 mile per hour less than speed (i.e. 49 in 35 zone – lower to at least 48) |
| Speed over limit – "school zone" | Speeding "SCHOOL ZONE" | Same as above (i.e. 27 in 20 – lower to at least 26) |
| Speed over limit – "Construction Area" (radar & non-radar) | Speeding "Construction Zone, Workers Present" | Same as speed "posted area" Construction workers must be present w/signage indicating "Const. Zone, Fines Double when Workers Present." |
| Speed over limit – "construction area" (radar & non-radar) | Speeding "Construction Zone" | Same as speed "posted area" Construction workers not present but signage indicates "Const. Zone" |
| Imprudent speed (collision) | Imprudent Speed | Any vehicle at any speed when existing conditions are such as to make the speed unreasonable or imprudent. |
| Impeding Traffic | Impeding Traffic | When operator continues to impede normal traffic after being warned by officer. |



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| Violation Type | Citation Title | Guide |
|---|---|---|
| | | |
| Impeding traffic | Speed Under Minimum, Unsafe | If conditions above are not met – Vehicle traveling for a period of 3 or more blocks, will be removed from roadway. |
| Right-of-way | Fail to Yield ROW (Left turn, right turn, no left turn, no right on Red, etc.) | If involved in collision or causes serious interference to another vehicle, pedestrian or bicyclist. |
| Signs, signals & markings (see below) | (see below) | Warning citations will be issued for a 3-day period after installation of new signs, signals & devices. Exceptions would be where an accident occurs or in aggravated situations. |
| Stop sign | Ran Stop Sign | Went through at a greater-than-walk speed; or when stop was made at least 2 car lengths back of stop sign/line. |
| Red light | Ran Red Light | When involved in collision or when vehicle had not reached nearest stop line or crosswalk when light changed red. |
| Flashing red light | Ran Flashing Red Light | Same as Stop Sign |
| Ran warning sign/disregard of flashing amber light | Disregard of Warning Sign/Flashing Amber light | When involved in collision or apparently deliberate and hazardous |
| Unsafe change of lanes | Unsafe Change of Lane (from Marked Lane) | When involved in collision or apparently deliberate and hazardous |
| Crossing Physical Barrier | Crossing Physical Barrier | When crossed concrete, grass or other physical object. **Does not apply to crossing solid lines**. |
| Drove Left of Double Yellow Line or Passing in a No Passing Zone | Drove Left of Double Yellow Line or Passing in a No Passing Zone | Do not cite if operator crossed double yellow line or passed in a no passing zone in a safe manner for the sole purpose of passing a vulnerable road user |
| Turned from wrong lane | Improper Right/Left Turn, Exit or Approach | Turned from wrong lane, or wide right turn **interfering with other traffic** (if no interference--warn) |
| Illegal U-turn | Illegal U-turn, Crest/Bottom of Hill | Involved in collision or **interfered with another vehicle** (if no interference—warn) |
| Wrong side of road/wrong way | Wrong Side of Road – Passing<br>Or<br>Drove Wrong Way on One-Way | Involved in collision or near collision, or where traffic is heavy (if no interference-warn) |
| Following too closely | Fail to Maintain an Assured Clear Distance. | Willful or sustained, or involved in collision (Use common sense regarding enforcement during peak traffic periods when congestion exists). |
| Cut through private drive | Cut Through Private Drive to Avoid Light/Sign | Cite if cut through in deliberate attempt to avoid traffic control device |
| Fail to yield right-of-way to pedestrian | FTYROW to Pedestrian in Marked Crosswalk | Cite if pedestrian in marked crosswalk has to move/run to avoid being hit |
| Seat belt violations | No Seat Belt – Driver/ Passenger | Cite per *Transportation Code* |



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NON-HAZARDOUS VIOLATIONS

| Violation Type | Citation Title | Guide |
|---|---|---|
| Expired MV inspection or registration | Expired MVI or LP | Allow six (6) day grace period from expiration date |
| Defective brakes | Defective Equipment – Brakes | No emergency or weak foot brakes. Vehicle will not stop within 30 feet @ 20 mph. Or, brake on only one wheel |
| Defective headlights, tail-lights or other light violation | Defective Equipment – headlight, tail-light, etc. | Evidence of willful neglect or multiple warning violations |
| Open door to traffic | Open Vehicle Door into Traffic | Involved in collision or interferes with movement of another vehicle. |
| Commercial vehicle equipment violations | **Do Not Cite** | All suspected commercial vehicle equipment violations will be responsibility of HE/L&W Unit |
| Soiled or damaged license plate or no front plate | Obscured LP; No Front LP | Evidence of willful neglect or multiple warning violations |
| License plate bracket or mounting violations | Obscured LP | Warn on first offense of partially obscured plate. |
| Other lighting violations | White Light to Rear; Neon Lights | Evidence of willful neglect or multiple warning violations |
| Buyer, & dealer in-transit" tag violations | Misuse of Dealer In-transit/Demo Tag; Buyer's Tag Expired | Evidence of willful neglect or multiple warning violations |
| Altered or Fictitious MVI | | Fact Specific |
| Defective exhaust, mufflers, smoke, etc. | Defective Exhaust – Noise/Smoke | Evidence of willful neglect or multiple warning violations |
| Altered or fictitious vehicle registration | | Fact Specific |
| Driver's license Violation (expired) | Expired DL | Citations may be issued upon expiration |
| Driver's license Violation (fail to change address) | Fail to Change Driver's License | Cite per Transportation Code |
| No insurance, 1st and 2nd offenses | Fail to Maintain Financial Responsibility | Cite per Transportation Code |
| Window tint violation – rear window | Unlawful Window Tint | Cite if light transmission is 20% or less; and vehicle does not have an exterior rear view mirror on each side. |
| Window tint violation – front door windows-both sides | Unlawful Window Tint | Warn if light transmission is 21% to 24%. Cite if light transmission is 20% or less. |
| Window tint violation – windshield | Unlawful Window Tint | Cite if light transmission more than 5" from top of windshield is 65% or less. |

### 342.2.1 SUFFICIENT SUBJECT IDENTIFICATION

(a) Officers should make every effort to sufficiently identify a driver or passenger prior to issuing a citation. If it is not possible to sufficiently identify a subject and the officer has an arrest authority, a custody arrest may be made.



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(b) Subjects whose identity is in question and are being issued a citation or booked into jail shall be transported to the APD ID section to verify their identity prior to issuing the citation or booking into jail.

### 342.2.2 SPEEDING

In situations where officers stop a driver for speeding only, officers may not arrest the driver solely for this violation unless (Tex. Transp. Code § 543.004):

(a) The driver does not have sufficient identification; or

(b) The driver refuses to sign a citation, or

(c) The violation is a component of a more serious violation (e.g., reckless driving, DWI, racing). When an arrest is made for the more serious violation, officers shall not issue a citation or charge the violator with speeding.

### 342.2.3 OPEN CONTAINER

Possession of Alcoholic Beverage in a Motor Vehicle is a Class C Misdemeanor (Tex. Penal Code § 49.031) and must be observed by the officer before a citation can be issued.

(a) Officers may not arrest solely for this violation unless (Tex. Transp. Code § 543.004):

1. The violator does not have sufficient identification; or
2. The violator refuses to sign a citation.

### 342.2.4 FAILURE TO MAINTAIN FINANCIAL RESPONSIBILITY

When drivers who do not have current proof of insurance, officers shall make an inquiry through the Texas Sure Database to confirm if the driver has insurance on file.

(a) The inquiry shall be performed on the MDC or through Communications by running a license plate check.

(b) If the Texas Sure Database is not accessible during the stop, officers shall note on the back of the citation "SURE was down".

### 342.2.5 MULTIPLE HAZARDOUS TRAFFIC VIOLATIONS

When an officer observes a driver that has committed multiple hazardous traffic violations, a custody arrest may be made with supervisor approval.

(a) The intent is to remove an obviously dangerous driver from the roadway.

(b) Generally, three or more hazardous violations should be observed by an officer.

## 342.3 REFUSAL TO SIGN A CITATION

Officers shall explain the consequences when a violator refuses to sign a citation. If the violator continues to refuse, the officer shall request a supervisor at the scene.

The supervisor shall confirm that the violator understands the consequences of refusing to sign the citation and may order the violator taken into custody if the violator continues to refuse to sign the citation.

## 342.4 SUBMISSION OF TRAFFIC CITATIONS

Officers shall submit all court copies of issued traffic tickets to a Municipal Court drop box by the end of their tour of duty. Drop boxes are located at the various substations.



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## 342.5 CORRECTION AND DISMISSAL OF CITATIONS

(a) **Correction of Citations**

1. When a traffic citation is issued and in need of correction, officers issuing the citation shall submit the citation and a memorandum requesting a specific correction to their immediate supervisor. The citation and letter shall then be forwarded to the Traffic Office. The Traffic Office shall prepare a letter of correction to the court having jurisdiction and to the recipient of the citation.

(b) **Dismissal of Citations**

1. APD employees 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. Any request from a recipient to dismiss a citation shall be referred to the court.
2. Should an officer determine that a traffic citation should be dismissed in the interest of justice or where prosecution is deemed inappropriate, the officer will write a memorandum to his commander explaining the reason for the dismissal and attach a copy of the citiation and a completed copy of the Municipal Court's "Motion for Dismissal" related to the citation. The officer should also discuss the citation with the Municipal Court prosecutor when submitting the required form requesting the dismissal.

## 342.6 CITATION ACCOUNTABILITY

Citation books are stored and secured in PCO. Officers shall:

(a) Sign for all issued citation books by legibly printing their name, employee number and signing on the designated form or log book.

(b) Be accountable for all citations issued.

(c) Return all outdated citation books to PCO.

### 342.6.1 LOST, STOLEN, MISPLACED, DAMAGED, OR VOIDED TRAFFIC CITATIONS

(a) Officers will notify their supervisor if an issued citation book or individual citation is lost, stolen, misplaced, damaged, or voided.

(b) Supervisors will review the incident and email Municipal Court at Court@ci.austin.tx.us with the citation number(s) and notification that the citation was lost, stolen, misplaced, damaged, or voided.

## 342.7 SPECIAL TRAFFIC ENFORCEMENT SITUATIONS

### 342.7.1 CONSULAR AND DIPLOMATIC PERSONNEL

Foreign consular officials enjoy varying degrees of immunity from arrest, which may include traffic violations/citations. See Policy 330 (Foreign Officials Claiming Immunity) for more information.

### 342.7.2 FEDERAL AND STATE LEGISLATORS

Numerous federal and state legislators have offices within the City of Austin. During official legislative sessions, including travel to and from sessions, senators and representatives are immune from citations and arrest except for felonies and breaches of the peace.



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(a) Officers shall notify their supervisor when enforcement action (e.g., arrest, citation) is taken against a senator or representative.

(b) Supervisors shall ensure the Watch Lieutenant is notified.

### 342.7.3 MILITARY PERSONNEL

Personnel of the Armed Forces of the United States (including National Guard) are exempt from state driver's licensing requirements while operating an official motor vehicle in the scope of that service. While operating a private vehicle, active duty non-resident military personnel are not required to hold a Texas driver's license; however, they must possess a current driver's license issued by another state.



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# Escorts and Traffic Control

## 343.1 PURPOSE AND SCOPE

This policy provides guidelines to Department personnel who encounter traffic situations that require the use of alternative methods of enforcement, traffic direction, utilization of personnel, and specialized equipment or assistance.

## 343.2 ESCORTS FOR MEDICAL PURPOSES

It is the policy of this Department to provide medical aid to persons requesting, or in need of, assistance. Employees should weigh the hazards and traffic dangers involved in providing escorts against the timely response of EMS or AFD.

(a) When confronted by a person requesting medical assistance, and if the patient's condition does not appear immediately life-threatening, personnel will:

1. Make every effort to provide first aid, if needed, and notify Communications to request EMS/AFD be dispatched; or
2. Provide directions to the nearest (or requested) hospital and allow the person to proceed; or
3. Provide a Code I escort to the hospital.

(b) Due to the inherent liability of an untrained driver following an emergency vehicle and the fact that EMS/AFD can respond within minutes to virtually any location within the City, Code 2 or Code 3 escorts will NOT normally be conducted.

1. However, when in the officer's opinion the extent of injuries or illness is immediately life-threatening and awaiting EMS/AFD would cause an inordinate delay in treatment, the officer will request supervisory approval for a Code 3 escort to the closest hospital emergency room.
2. If approved, Communications will be notified before initiating the escort.
3. The officer's primary function is to clear traffic, guiding the vehicle containing the patient safely to the hospital.

## 343.3 DIGNITARY AND VIP ESCORTS

Coordination of escorts for local or visiting dignitaries/VIPs will be handled through the Special Events and Executive Protection Units. Normally, these type events will be pre-planned and necessary personnel assigned to provide adequate traffic assistance and personal protection.

## 343.4 UNUSUAL TRAFFIC INCIDENTS

Situations may occur that require numerous officers to assist with traffic direction. Each occurrence will vary and may require significantly different approaches. Resources and personnel from various sources should be utilized. Some of these incidents may be, but are not limited to:

(a) Major collisions (e.g., fatalities, serious injury, officer involved, roadway blocked).

(b) Aircraft crashes.

(c) Hazardous Materials (e.g., spills, ruptures).



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(d) Fires or power failure.

(e) Inclement weather (e.g., ice, flooding).

(f) Tactical situations (e.g., hostage, barricaded subject, civil unrest).

(g) Major planned events.

## 343.5 TRAFFIC CONTROL GUIDELINES

When officers must provide traffic control and direction it is important to remember the inherent dangers involved. These guidelines should be followed to make it as safe and efficient as possible.

(a) Officers will notify Communications of their location prior to directing traffic in the roadway.

(b) Officers will keep Communications informed of any lane or street closures during major situations.

(c) It should be remembered that fatigue and monotony can increase the danger of this type of assignment. Supervisors should schedule breaks for officers working traffic for extended periods of time.

### 343.5.1 REQUIRED EQUIPMENT

When officers are directing traffic, at the scene of a collision, or investigating any incident where officers are exposed to vehicular traffic, the following gear is required:

(a) Department issued reflective vest at all times; and

(b) Flashlight with cone during darkness or limited visibility conditions.

### 343.5.2 BARRIERS AND TRAFFIC CONTROL DEVICES

(a) Police units should be used as initial traffic control barriers until a traffic pattern is established through the use of arrow boards, cones and/or flares.

(b) Flares may be used to assist in traffic movement.

1. Flares used at night or in limited visibility conditions may cause disorientation rather than providing direction to drivers.

(c) Traffic cones and/or arrow boards should be utilized as additional traffic direction and spaced accordingly to give drivers ample time to react.

1. Placing the initial cone pattern and set-up of arrow boards is extremely hazardous and should only be done with multiple units to provide adequate protection.

### 343.5.3 PRIORITY OF TRAFFIC FLOW

(a) While engaging in traffic direction, officers will remain aware of the following:

1. Emergency vehicles.
2. Vehicles on heaviest traveled or main thoroughfares.
3. Vehicles on lesser traveled or secondary roadways.
4. Vehicles entering the roadway from a driveway.
5. Pedestrians.



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# Crash Investigation And Reporting

## 346.1 PURPOSE AND SCOPE

The public safety responsibilities of law enforcement include responding to crashes in order to provide aid and assistance, document the incident, and identify possible criminal activity. Therefore, officers shall be dispatched to all reported crashes except as noted.

In the event that a city-wide emergency or inclement weather creates an inordinate volume of calls for service involving minor crashes, the Watch Lieutenant may authorize patrol to temporarily deviate from any portion of this policy.

## 346.2 CRASH RESPONSE

### 346.2.1 INITIAL ON-SCENE CONSIDERATIONS

Upon arriving at the crash scene, an officer should give immediate consideration to:

(a) Proper placement of the emergency vehicle to provide protection for officers and the scene.

(b) Requesting medical assistance for any injured parties.

(c) Requesting additional support that may be necessary (e.g., traffic control, AFD, tow vehicles).

(d) Clearing the crash off of the roadway as soon as possible.

1. If it is not possible to clear the roadway in a reasonable period of time, officers may need to manually direct traffic and/or place traffic cones/flares to divert traffic around the crash scene.

### 346.2.2 REQUIRED SUPPORT NOTIFICATIONS

(a) **Highway Enforcement**

1. When on-duty, Highway Enforcement shall assist with traffic incident management when a freeway is blocked.
2. A Highway Enforcement supervisor should be notified anytime patrol operations will be negatively impacted by:
   (a) A collision that will block a freeway for more than 60 minutes; or
   (b) A commercial motor vehicle crash involving a hazardous material spill occurring on a roadway.
3. The Vehicular Homicide Unit shall be promptly notified of vehicle crashes involving:
   (a) Life threatening injury or death.
   (b) Serious bodily injury or death to a Department employee.
   (c) Serious bodily injury in which impairment of the driver due to alcohol or drugs is suspected.
   (d) Serious bodily injury when a City vehicle is involved.

(b) **Crash Investigators**



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1. Crash Investigators shall be called to all vehicle crashes involving:
   (a) Life threatening injury or death.
   (b) Serious bodily injury in which impairment of the driver due to alcohol or drugs is suspected.
   (c) APD, AFD, or EMS vehicles when requested by an APD supervisor.

## 346.3 CRASH INVESTIGATION

During crash investigations, officers should:

(a) Identify and interview drivers and occupants.

(b) Identify and interview any witnesses.
   1. Request all witnesses remain at the scene to speak with the Vehicular Homicide Unit, if applicable.

(c) Provide the drivers involved with a *Driver / Insurance Information Form* (PD0023 / "Brown Form") to exchange information. Officers will ensure the forms are completely filled out with the correct information before the drivers exchange the forms.

(d) Determine if any traffic violation(s) or crime(s) have occurred and take appropriate enforcement action.

(e) Identify and protect items of apparent evidentiary value.
   1. Ensure property belonging to a crash victim is protected from theft or damage and removed to a place of safekeeping. Protection of the property may consist of securing the property in a vehicle, releasing it to a third party, or turning it into the property room for safekeeping.

(f) Notify the dispatcher of any damage to the roadway, signs, or utilities.

(g) Document the incident as necessary (e.g., insurance information, statements, measurements, photographs, collection of evidence and reporting) on appropriate report forms.

### 346.3.1 TOWING FROM A CRASH

(a) Rotation or request wreckers shall be used for vehicles that require towing from the scene of a crash, including parked and unattended vehicles on a public roadway, anytime the vehicle is deemed inoperable.
   1. Officers should have the driver select a towing company, if possible, and confirm with Communications that it is on the Approved Wrecker List.
   2. When there is no preferred company requested, or the company is not on the Approved Wrecker List, a company shall be selected from the rotational list of towing companies maintained by Communications.
   3. AFD or EMS may request wreckers when approved by the Watch Lieutenant.

(b) An authorized impound wrecker shall be used in the following circumstances:
   1. When the driver is arrested and the vehicle is otherwise safely operable.
   2. When the vehicle has been confirmed as stolen.
   3. When the vehicle is of evidentiary value and needed for further investigation in a criminal offense.
   4. As outlined in Policy 350 (Vehicle Towing and Release).



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## 346.4 TAKING ENFORCEMENT ACTION

Officers generally cannot make an arrest for a Class C misdemeanor which did not occur in their presence. After a thorough investigation in which physical evidence or independent witness statements indicate a violation of the Transportation Code led to the crash, officers may issue the appropriate citation(s) to the offending driver (Tex. Transp. Code § 550.041).

(a) Officers shall cite for all the following violations at the scene of a crash, when applicable:

1. Failure to Maintain Financial Responsibility (FTMFR).
2. Driver's License violations.
3. Hazardous violations.

(b) Driving While Intoxicated (DWI) violations shall be enforced immediately.

(c) Felony violations (e.g., Intoxication Assault, Aggravated Assault, Manslaughter) shall be enforced immediately. Officers shall consult with the appropriate Investigative Unit as outlined in Department policy.

(d) If a driver is subject to enforcement and admitted to a hospital, a supervisor shall be contacted to determine the best course of action.

### 346.4.1 LEAVING THE SCENE & FAILING TO STOP AND RENDER AID

When a driver leaves the scene of a crash where there is damage to a vehicle without exchanging information required by law, it is considered an Leaving The Scene (LTS) crash (Tex. Transp Code § 550.022). When there is very minor damage, officers should determine if a reasonable driver would have had knowledge of the damage caused.

Failing to Stop and Render Aid (FSRA) crashes are LTS crashes where someone suffers an injury (e.g., complaint of pain or visible injury) as a direct result of the crash (Tex. Transp Code § 550.021).

(a) **Found Suspect Vehicle and/or Driver**

1. If the suspect vehicle and/or driver is located before the original reporting officer's tour of duty ends, officers shall:
   (a) Obtain any additional information and include it in the incident report or write a supplement; and
   (b) Take enforcement action if all necessary elements can be proven and the intent to evade responsibility is shown.

(b) **Enforcement Action**

1. Enforcement of an LTS crash is determined by the following:
   (a) A citation may be issued for a class C misdemeanor if the pecuniary loss is less than two hundred dollars ($200).
   (b) A custody arrest may be made for a class B misdemeanor if the pecuniary loss is two hundred dollars ($200) or more.
2. The on-call Vehicular Homicide Detective shall be contacted to approve any FSRA crash arrest.

(c) **Required Information For Follow-up**



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1. If no enforcement action is made at the scene of an LTS crash and any of the following criteria is missing, there will not be enough evidence needed to file criminal charges. The officer shall notify the victim there will not be a follow-up investigation when there is:
   (a) Lack of a suspect driver description; or
   (b) Lack of a suspect vehicle description; or
   (c) Lack of a suspect license plate number.
2. FSRA crash follow-up shall be handled by the Vehicular Homicide Unit.

(d) Follow the reporting guidelines outlined in the "Crash Reports and Incident Reporting" section of this policy.

### 346.4.2 PRIVATE PROPERTY CRASHES

Officers may only take traffic enforcement action on the following violations when the crash occurs on private property:

(a) Driving While Intoxicated (DWI).
(b) Leaving the Scene (LTS).
(c) Fail to Stop and Render Aid (FSRA).
(d) Reckless Driving.
(e) Offenses related to financial responsibility.

## 346.5 CRASH REPORTS AND INCIDENT REPORTING

This section outlines the appropriate TxDOT crash report(s) to use and when an APD incident report is required.

(a) Crash report forms shall only be completed or printed in ink.
(b) Most questions concerning how to fill out a crash report can be answered by referring to latest version of the *Instructions to Police for Reporting Crashes* (CR-100) available online through TxDOT. Officers shall comply with the instructions in this manual.
(c) A change or modification of a crash report prepared by a peace officer that alters a material fact in the report may be made only by the peace officer who prepared the report. A supplemental report may be made by any authorized employee (Tex. Transp. Code § 550.068).

### 346.5.1 CRASH REPORTS

(a) ***Driver's Crash Report* (CR-2 / "Blue Form")**
1. Unless otherwise specified by this policy, officers may issue the drivers a "Blue Form" if the crash meets the following criteria:
   (a) There is no report of injury; and
   (b) The vehicles involved are safely operable.
2. LTS incidents are eligible for a "Blue Form" if the crash meets the above requirements.

(b) ***Texas Peace Officer's Crash Report* (CR-3)**
1. The following crashes shall be investigated by APD and documented on a CR-3:



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(a) Crashes involving any injury (complaint of pain or any visible injury).

(b) Crashes involving death.

(c) Crashes in which impairment of the driver due to alcohol or drugs is suspected.

(d) Crashes requiring a wrecker due to damage caused by the crash.

(e) Crashes involving a leased, owned or rented city vehicle.

(f) FSRA crashes.

(g) When it is determined to be in the best interest of the Department or public.

2. If a crash involves a commercial motor vehicle and meets one of the above requirements for completing a CR-3, the commercial motor vehicle section of the CR-3 shall also be completed.

### 346.5.2 APD INCIDENT REPORTING

In addition to completing the appropriate crash report form(s), officers shall also complete a detailed incident report when crashes involve any of the following:

(a) Life threatening injury or death.

(b) Driver impairment due to alcohol or drugs is suspected.

(c) Leaving the Scene (LTS) incident.

(d) Failing to Stop and Render Aid (FSRA) incident.

(e) An APD leased, owned or rented vehicle as outlined below.

(f) An arrest for any offense.

## 346.6 CRASHES INVOLVING APD LEASED, OWNED OR RENTED VEHICLES AND CITY OF AUSTIN VEHICLES WHICH WERE OPERATING AS AN EMERGENCY VEHICLE (EMS, FIRE, OTHER OPERATING CODE TWO OR THREE)

(a) APD Vehicles are:

1. Any vehicle owned, leased, or rented by the department

2. Any vehicle loaned or granted to the department for use by an employee

(b) A supervisor shall be notified of all crashes involving APD vehicles and vehicles operating in an emergency capacity.

1. Supervisors will respond to the scene of APD involved crashes within the city limits or if directed by a Commander or above to conduct an investigation:

(a) The involved employee's immediate supervisor shall be contacted if he is on-duty.

(b) If the involved employee's supervisor is off-duty, another supervisor on-duty shall be notified.

(c) In the event the crash involves an APD commander or above, the next-level supervisor in the involved employee's chain-of-command shall be notified and assume responsibility for follow-up of the incident.

(d) In the event the crash occurs outside the city limits of Austin, the investigating supervisor shall determine what APD resources will be sent to the scene.



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(e) APD vehicles damaged as a result of pushing or pulling other vehicles shall follow the guidelines outlined in Policy 804 (Vehicle Use Policy).

### 346.6.1 REQUIRED REPORTING

(a) All crashes involving APD vehicles and non-APD City Vehicles operating in an emergency capacity shall have:

1. An incident report titled "Crash / City Vehicle" (3651) completed: and
2. A large, not-to-scale diagram; and
3. Digital photographs of the scene including damage to the vehicle(s) (downloaded into the Digital Crime Scene Management System); and 4. A CR-3, if required, and notate:
   (a) If the unit was operating in an emergency capacity by checking the appropriate box in the Vehicle/Driver section and document the details in the Investigator's Narrative section, including the damaged vehicle unit number and city number.

(b) When the crash involves an APD Vehicle, all involved APD employees shall complete a supplement to the original report;

(c) APD supervisors will have final authority to determine when the CR-3 will be completed. Crashes involving APD vehicles and non-APD City Vehicles operating in an emergency capacity that meet all of the following criteria do not require a CR-3 if the APD employee's immediate supervisor approves the exception.

1. All vehicles involved belong to the same City Department, or vehicle has struck a fixed object, or an animal only; and
2. There are no persons injured; and
3. The damage caused is less than $1,000

### 346.6.2 INVESTIGATIVE SUPERVISOR RESPONSIBILITY FOR CRASHES INVOLVING APD VEHICLES

A supervisor shall be notified of all crashes involving APD vehicles and respond to the scene if within the city limits or if directed by a Commander or above. Additionally the supervisor will:

(a) Conduct an assessment of the situation and determine the appropriate reporting parameters.

(b) Complete all required Workers' Compensation forms as outlined in Policy 956 (On Duty Injury and Illness) for each APD employee who was an occupant in the APD vehicle AND has an injury, suspected injury, or any compliant or statement of pain or injury, regardless of the level of complaint or statement. Supervisors will submit the completed forms to the APD Workers' Compensation Office no later than 24 hours from the crash.

1. During the supervisory investigation of the crash, if there are no reports of injury, complaint/statement of pain; but the supervisor believes the totality of the incident or the mechanism of the crash could have resulted in injury to any occupant, the supervisor should complete all necessary Workers Compensation forms.



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(c) If a CR3 is required, Initiate an IA investigation if they reasonably believe there is credible evidence a violation of law or policy may have occurred concerning the officer's operation of an APD vehicle.

(d) Ensure an Equipment Repair Request form is completed and turned into PCO.

(e) Send e-mail notifications with the incident report number prior to the end of the tour of duty to the involved employee's chain of command up to the commander.

(f) Review the primary reporting employees' incident report and complete a supplement to the report indicating the details of the incident.

(g) Ensure that any DMAV associated with the crash is properly categorized as Veh Hom Crash Investigation - 3 yrs

(h) Compile a Supervisory Investigation Packet that includes:

1. A memorandum to the commander detailing:
   (a) The vehicle(s) involved; and
   (b) The findings of the investigation; and
   (c) Any negligence on the part of the involved officer(s), if applicable.
2. Witness statements, if applicable.
3. A copy of the CR-3, if required (the original CR-3 shall be forwarded to Highway Enforcement
4. A copy of the incident report.
5. A CAD printout of the employee's call for service, if applicable.
6. The large diagram of the crash.

(i) Forward the Supervisory Investigation Packet within five (5) working days from the date of the crash as follows:

1. The original shall be sent to the Risk Management Section.
2. A copy shall be sent to the involved employee's chain-of-command, up to the commander, for review.

(j) After review by the involved employee's commander, the involved employee's supervisor shall ensure a final disposition memorandum is completed and forwarded to the Risk Management Section within five (5) working days from the date of the final disposition.

## 346.7 CRASHES INVOLVING ALL OTHER LEASED, OWNED OR RENTED CITY VEHICLES (OTHER THAN APD)

(a) All crashes involving City vehicles shall have:

1. A CR-3, if required, or
2. Crashes involving City vehicles that meet all of the following criteria do not require a CR-3 and will be issued a CR-2 (Blue Form).
   (a) The City vehicle has struck another City vehicle, a fixed object, or an animal only; and
   (b) There are no persons injured; and
   (c) The damage caused is less than $1,000



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(b) An incident report is not required solely based on the crash involving a city vehicle; however, a responding officer shall complete an incident report if the crash would otherwise require a report (e.g., LTS, DWI, death).



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# Disabled Vehicles and Stranded Motorists

## 348.1 PURPOSE AND SCOPE

This policy provides guidelines to Department personnel to check on and offer to provide assistance to disabled or stranded motorist on all roadways within the City of Austin. The safety of the vehicle occupants, the officer, and other motorists is the first priority. Removal of vehicles posing a hazard or blocking traffic is essential to continuous safe and efficient traffic movement.

## 348.2 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 practicable.

## 348.3 EXTENT OF ASSISTANCE

In most cases, a disabled motorist will require assistance. After arrangements for assistance are made, continued involvement by department personnel will be contingent on the availability of department resources and the vulnerability of the disabled motorist.

### 348.3.1 MECHANICAL REPAIRS

Department personnel may provide minor mechanical assistance (e.g., change flat tires, provide electrical battery boost) to a disabled vehicle.

### 348.3.2 PUSH/BUDDY BUMPER USE

If exigent circumstances exist or with the permission of the vehicle operator, officers may push a disabled vehicle out of roadway to a safe location using their push/buddy bumpers. Refer to Policy 804 (Vehicle Use) on their proper use.



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# Vehicle Towing and Impound

## 350.1 PURPOSE AND SCOPE

This policy provides the procedures for towing a vehicle by or at the direction of the Austin Police Department.

### 350.1.1 DEFINITIONS

(a) **Impound Wrecker**: For purposes of this policy, impound of a motor vehicle means the taking of a vehicle from a street, alley, highway, sidewalk or public thoroughfare, and in some instances a public place, into actual constructive police custody. It is the removal of a vehicle from where it is initially located, and may also include continued retention of the vehicle in a garage, vehicle storage facility, or other place of safekeeping. Only the authorized impound wrecker service will be used to tow and store impounded vehicles.

1. The following are situations/circumstances which do not constitute an impound.
   (a) The towing/removal of a vehicle from the scene of a crash due to damage.
   (b) The removal of an unauthorized vehicle from a private parking lot by the person who has care, custody and control of the lot.
   (c) Persons engaged in construction, street repair, etc. relocating vehicles to a nearby place of safety.
   (d) The towing of a vehicle seized by police under applicable forfeiture proceedings.

(b) **Request Wrecker**: An APD approved wrecker that is requested by the driver or owner of a vehicle.

(c) **Rotation Wrecker**: An APD approved wrecker that is on a rotation list maintained by Communications.

## 350.2 GENERAL TOWING GUIDELINES

### 350.2.1 TOWING SITUATIONS

Vehicles shall be towed using an authorized request or rotation wrecker in the following situations:

(a) Vehicles disabled due to a traffic crash that must be removed from the scene regardless of whether the driver is arrested, as outlined in Policy 346 (Traffic Crash Response and Reporting).

(b) All other disabled vehicles where the driver is on-scene, officers are providing assistance and the driver is requesting the vehicle be towed.

### 350.2.2 DRIVING A NON-CITY VEHICLE

Non-City vehicles 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 traffic or to comply with posted signs.



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## 350.3 IMPOUND GUIDELINES

The decision to impound may be made by any officer as long as the vehicle is in violation of any City ordinance related to traffic or parking, or constitutes a traffic hazard.

### 350.3.1 AUTHORIZED IMPOUNDS

The following are situations/circumstances for which a vehicle may be impounded.

(a) The operator of the vehicle has been arrested and the vehicle is otherwise safely operable.

(b) It is an abandoned vehicle or junked/nuisance vehicle as defined in the Texas Transportation Code.

(c) The vehicle is listed in the BOLO file as a "Stop, ID and Impound" (e.g., UUMV).

(d) Due to any catastrophe, emergency or unusual circumstances the safety of the vehicle is imperiled and it cannot be moved to a safe place by other means.

(e) The vehicle (including non-motorized) is an immediate and substantial hazard to persons or property because of the vehicle's location and/or condition.

(f) The vehicle (including non-motorized) is unattended and parked, stopped or left standing upon any alley, highway, street, sidewalk, or other thoroughfare within the City in apparent violation of state law or City ordinance and the vehicle:

1. Has been ticketed for illegal parking at least ten (10) minutes before beginning the impound process and the vehicle is in:

   (a) A commercial delivery zone; or

   (b) Any area on a public roadway or alley marked "No Parking/Tow-Away Zone."

2. Is obviously obstructing the safe and orderly flow of vehicular and/or pedestrian traffic and it is impractical to move the vehicle to a nearby location.

(g) Municipal Court has issued an order that a specific vehicle be impounded due to outstanding parking citations.

(h) When there is articulable probable cause to believe that the vehicle:

1. Is the instrument, fruit, or evidence of a crime; or
2. Contains an instrument, fruit or evidence of a crime; or
3. Other means of effecting the gathering or security of evidence at the immediate location of the vehicle is not readily available, or appears futile.

### 350.3.2 IMPOUND PROCEDURES

(a) A vehicle is considered impounded once the wrecker has been called by Communications.

1. In the event that the owner/operator of the operable vehicle arrives before the arrival of the authorized impound wrecker, officers should attempt to cancel the wrecker.
2. If the authorized impound wrecker cannot be canceled, the owner/operator of the vehicle must settle with the authorized impound wrecker service by payment of a standard fee at the scene or the vehicle will be impounded by the wrecker.

(b) When a vehicle is impounded, the impounding officer will deliver the ignition key, if available, to the wrecker driver.



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(c) A parking citation will be issued in all cases in which the vehicle was impounded for a parking violation.

(d) Anytime a vehicle is actually impounded or moved, officers will:

1. Complete an incident report entitled "Impounded/Moved Vehicle" and identify the vehicle, location, time, registered owner, wrecker service, and show justification for the impound.
2. Complete an *APD Wrecker/Impound Report* and provide the contracted wrecker service driver with the appropriate copy.

### 350.3.3 HOLDS ON IMPOUNDED VEHICLES

(a) A hold may be placed on an impounded vehicle when:

1. The vehicle was involved in a criminal incident and it is necessary to establish the identity of the person who will attempt to claim the vehicle.
2. There is a need to secure the vehicle for evidentiary reasons (e.g., homicide, stolen property, a vehicular fatality, vehicle to be forfeited).

(b) A hold shall only be authorized by a supervisor or the appropriate Investigative Unit.

1. The employee number of the authorizing supervisor or investigator shall be placed on the "approved by" line on the *APD Wrecker/Impound Report*.
2. The impounding officer shall document the hold in their incident report.

(c) The initial hold placed on an impounded vehicle shall be in effect for 72 hours. A hold may be lifted by the appropriate Investigative Unit before the 72 hours expires, or extended if continued retention is necessary.

## 350.4 VEHICLE INVENTORY

(a) In all incidents where a vehicle is impounded or moved, officers will make an inventory of the vehicle for damage and any items of personal property. Such an inventory is a care taking function intended to protect:

1. The owner's property while it remains in police custody.
2. The police against claims or disputes over lost or stolen property.

(b) The scope of the inventory will include:

1. The exterior for body damage.
2. Those places in a vehicle where a person ordinarily would store or leave items of personal property. Those areas can be but are not limited to:
   (a) Passenger compartment.
   (b) Trunk, console, glove box, and attached locked containers (e.g., toolbox) if the key is readily available.
   (c) Open and closed containers.
3. The inventory will include contents of locked containers (e.g., briefcase, footlockers) if the key or combination is readily available. If the key is unavailable, containers/compartments may be opened with supervisor's approval.

(c) All vehicle damage and personal property located during an inventory of a vehicle will be listed on the *APD Wrecker/Impound Report*, including its description and location.



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(d) Unless placed with the prisoner's property at Central Booking, any personal items removed from the vehicle by the impounding officer will be:

1. Listed and described on the *APD Wrecker/Impound Report* and the property section of the incident report; and
2. Turned into the Evidence Room in accordance with Department policy.

(e) If an item of contraband, or fruit or instrument of a crime is found during a vehicle inventory, it may be seized and the person in possession of the vehicle arrested for the appropriate offense(s).



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# DWI Enforcement

## 355.1 PURPOSE AND SCOPE

The responsibility to remove intoxicated drivers from the roadway extends to all sworn members of the Department. This policy establishes guidelines for the detection, arrest, and processing of drivers who are suspected of operating a motor vehicle while intoxicated. It also provides guidelines for the implementation of the Texas Administrative License Revocation (ALR) Statute for intoxicated drivers who either refuse or fail a blood or breath test.

### 355.1.1 DEFINITIONS

**Administrative License Revocation (ALR)** - The administrative process to suspend the drivers license of persons who refuse or fail a breath and/or blood test.

**Breath Alcohol Testing Bus (BAT Bus)** - A vehicle deployed by the DWI Unit at various locations around the City of Austin to process and obtain breath and/or blood samples from drivers arrested for DWI.

**Drug Recognition Expert (DRE)** - An officer trained and certified by the International Association of Chiefs of Police to recognize impairment in drivers under the influence of drugs other than, or in addition to, alcohol using the 12 Step Drug Evaluation and Classification process

**Intoxication/Intoxicated** - As defined in Chapter 49, Texas Penal Code.

**Minor** - For purposes of this policy, any person under 21 years of age (Tex. ABC 106.01).

## 355.2 HANDLING SUSPECTED DWI DRIVERS

Officers shall make the appropriate DWI arrest when probable cause exists.

### 355.2.1 REASON FOR STOP

Officers may stop a vehicle when they:

(a) Observe a traffic violation; or

(b) Develop reasonable suspicion that a person in the vehicle has been, is currently, or is about to be engaged in criminal activity based on specific and articulable facts by the officer or from information provided by credible witness(es).

### 355.2.2 REQUESTING A DWI ENFORCEMENT OFFICER

Officers who encounter a driver exhibiting characteristics of intoxication may request a DWI Enforcement Officer to conduct the preliminary DWI investigation as outlined below:

(a) A request for a DWI officer requires the approval of a DWI supervisor when:

1. The requesting officer has less than 2 years APD patrol experience; or
2. The driver is physically combative; or
3. The driver is under arrest, or will be arrested, for another offense.

(b) If a DWI Officer is available to respond, the following guidelines apply:



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1. The requesting officer should not perform any field sobriety tests on the driver.
2. Driver's license and warrant checks should not be conducted prior to DWI officer arrival unless it is an officer safety issue. Any findings in reference to prior DWI offenses shall not be given to the DWI officer until after field sobriety tests are conducted.
3. If the incident involves a crash and/or offense where the officer did not witness the subject driving, officers should keep any witnesses on scene that can positively identify the driver(s).
4. Any charges to be filed in addition to DWI shall be filed by the stopping officer.
5. If the DWI officer arrests a driver for DWI during an assist and that driver is subsequently transported to any hospital for a medical reason (other than to obtain a blood draw for the DWI investigation), it shall be the responsibility of an officer from the originating patrol area to guard the prisoner at the hospital and later transport him to jail.

(c) If a DWI officer is not available to respond, the officer shall conduct the preliminary DWI investigation and take appropriate enforcement action. A DWI officer should be considered unavailable if they are not en-route within 15 minutes of the assist request.

## 355.3 PRELIMINARY DWI INVESTIGATION

Officers must be able to articulate specific facts that lead to the development of probable cause for a DWI arrest. This can be done through observations, use of a field interview, and field sobriety tests.

(a) Units equipped with a Mobile Audio Video (MAV) recording system for which the officer has been trained shall, if possible, position the device in such a way as to record the field interview and field sobriety tests.

### 355.3.1 FIELD INTERVIEW

A field interview should be conducted to document the following:

(a) Any characteristics of intoxication exhibited by the driver (e.g., odor of alcoholic beverage on the breath, bloodshot or glassy eyes, impaired speech).

(b) Interview answers given by the driver (e.g., originating location, destination, alcohol consumption).

### 355.3.2 FIELD SOBRIETY TESTS

Officers trained and certified in the administration of the SFST (e.g., Horizontal Gaze Nystagmus (HGN), Walk and Turn, One Leg Stand) shall conduct the tests during a DWI interview.

(a) Officers not trained and certified in the SFST should request a trained and certified officer to the scene.

(b) Officers should go through the instructions for each SFST and give the driver an opportunity to complete the test, even if the driver does not wish to perform any of the requested tasks.

(c) As a last field sobriety test, when reasonably available, officers should request the driver to submit to a preliminary alcohol screening test. This test is to be performed by an officer who has been trained in the use of the device. The officer will administer the admonishment listed in the training manual.



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(d) Officers are not required to conduct the SFST when:

1. Physical limitations of the driver preclude its use; or
2. The safety of the officer and/or driver may be compromised; or
3. The tests are impractical for some other articulable reason.

(e) Other field sobriety tests (e.g., Romberg Balance Test, Finger to Nose) may be conducted to further develop probable cause but should not be used as a substitution for the SFST, unless necessary.

### 355.3.3 HANDLING MINORS

(a) **DWI** - Minors are subject to the same standard in developing probable cause to determine intoxication for a DWI arrest. If the field interview and SFST indicate that a minor is intoxicated, he may be arrested for DWI.

(b) **DUI** - Minor that do not exhibit signs of intoxication and/or have passed the SFST but has any detectable amount of alcohol on their breath may be arrested for Driving Under the Influence (DUI) Minor-Alcohol (Class C misdemeanor). Officers shall either arrest the minor or issue a field release citation for DUI Minor-Alcohol as follows:

1. **Arrest**

   (a) Officers may request a breath specimen by reading a DIC-24, if desired. The DIC-24 does not need to be read to a minor unless a breath specimen is being requested.

      1. If the minor refuses to provide a sample, or the sample shows an alcohol concentration greater than or equal to .001, issue the DIC-24, DIC-25 and seize the minor's Texas drivers license.
      2. If the officer does not request a sample, do not seize the minor's Texas drivers license.

   (b) Breath Samples From Minors Under 18 Years of Age

      1. The Family Code, Title 3, Chapter 52, Section 52.02(d) states that a juvenile taken into custody for DUI Minor-Alcohol may submit to the taking of a breath specimen without the concurrence of an attorney, but only if the request and the child's response to that request is videotaped.
      2. In accordance with this statute, officers wishing to request a breath specimen from a juvenile arrested for DUI Minor-Alcohol must videotape the administration of the DIC-24 prior to administering the intoxilyzer test.

2. **Field Release Citation**

   (a) Along with the citation, issue a DIC-25 and turn the minor over to a responsible adult.

   (b) A minor shall not be allowed to drive the vehicle from the scene if issued a citation. Disposition of the vehicle shall be made in one of the following ways:

      1. Release the vehicle at the scene to a licensed, sober passenger.
      2. Contact a parent or other adult to come to the scene and assume custody of the minor/vehicle.



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3. If none of the above options are available (e.g., the minor is from out-of-town), the vehicle may be impounded and the minor arrested and transported to a Juvenile Detention Facility or County booking facility, as appropriate.

## 355.4 REQUESTING A SPECIMEN

After placing a driver under arrest, officers may read the DIC-24 (DIC-55) and request a specimen of the drivers' breath and/or blood.

(a) The reading of the DIC-24 (DIC-55) should be recorded using a unit equipped with an MAV recording system or a booking facility video room.

(b) If the driver agrees to provide a specimen of his breath and/or blood, follow the appropriate specimen guidelines outlined below.

(c) If a driver refuses to provide a specimen of his breath and/or blood, follow the booking guidelines outlined below.

### 355.4.1 FORCE TO OBTAIN SPECIMEN

(a) Officers shall not coerce a driver to submit to a breath or blood test.

(b) Officers shall not use force to compel a driver to submit to a breath or blood test except in cases authorized by mandatory blood draws or as a result of a search warrant for blood.

1. Only the least amount of force reasonable to obtain the specimen may be used when force is authorized and should generally be limited to soft restraints.

### 355.4.2 BOOKING FACILITY VIDEOTAPING

(a) If the field interview and field sobriety tests were videotaped by means of an MAV recording system and during that taping the driver refused to give a breath or blood specimen, it is not necessary to videotape the driver again.

(b) If the driver refuses both breath and blood tests and the SFST were not taped by a MAV recording system, the officer shall videotape the driver at the appropriate County booking facility. The following steps and procedures shall be followed in the video room:

1. Attorneys for drivers shall not be allowed in the video room.
2. After entering the video room, make reasonable attempts to keep the driver within the viewing area of the camera.
3. If the driver is not cooperative and refuses to stand up in the video room, do not force the driver to stand.
4. The officer shall go through all appropriate steps listed in the video room, even if the driver does not wish to perform any of the requested tasks.
5. The officer shall display the DIC-24 (DIC-55) that was already read and ask the driver if he wishes to sign it to indicate his refusal.
6. The officer shall give the driver his copies of the DIC paperwork while being recorded.
7. The driver shall be booked into jail for DWI.



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## 355.5 BREATH SPECIMEN GUIDELINES

(a) If a driver has consented to give a specimen of his breath, take the driver to an intoxilyzer testing location at the BAT Bus or County booking facility.

1. The intoxilyzer shall only be administered by a trained and certified Intoxilyzer Operator (IO).
2. Officers transporting a driver to a County booking facility shall request dispatch to have an IO meet the officer at the facility, if needed.

(b) Upon arrival to an intoxilyzer testing location and prior to taking a breath specimen, officers shall record the reading of the DIC-24 (DIC-55) to the driver if it hasn't been done yet. If the driver is a Spanish speaker, the tape-recorded DIC-24S shall be played or a Spanish-speaking officer shall read the DIC-24S.

### 355.5.1 INTOXILYZER RESULTS

(a) If the intoxilyzer results indicate the driver's alcohol concentration was at or above the legal limit, he shall be charged with DWI. Officers shall follow the appropriate booking guidelines outlined in this policy.

(b) If the intoxilyzer results indicate the driver's alcohol concentration was less than .05 percent, it shall be presumed that the person was not under the influence of an alcoholic beverage at the time of the alleged offense.

1. The arresting officer shall contact his supervisor or a DWI Enforcement Unit supervisor.
2. The responding supervisor shall review the MVR recording of the initial stop and subsequent investigation.
3. Absent confirmation of the presence of drugs through an examination by a Drug Recognition Expert, the responding supervisor shall order the release of the driver or direct the officer to issue a citation for the original traffic or other violation.

(c) If the intoxilyzer results are .05 but less than .08, the arresting officer shall contact his supervisor or a DWI Enforcement Unit supervisor.

1. The responding supervisor shall review the MVR recording of the initial stop and subsequent investigation. If it is determined that the level of impairment exhibited by the driver, and the totality of the circumstances surrounding the arrest still warrant the continued detention, the supervisor shall approve the arrest of the driver.
2. If the responding supervisor, after review of all the evidence including the intoxilyzer results, determines there is insufficient probable cause to support the DWI charge, he shall order the release of the driver.

(d) If the driver exhibits symptoms of intoxication but the intoxilyzer results do not indicate a level of alcohol concentration consistent with the impairment displayed, the driver may be asked for a specimen of his blood and if he would consent to a DRE evaluation. If the driver was not videotaped during the initial stop, he must be videotaped when the request is made.

1. If the driver consents to a DRE evaluation, it shall be administered by a trained and certified DRE. Based on the outcome of the evaluation, the driver will either be booked into jail or released.



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2. If the driver only consents to a blood specimen, follow the blood specimen guidelines outlined in this policy.
3. If the driver does not consent to a blood specimen, even after supplying a breath specimen, seize his Texas drivers license and follow the booking guidelines outlined in this policy.

## 355.6 BLOOD SPECIMEN GUIDELINES

Officers shall adhere to the following guidelines if requesting a blood specimen from a driver after reading the DIC-24 (DIC-55) and the driver:

(a) Refuses to give a specimen but meets the conditions for a mandatory blood draw; or

(b) Refuses to give a specimen but meets the requirements for obtaining a blood search warrant; or

(c) Voluntarily consents to give a blood specimen.

### 355.6.1 WARRANTLESS MANDATORY BLOOD DRAWS

(a) Arrested drivers shall be required to provide a warrantless mandatory blood specimen after refusing to voluntarily give a specimen when they meet any of the following conditions:

1. A death has occurred or is likely to occur as a result of the collision; or
2. Serious bodily injury occurred to another as a result of the collision; or
3. Bodily injury occurred to another and that person was transported to a medical facility; or
4. The driver has 2 or more prior convictions for DWI; or
5. The driver is being charged with DWI with a child passenger under 15 years of age; or
6. The driver has 1 or more prior convictions for Intoxication Manslaughter; or
7. The driver has 1 or more prior convictions for DWI with a child passenger under 15 years of age.

(b) Officers shall notify their supervisor prior to obtaining a warrantless mandatory blood sample.

### 355.6.2 BLOOD SEARCH WARRANT

Blood search warrants shall be handled by the DWI Enforcement Unit. If the need for a blood search warrant exists, supervisors shall:

(a) Contact the on-duty DWI Enforcement supervisor when the DWI Enforcement Unit is on-duty; or

(b) Requests Communications to contact the on-call DWI Enforcement officer when the DWI Enforcement Unit is not on-duty.

### 355.6.3 BLOOD DRAW PROCEDURES

(a) Blood draws performed at the Travis County Central Booking Facility shall be recorded by the video cameras in the phlebotomy room.

(b) The following lists the available locations for mandatory blood draws, blood search warrants, and voluntary blood draws:



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1. During Tuesday through Saturday, 9 p.m. to 5 a.m. transport the driver to Travis County booking and have the medical professional perform the blood draw.
2. All other times, request dispatch to contact the on-call DWI officer. The DWI officer will contact the medical professional to respond to the jail and perform the blood draw.
3. **Hospital Setting**
   (a) If the suspect has been transported to a hospital, the evidentiary blood draw can be done by medical personnel at the hospital.
   (b) There is no need to contact the Department medical professional if the hospital is performing the blood draw.
   (c) Follow blood draw procedures that have been established by the hospital.

(c) Blood tubes shall be handled in accordance with Policy 701 (Property and Evidence Collection Procedures) and placed in the appropriate refrigerated drop box for processing by the APD Crime Lab, along with appropriate routing and chain-of-custody paperwork.

## 355.7 DWI BOOKING GUIDELINES

When booking a driver into jail for DWI, the arresting officers shall:

(a) Complete a booking sheet and indicate the appropriate DWI charge.

(b) Complete the DIC-24 (DIC-54):
1. Notate what type of specimen was requested; and
2. Whether a specimen was provided; and
3. Give a copy of the document to the driver.

(c) Complete the DIC-25 (DIC-55), give a copy of the document to the driver and seize his Texas driver's license when the driver:
1. Refuses to provide a specimen; or
2. Provides a breath specimen with results at or above the legal limit.

(d) **Do not seize an out-of-state license from a driver.**

## 355.8 FILING DWI CHARGES

### 355.8.1 REQUIRED ADMINISTRATIVE LICENSE REVOCATION DOCUMENTATION

(a) The following Administrative License Revocation (ALR) documents are required when making an arrest for DWI:
1. Motor Vehicles
   (a) DIC-23 - Peace Officer Sworn Report.
   (b) DIC-24 - Statutory Warning.
   (c) DIC-25 - Notice of Suspension / Temporary Driving Permit.
2. Commercial Motor Vehicles
   (a) DIC-54 - Peace Officer Sworn Report / Commercial Motor Vehicles.
   (b) DIC-55 - Statutory Warning / Commercial Motor Vehicle Operators.



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(c) DIC-57 - Notice of Disqualification / Temporary Driving Permit.

(b) The following documents are required when taking a breath and/or blood specimen:

1. Complaint Affidavit - Used when a breath specimen is taken in Travis County but required for all arrests in Williamson County.
2. DIC-23A - The Specimen Routing Report is used when a blood specimen is taken.

(c) The following documents have Spanish versions that can be used for Spanish speaking drivers: DIC-24S, DIC-25S, DIC-57S.

### 355.8.2 DIRECT FILING DWI CHARGES

(a) Officers direct filing charges for DWI shall complete the following documentation to be turned in to a DWI Enforcement supervisor if utilizing the BAT Bus or the Arrest Review detective if going directly to a County Booking facility:

1. Case disposition sheet; and
2. Incident report with the correct title code; and
3. Original signed DWI PC Affidavit; and
4. Required ALR paperwork; and
5. Complaint Affidavit and intoxilyzer results if a breath sample was given; and
6. DIC-23A if a blood sample was given; and
7. Any seized Texas drivers license, if applicable; and
8. Completed CR-3 (Crash Report), if applicable.

(b) Officers who request a DWI officer that subsequently arrests the driver, shall:

1. Write a supplement to the incident report;
2. Complete any CR-3 (Crash Report), if applicable;
3. Submit into evidence any in-car recording(s) showing event's prior to arrival of the DWI officer.

### 355.8.3 ADDITIONAL WILLIAMSON COUNTY GUIDELINES

(a) Officers arresting and booking a driver into Williamson County Jail are required to get DWI Enforcement Unit or Arrest Review Unit review and approval on arrests.

(b) In addition to copies of the required documentation listed above, officers shall turn in the following to the Williamson County Booking Officer:

1. Williamson County Sheriff's Department Arrest Report or a copy of the incident report, if printed out and available. The Williamson County form does not replace the requirement of officers to complete an incident report; and
2. A Complaint Affidavit. This needs to be completed in Williamson County regardless of whether a breath specimen was provided.

(c) All original ALR paperwork, a copy of the DWI PC Affidavit and any seized Texas drivers license shall be stapled together and forwarded to the Major Traffic Investigations Unit through inter-office mail.



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# Outside Agency Assistance and Joint Task Forces

## 362.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidance to officers when requesting assistance or answering a request for assistance from another law enforcement agency.

It is the policy of this department to provide assistance whenever possible, consistent with the applicable laws of arrest and detention policies of this department, when another law enforcement agency requests assistance with an arrest or detention of any person. This department may also request an outside agency to provide assistance.

### 362.1.1 PUBLIC REQUESTS FOR SERVICE IN ANOTHER JURISDICTION

All incoming calls from the general public requesting police assistance at a location not within the geographical jurisdiction of the Austin Police Department shall be immediately routed or referred to the proper agency.

## 362.2 ASSISTING OUTSIDE AGENCIES

### 362.2.1 REQUESTS FOR NON-EMERGENCY ASSISTANCE

(a) Requests of Minor Nature

1. Law enforcement agencies making a minor nature request of APD (e.g., back-up on traffic, identification inquiries) shall normally be processed through APD Communications.

(b) Requests for Major or Specialized Non-Emergency Assistance

1. Law enforcement agencies making a formal request for any major or specialized non-emergency assistance shall be advised to contact the following APD supervisors:
   (a) **Uniform Personnel** - Affected commander or lieutenant.
   (b) **Specialized Investigative or Tactical Assistance** - Investigations commander, Organized Crime commander or Special Operations commander, as the situation dictates.
   (c) **Specialized Forensic or Victim Counseling Services**: Forensics manager or Victim Services manager, as the situation dictates.
2. In the absence of the above APD supervisors, the Watch Lieutenant or Duty Commander shall be contacted.
3. APD supervisors shall notify the chain-of-command up to the affected assistant chiefs if it is determined a service request will take an extended period of time and impact APD resources.

### 362.2.2 REQUESTS FOR EMERGENCY ASSISTANCE

Law enforcement agencies may request emergency assistance from the Department at any time. Such requests are categorized and handled as follows:



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(a) **Immediate Emergency Assistance**

1. These are incidents in which another agency's officers are within or immediately adjacent to our jurisdiction and have encountered a situation or incident requiring immediate assistance (e.g., officer needs assistance, major crashes).
2. Such requests are normally received by APD Communications which is responsible for:
   (a) Determining the nature of the request; and
   (b) Dispatching the appropriate APD units to assist; and
   (c) Notifying the appropriate unit sergeant and lieutenant of the request.

(b) **Formal Emergency Assistance**

1. This type of request is normally made when another agency's resources have been overwhelmed or need to be supplemented (e.g., disasters, hostage/barricade situations, explosive devices, mass casualty incidents).
2. The affected assistant chiefs, or in their absence the Duty Commander, shall be immediately notified and will make a decision as to what extent the Department will honor such requests.

### 362.2.3 COMMAND AND COORDINATION OF APD PERSONNEL

(a) APD personnel shall not be placed under the command of any outside agency.

(b) Any APD Units dispatched for routine assistance to another agency shall contact the other agency's officer-in-charge to render approved assistance but shall remain under the direct control of an APD supervisor.

(c) At the scene of an incident where APD personnel are working with officers from an outside agency:

1. The ranking APD patrol supervisor shall assume command and responsibility of all assigned APD patrol officers.
2. The ranking APD support unit supervisor shall assume command and responsibility of all APD support unit personnel.
3. The responsible supervisors shall coordinate their efforts with each other and with the ranking supervisor of the outside agency.
4. If there is only one APD supervisor on-scene and several units of the Department are present, that supervisor shall assume command and responsibility of all APD personnel and shall coordinate operations with the ranking supervisor of the outside agency.

(d) The appropriate Commanders or Duty Commander shall be kept informed by the on-scene ranking APD supervisor of the progress, delays, or conclusion of any operation.

(e) When a long-term investigation is being performed jointly with another law enforcement agency, the affected Commanders will maintain liaison with the outside agency.

## 362.3 JOINT INVESTIGATIVE TASK FORCES

An investigative task force may be established when normal resources are unable to cope with a problem or would aid in the investigation of certain types of offenses.



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(a) To request establishment of a joint task force a written memorandum of understanding or task force agreement must be completed and agreed to by the involved agency or agencies.

(b) The decision to establish any joint task force must be approved by the Chief or designee.

(c) Planning and Analysis will track the number and type of ongoing joint task forces. This will be accomplished in accordance with any prescribed security or confidentiality clauses established in each task force agreement.

### 362.3.1 JOINT TASK FORCE MANAGER

Once the decision to establish an investigative task force has been approved, a joint task force manager will be appointed. Selection of the joint task force manager will be based upon work experience, management skills, the overall reputation of the candidate and the type of investigation.

(a) The joint task force manager will be of the rank of lieutenant or higher, depending on the scope of the problem or investigation, and requires final approval by the Chief or designee.

(b) The joint task force manager will be responsible for:

1. Establishing accountability for all facets of the operation.
2. Identifying all available resources required.
3. Briefing the Chief or designee periodically, or as requested, on the progress of the task force.
4. Preparing an after-action report to be presented to the Chief or designee detailing:
   (a) Expenditures (e.g., overtime, equipment, travel).
   (b) Staff-hours used.
   (c) Arrests and prosecutions.
   (d) Property and contraband recovered or seized.
   (e) Effectiveness of task force.
   (f) Recommendations.
5. Forwarding a copy of the after action report to Planning and Analysis for archiving.

### 362.3.2 APD PERSONNEL IN JOINT TASK FORCES

When APD personnel are assigned to assist other agencies in either long- or short-term joint task forces:

(a) APD personnel will remain under the control of a specified APD supervisor.

(b) Reporting procedures shall be established by APD supervisors to ensure regular reports are received from APD employees regarding their activities.

(c) The involvement of APD personnel in joint task forces will undergo regular review by the involved emloyee's chain-of-command.

(d) Affected assistant chiefs may request periodic reports from a chain-of-command either recommending the continuation or termination of the employee's involvement.



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## 362.4 NOTIFICATIONS AND INVESTIGATIONS INVOLVING AUSTIN INDEPENDENT SCHOOL DISTRICT (AISD) POLICE

(a) AISD Police have agreed to notify APD Communications when incidents of a serious nature (e.g., Homicide, Aggravated Assault, and Sexual Assault) occur on school property.

1. APD Communications will contact an APD patrol supervisor with details of the incident and will supply a contact number for the AISD police supervisor.
2. The APD supervisor will determine what, if any, response is needed from APD and will confer with the AISD supervisor on which agency will assume investigative responsibility.

(b) APD Communications shall notify AISD police of any AISD school related safety issues (e.g., fire around school property during school hours) or serious incident affecting AISD students (e.g., death of an AISD student, AISD bus crash).

(c) Prior to APD PIO releasing information to the media on any major incidents affecting AISD schools or students, APD PIO first shall notify AISD PIO.

## 362.5 REQUESTING ASSISTANCE FROM OTHER AGENCIES

An APD supervisor shall coordinate any assistance needed from outside agencies.



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# Off-Duty Law Enforcement Actions

## 364.1 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 Austin Police Department with respect taking law enforcement action while off-duty. The same standard of objective reasonableness that applies to on-duty enforcement actions shall also apply to off-duty enforcement actions.

This policy does not apply to officers who are working in an undercover or approved secondary employment capacity.

## 364.2 POLICY

Initiating law enforcement action while off-duty is generally discouraged, particularly when officers are outside their jurisdiction. Reporting to the appropriate law enforcement agency and safe monitoring of suspected criminal activity is favored.

(a) Officers should not attempt to initiate enforcement action when witnessing minor crimes; Officers are not expected to place themselves in unreasonable peril.

(b) Officers who becomes aware of an incident or circumstance that he reasonably believes poses an imminent threat of serious bodily injury or death, or significant property damage, should take reasonable action to minimize the threat.

(c) Officers must remember that their authority to arrest may be limited based upon their jurisdiction.

## 364.3 FIREARMS

Officers of this department may carry firearms while off-duty in accordance with federal and state law and department policy. All firearms and ammunition must meet guidelines as described in Policy 803 (Duty Firearms).

(a) Officers shall carry their Department issued badge and identification card when carrying firearms off-duty.

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

## 364.4 DECISION TO INTERVENE

Generally, off-duty officers should consider waiting for on-duty uniformed officers to arrive and gather as much accurate intelligence as possible instead of immediately intervening.

(a) Officers should take into consideration the following factors when making a decision on whether or not to intervene:

    1. The tactical disadvantage of being alone and the fact there may be multiple or hidden suspects.
    2. The inability to communicate with responding units.
    3. The lack of equipment, such as handcuffs, OC or baton.



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4. The lack of cover.
5. The potential for increased risk to bystanders if the off-duty officer were to intervene.
6. Unfamiliarity with the surroundings.
7. The potential for the off-duty officer to be misidentified by other peace officers or members of the public.

### 364.4.1 INTERVENTION PROCEDURE

If involvement is reasonably necessary, an officer should call or have someone else call 9-1-1 to request immediate assistance if possible.

(a) The operator should be informed that an off-duty officer is on-scene and provided a description of the officer if possible.

(b) Officers should clearly identify himself as a police officer to those involved in the situation, if practicable.

(c) Officers should fully cooperate with the agency having jurisdiction in providing statements or reports as requested or as appropriate.

### 364.4.2 INCIDENTS OF PERSONAL INTEREST

Unless there is an exigent circumstance, employees shall refrain from handling police incidents of personal interest (e.g., family or neighbor disputes). When practicable, employees should report the matter to 9-1-1 so that an on-duty officer can respond.

(a) Offenses that may be committed against the employee, members of the employee's family, or a business interest of the employee will be reported to the Investigative Unit with responsibility for investigation of such offenses. Normal filing procedures will be followed to prevent any potential for abuse of authority.

(b) Employees shall not maintain continued involvement in any criminal case, nor personally file any criminal charge in a court of law, against any person for criminal offenses committed against the employee, any member of the employee's family, or which involves any business in which the employee has a proprietary interest.

### 364.4.3 CIVILIAN RESPONSIBILITIES

Civilian personnel should not become involved in any law enforcement incident while off-duty except to notify the local law enforcement authority and remain at the scene, if safe and practicable. This policy does not prevent a civilian employee from taking action as a private citizen as authorized by State law.

### 364.4.4 OTHER CONSIDERATIONS

When encountering non-uniformed officers in public, uniformed officers should wait for acknowledgement by non-uniformed officers in case they need to maintain an undercover capability.

## 364.5 REPORTING

(a) In addition to contacting the appropriate agency, any off-duty employee who engages in any law enforcement activity shall notify, as soon as practicable:

1. The employee's immediate supervisor if the supervisor is on-duty.
2. Any on-duty supervisor when the employee's immediate supervisor is off-duty.



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(b) The notified supervisor shall determine whether a report should be filed by the employee.



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# Chapter 4 - Incident Response, Investigation, and Reporting Guidelines

# Officer Response to Calls

## 400.1 PURPOSE AND SCOPE

The Department has a responsibility to protect life and property and to provide service to the residents of Austin. To fulfill this obligation it must provide an appropriate response to calls. Officers should be ever mindful that they have a responsibility to ***use caution, good judgment, and due care*** when operating vehicles in an emergency capacity to ensure the safety of motorists and pedestrians. This document describes the conditions under which an APD vehicle may be operated as an emergency vehicle.

## 400.2 EMERGENCY RESPONSE AND VEHICLE OPERATION

(a) Officers responding to an emergency call shall do so without delay.

(b) Responding with emergency lights and/or siren does not relieve the operator of an authorized emergency vehicle of the duty to act as a reasonably prudent emergency vehicle operator in like circumstances (Tex. Transp. Code § 546.005).

(c) 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 (Tex. Transp. Code § 546.001).

(d) If the emergency equipment on the vehicle should fail to operate at anytime during the response, the officer shall notify Communications of the equipment failure so that another unit may be assigned to the emergency response. The officer may still respond to the call without the use of emergency equipment.

(e) Operation of emergency vehicles is classified in 3 levels:

1. Code 3 (Emergency Operation).
2. Code 2 (Limited Emergency Operation).
3. Code 1 (Routine Operation).

### 400.2.1 CODE 3 (EMERGENCY OPERATION)

Code 3 is used to describe the operation of a vehicle while the emergency lights and siren are activated.

(a) When operating Code 3, officers may:

1. Exceed the speed limit but must regulate their speed so as not to endanger life or property.
2. Proceed with caution through traffic signals and stop signs after slowing and, if necessary, stopping to ensure the intersection is safe/clear.
3. Disregard laws governing direction of movement and turning when it can be done safely.

(b) Unmarked vehicles equipped with a siren and emergency lights may be operated Code 3 in compliance with this policy.

(c) Officers should only respond Code 3 when so dispatched or when circumstances reasonably indicate an emergency response is required.



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1. Unless otherwise required by Department policy (e.g., pursuits), the decision to operate Code 3 in authorized situations is at the discretion of the officer
2. If, in the officer's judgment, roadway conditions or traffic congestion causes an unreasonable risk to operate Code 3, the officer may elect to respond to the call without the use of lights and siren at the legal speed limit. In such an event, the officer should immediately notify Communications.
3. Officers shall discontinue Code 3 operation when directed to do so by a supervisor.

(d) Emergency Operation Exemptions. This section does not relieve an officer from the duty to operate an authorized emergency vehicle with appropriate regard for the safety of all persons or the consequences of reckless disregard for the safety of others.

1. Officers may operate an authorized emergency vehicle for a law enforcement purpose without using the audible or visual signals if the officer is responding to an emergency call or pursuing a suspected violator of the law with probable cause to believe that:
   (a) Knowledge of the presence of the officer will cause the suspect to:
      1. Destroy or lose evidence of a suspected felony;
      2. End a suspected continuing felony before the officer has obtained sufficient evidence to establish grounds for arrest; or
      3. Evade apprehension or identification of the suspect or the suspect's vehicle; or
      4. Because of traffic conditions on a multi-lane roadway, vehicles moving in response to the audible or visual signals may increase the potential for a crash.
2. In operating an authorized emergency vehicle, the officer may:
   (a) Park or stand;
   (b) Proceed past a red or stop signal or stop sign, after stopping or slowing as necessary for safe operation;
   (c) Exceed a maximum speed limit, as long as the officer does not endanger life or property;
   (d) Disregard a regulation governing the direction of movement or turning in specified direction. Officers will adhere to Policy 214.3.4 PURSUIT DRIVING CONSIDERATIONS AND RESTRICTIONS.
3. This section applies when an officer is:
   (a) Responding to an emergency call;
   (b) Pursuing an actual or suspected violator of the law;
   (c) Directing or diverting traffic for public safety purposes; or
   (d) Conducting a police escort as defined by 546.003 Transportation Code.

### 400.2.2 CODE 2 (LIMITED EMERGENCY OPERATION)

Code 2 is used to describe the operation of a vehicle while the emergency lights are activated, but without use of the siren.

(a) When operating Code 2, officers shall obey all traffic laws and regulations.



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(b) Officers may temporarily operate Code 3 in order to pass through traffic control devices or heavy traffic congestion when normally authorized to operate Code 2, as necessary. Officers will revert back to operating Code 2 when Code 3 is no longer needed.

(c) Officers may be allowed to drive Code 2 as a patrol technique with the approval of a lieutenant or higher.

### 400.2.3 CODE 1 (ROUTINE OPERATION)

Code 1 is used to describe the normal operation of a vehicle without the use of emergency lights or siren.

## 400.3 CALLS FOR SERVICE

(a) Calls for service are classified by Communications into the following categories:

1. Hot Shot (Priority 0).
2. Urgent (Priority 1).
3. Priority 2.
4. Priority 3
5. Information Calls.

(b) Once a call for service has been dispatched, it may only be downgraded by a supervisor or Communications.

(c) Each type of call for service permits a specific type of Code response as outlined below.

(d) Once a Code 4 has been broadcast by a unit at the scene, all units still responding shall immediately terminate their response and go in-service.

### 400.3.1 HOT SHOT CALLS

(a) Hot shot calls are incidents:

1. Involving physical harm or injury to a person or property; and
2. That is in progress and/or all involved parties are still on scene.

(b) Officers responding to Hot Shot calls should operate Code 3.

### 400.3.2 URGENT CALLS

(a) Urgent calls are incidents:

1. Involving physical harm or a perceived threat to any person or property; and
2. That just occurred and/or suspects may still be in the area; and
3. Where a quick response might aide in apprehension.

(b) Officers responding to Urgent calls may operate Code 2.

### 400.3.3 PRIORITY 2 CALLS

(a) Priority 2 calls are incidents:

1. That pose either a minimal or no immediate threat; and
2. That are in progress or just occurred; and



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3. Warrant a rapid police response.

(b) Officers responding to Priority 2 calls shall operate Code 1.

### 400.3.4 PRIORITY 3 CALLS

(a) Priority 3 calls are incidents:

1. Where protection of life or property is not at risk; and
2. An immediate police response will not likely prevent further injury, loss of property, or adversely impact an investigation.

(b) Officers responding to Priority 3 calls shall operate Code 1.

### 400.3.5 INFORMATION CALLS

Information calls are incidents requiring information to be documented and/or disseminated to law enforcement personnel but do not require a police response.

## 400.4 ASSIGNMENT OF CALLS

(a) **Hot Shot and Urgent Calls**

1. Hot Shot and Urgent calls require a two-officer response and are generally dispatched by Communications to the two closest available patrol officers. Officer safety and call priority shall be the primary considerations when dispatching officers. Additional officers may self assign using the MDC, as necessary.

(b) **Priority 2 and Priority 3 Calls**

1. Officers may be dispatched by Communications or self assign using the MDC to any Priority 2 and Priority 3 calls.



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# Preliminary Field Investigations

## 401.1 PURPOSE AND SCOPE

Law enforcement operations consist of many diverse activities which are directed toward the attainment of the Department's objectives. The purpose of this policy is to improve coordinated efforts between Patrol and Investigative Unit personnel concerning investigative procedures.

Officers should review Policy 318 (Detentions, Field Interviews and Field Photographs) and Policy 319 (Arrests) for information on handling subjects during field investigations.

## 401.2 INITIAL RESPONSE AND INVESTIGATION

(a) Officers responding to an incident shall ensure that all persons are safe and anyone in need of medical attention receives assistance.

(b) The primary officer shall make a preliminary determination if a crime has been committed.

1. If the information indicates that a crime has occurred, follow the guidelines outlined in this policy.
2. If the information indicates that no crime occurred, determine what other action may be necessary and/or what resources may be available to the subject.

(c) Generally, officers assigned to calls or discovering incidents requiring a report shall be responsible for the preliminary investigation and required paperwork.

1. Certain incidents (e.g., family violence, sexual assault) require a specific response and investigation as outlined in its respective Policy, Standard Operating Procedure (SOP) or Operations (Ops) Manual.

### 401.2.1 REQUEST ADDITIONAL RESOURCES

Officers shall request the assistance of additional resources as necessary or required.

(a) The Special Investigations Unit (SIU) shall be notified anytime an incident involves a commissioned peace officer as a suspect, regardless of that officer's agency or jurisdiction.

(b) Personnel from the appropriate Investigative Unit shall be requested during the initial investigation of all:

1. Homicides and suicides.
2. Extortions.
3. Officer-involved shootings.
4. Officer-involved serious injury incidents.
5. Certain crashes as outlined in Policy 346 (Crash Investigation and Reporting).
6. Suspected bombs and explosive devices.
7. Clandestine laboratories.
8. Exigent mobile phone requests.



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(c) Personnel from the appropriate Investigative Unit shall be requested when needed in the initial investigation of all:
   1. Aggravated sexual assaults.
   2. Burglaries and thefts where there are major losses.
   3. Robberies of businesses.
   4. Robberies of individuals with serious injury.
   5. Serious injury assaults.
   6. Major narcotics investigations.

(d) A Crime Scene Technician shall be requested:
   1. At the direction of an Investigative Unit; and
   2. For major crime scenes that involve:
      (a) Evidence collection.
      (b) Photographing.
      (c) Latent fingerprinting.
      (d) Large property loss.
      (e) Serious injury or death.

### 401.2.2 NEUTRALITY IN CIVIL ACTIONS

(a) When dispatched to the scene of civil disturbances, officers will halt disturbances, prevent breaches of the peace or other violations of law growing out of such incidents, and take any persons breaking the law into custody if necessary.

(b) Officers will not advise residents as to whether or not the City will make restitution for personal injury or property damage suffered. All inquiries concerning the City's liability will be referred to the City Attorney's Office.

### 401.2.3 MEDIA ACCESS

Guidelines on handling Media Access at the scene of incidents is outlined in Policy 326 (News and Media Relations).

## 401.3 ROUTINE COMMAND AT POLICE INCIDENTS

(a) Routine command at a police incident is handled as follows:
   1. Generally the highest ranking officer, or senior officer if of the same rank, should assume command of the scene and operations until relieved by a supervisor, or until the conclusion of the incident; however, the highest ranking officer will assume command whenever the situation appears to be beyond the control of the current officer in charge, when jurisdiction is concurrent over a particular duty, or for disciplinary purposes.
   2. Any officer may take command of the scene and operations when the current officer in charge is unable to perform the required duties because of physical or mental inability.
   3. Command at major incidents is outlined in Policy 407 (Emergency and Disaster Operations).

(b) Assumption of command will be done by the officer identifying himself and informing the current officer in charge of his intent to assume command.



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### 401.3.1 SUPERVISOR ASSUMING COMMAND OF INCIDENTS

Supervisors are not normally expected to engage in law enforcement operations except in a command or supervisory capacity. Supervisors may be held accountable for failure to take command if unfavorable developments occur which could have been prevented had he assumed control of the scene.

(a) Supervisors will not assume command outside their own organizational segment during the normal completion of their responsibilities unless failure to do so would adversely affect the Department's operational capability.

(b) The ranking supervisor shall assume command of the scene and operations at the scene of police incidents involving more than one segment of the Department.

(c) In instances of multiple crimes requiring personnel from more than one Investigative Unit, the ranking on-duty supervisor of the most serious offense will assume command (e.g., if a homicide occurs in conjunction with a burglary, Homicide Unit would be in command).

## 401.4 CRIME SCENE MANAGEMENT

(a) Officers arriving at a crime scene are often faced with the immediate need to search for and render aid to victims as well as determine if suspects are present and continue to pose a threat.

1. Searches are limited to "plain view" in the immediate area unless exigent circumstances exist (e.g., additional suspects, injured persons).
2. Once officers are satisfied that no additional suspects are present and/or there are no injured persons to be treated, exigent circumstances will likely no longer exist.
3. Officers should secure the scene and conduct no further search until proper authority for the search is obtained.
4. While consent to search should be obtained from authorized individuals where possible, it may be more prudent to obtain a search warrant in the case of serious crimes or major investigations.

(b) Crime scene supervision is normally conducted by the senior officer present. They have the authority to direct and oversee the processing of a scene unless relieved by a senior officer present, Investigative Unit personnel with expertise in the particular crime, or by a supervisor.

(c) The primary officer or designee has the following responsibilities when a crime scene is present which requires processing:

1. Initiate a *Crime Scene Security Log* (PD0175) to record the name and time of all persons entering, or assigned to, the crime scene. Upon completion, the form shall be given to the primary Investigative Unit.
2. Setup an initial perimeter around the crime scene with crime scene tape. The scene should be large enough to include potential evidence.
3. Determine if additional inner/outer perimeter(s) need to be setup. These may be used to create a space for media or the public, as a safety measure for officers, or to further protect the crime scene from contamination.
4. Protect items of apparent evidentiary value and ensure the scene is processed accordingly.



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### 401.4.1 CRIME SCENE PROCESSING AND EVIDENCE COLLECTION

Employees will ensure that items identified as evidence are not tampered with in any way prior to being photographed and collected.

(a) Weapons at crime scenes will only be moved if they pose a threat to persons at the scene. If the scene has been properly secured, a weapon will not generally pose a threat and can be left where it is found.

(b) At major crime scenes:

1. Employees will only handle evidence at the direction of a supervisor, the investigator in charge, or a Crime Scene Unit member at the scene.
2. If an employee is requested to handle evidence, employees should be given explicit instructions on handling the evidence; employees will document who instructed them to handle the evidence and the instructions given.

(c) At all other crime scenes:

1. If a crime scene technician responds to the scene, the technician will be responsible for processing the scene.
2. If a crime scene technician is not available or is not requested, the primary officer or designee will be responsible for:
   (a) Processing the crime scene as outlined in this policy; and
   (b) Evidence collection as outlined in Policy 701 (Property and Evidence Guidelines).

(d) Scenes involving large property loss, serious injury, or death require a sketch to be completed.

1. The sketch should be clear and understandable to allow for the construction of a diagram at a later time.
2. All diagrams shall be drawn based on measurements taken at the scene.
3. All evidence will be depicted in its relative position on the diagram and described in the legend.
4. Elements of the sketch should include:
   (a) Dimensions.
   (b) Relation of the crime scene to other buildings.
   (c) Geographical features, or roads.
   (d) Address, floor, or room number, as appropriate.
   (e) Location of significant features of the scene, including the victim.
   (f) Date and time of preparation.
   (g) Names of the persons preparing the sketch.
   (h) Direction of north, and the location of items of physical evidence recovered.

(e) If a scene is not processed at the time of the initial investigation, the primary officer will document the reason(s) in the incident report.



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### 401.4.2 LATENT PRINT PROCESSING

The employee responsible for processing a crime scene will be responsible for ensuring latent prints are lifted when prints are necessary (e.g., primary officer, crime scene technician).

(a) Latent prints will be obtained at the crime scene; employees will not seize items of physical evidence for printing unless:
   1. The item is constructed such that it cannot be printed at the scene (e.g., forgery documents); or
   2. The item has evidentiary value beyond latent prints.

(b) Employees will label all latent print cards with their name, employee number, date, time, offense number, and location the print was lifted. Print cards will be placed into a collection envelope and submitted to an evidence room.

(c) Evidence which cannot be fingerprinted by employees at the scene will be recovered and wrapped securely in a paper or plastic bag in a manner which will minimize the possibility of destroying the fingerprints.

(d) Employees will not process forgery documents for latent prints at the scene. Forgery documents will be handled as outlined in Policy 701 (Property and Evidence Collection Procedures).

## 401.5 SECURE AND IDENTIFY WITNESSES

Officers should attempt to locate any witnesses to an offense when warranted by the seriousness of the case. Since potential witnesses to an incident may be lost or the integrity of statements compromised with the passage of time, officers should take reasonable steps to promptly coordinate the following tasks with on-scene personnel:

(a) Separate witnesses from the public, media and other subjects on-scene as the situation and personnel allow.

(b) Obtain necessary identification from witnesses and an account of what they observed.
   1. Any potential witness who is unwilling or unable to remain available for a formal interview or who refuses to be identified should not be detained absent reasonable suspicion to detain or probable cause to arrest.
   2. When feasible, a recorded statement should be obtained from witnesses present at the time the incident occurred, regardless of whether they actually saw something.

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

(d) Record witness information and statements in an incident report or supplement.

## 401.6 SECURING PROPERTY AFTER ENTRY

In the event APD personnel must force entry into any residence or business, the following procedures will apply.



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### 401.6.1 WHEN A RESIDENCE OR BUSINESS CAN BE SECURED AFTER FORCED ENTRY

After making a forced entry into a residence or business and there is no further action to be taken, and the residence or business can be secured just as it was prior to the forced entry, the employee may secure the property without notifying an owner, resident, or an agent of the business.

(a) When there is no contact made and there is no further action to be taken, the supervisor who approved the forced entry will leave a note with the following information:

1. A brief message stating why the Department made entry.
2. The incident number for the call.
3. The employee's name and employee number.
4. The employee's office or other contact number.

### 401.6.2 WHEN A RESIDENCE OR BUSINESS CANNOT BE SECURED AFTER FORCED ENTRY

After making a forced entry into a residence or business and there is no further action to be taken, employees will ensure the security of the residence or the business by notifying the owner, resident, or an agent of the property.

(a) When the owner, resident or a responsible agent for the property can be located and can arrive on site within a reasonable amount of time, the employee will remain at the site until the owner, resident, or the agent has arrived.

(b) When the owner, resident or a responsible agent for the property cannot be located or cannot arrive at the site within a reasonable amount of time,

1. The employee will have APD Communications contact the city's on-call service company to meet with the employee at the scene so the site can be secured.
2. The employee will remain at the site until the on-call service company representative has completed all necessary steps to secure the property.

## 401.7 REPORTING RESPONSIBILITIES

(a) When the preliminary investigation is done, officers shall prepare an initial incident report detailing an accurate record of events as outlined in Policy 402 (Incident Reporting and Documentation).

(b) When Investigative or Specialized Unit personnel (e.g., crime scene technician, crash investigator) respond to the scene and conduct the preliminary investigation, unit personnel shall be responsible for the completion of the initial report. All other responding officers will be responsible for completing supplemental reports as outlined in Policy 402 (Incident Reporting and Documentation).



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# Incident Reporting and Documentation

## 402.1 PURPOSE AND SCOPE

Documentation is a major part of each officer's job. Reports may be used to document information to assist investigators in follow-up investigations. Field release citations, warnings, field observation (FO) cards and electronic street checks are used to document law enforcement actions and/or contacts with the public. Sufficient information should be included in any form of documentation to:

(a) Assist in prosecution.

(b) Refresh an officer's memory during testimony.

(c) Comply with legal requirements and Department policy.

### 402.1.1 GENERAL GUIDELINES

An incident number will be assigned and all required fields completed during documentation anytime an employee observes or receives any information concerning the following, but not limited to:

(a) Criminal or suspected criminal offenses, regardless of the victim's level of cooperation.

(b) Citizen complaints of non-criminal incidents requiring action by the police.

(c) Self-initiated stops

(d) Any other situation where documentation is required by law or another section of departmental policy.

If in doubt as to whether an incident should be documented, employees shall confer with a supervisor. For the purpose of this policy, Corporals may function as the designated supervisor.

### 402.1.2 BIAS-BASED DOCUMENTATION GUIDELINES

Every member of the Department is required to document any detention, frisk, search, non-consensual stop and/or arrest of a subject or vehicle.

(a) Officers shall document the following information in the appropriate fields of an incident report, field release citation, warning, FO card or electronic street check:

1. The reason for the contact/stop; and
2. The race and ethnicity of the subject(s) of the contact/stop; and
3. Whether the officer knew the race or ethnicity of the subject(s) before conducting the contact/stop; and
4. Whether a subject or vehicle was searched and, if so, the reason for the search; and
5. Whether any contraband or other evidence was found during the search and, if so, a description of it.

(b) Officers shall include those facts giving rise to the officer's reasonable suspicion or probable cause for the contact/stop in the report narrative or appropriate documentation field of a citation, warning, FO card or electronic street check.



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## 402.2 INCIDENT REPORTING

A well-written report can help make a case just as easily as a poorly written report can ruin a case. Employees have the responsibility to write clear, factual, and complete reports.

### 402.2.1 NOTE TAKING

Good reports can be achieved from accurate notes. Memory alone is not always a reliable method upon which to document detailed information.

(a) Brief notations concerning specific events and circumstances recorded while fresh on the mind will be useful when preparing an incident report.

(b) Notes used in court are subject to the scrutiny of the court; employees should ensure they are accurate and pertain to the case.

(c) Notes should contain the following:

1. **WHO -** Persons involved.
2. **WHAT -** Type of incident(s), an accurate account of what was observed, what transpired, and the property/evidence involved.
3. **WHEN** - Date(s), time/s of the incident.
4. **WHERE -** Location(s) of the incident, persons involved during the incident, property and evidence involved.
5. **WHY -** What actions taken by persons involved led to the incident(s).
6. **HOW -** What manner, way, means, reason, purpose, effect, extent, amount, or degree.

### 402.2.2 REPORT WRITING

(a) All reports shall accurately reflect:

1. The identity of the persons involved.
2. All pertinent information seen, heard, or assimilated by any other sense.
3. Any action(s) taken.

(b) 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.

(c) Generally, the reporting employee's opinions should not be included in reports unless specifically identified as such.

(d) Sentences with proper structure should express complete thoughts. When writing the narrative portion of an incident report, personnel should avoid writing:

1. Sentence fragments which do not convey or express a complete thought.
2. Run-on sentences where two or more complete ideas are joined without punctuation.

### 402.2.3 REPORT COMPLETION

Employees will complete and download all reports written during their shift.

(a) Prior to downloading reports, employees should:

1. Proofread reports to ensure they are sufficiently detailed for their purpose; and
2. Check reports for IBR errors and fix them.



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(b) Unless authorized by a supervisor, reports shall be downloaded as follows:

1. Reports written from incidents that lead to an arrest shall be completed and downloaded prior to the employee going back in service.
2. All other incident reports shall be downloaded by the end of the employee's tour of duty.

### 402.2.4 REPORT CORRECTIONS, CHANGES AND ALTERATIONS

Once a report has been downloaded into the reporting system queue, report corrections, changes and alterations shall be handled as follows:

(a) Minor corrections (e.g., location, business name) shall be accomplished by notifying Central Records.

(b) Corrections that need to be done to a narrative shall be accomplished by writing a supplemental report.

### 402.2.5 SUPERVISOR RESPONSIBILITIES

(a) All reports routed to a supervisor's queue shall be reviewed for compliance with Department policy. Reports that are incomplete or inadequate shall be returned for correction.

(b) Supervisors shall not review reports for which they are involved in; however, supervisors that are not directly involved in an incident (e.g., witness the incident) may conduct the review. When a supervisor is involved in the incident, a supervisor one rank higher than the involved supervisor will conduct the review.

(c) Supervisors receiving notification from Central Records or an Investigative Unit of a deficient report shall:

1. Ensure that the responsible employee corrects the report.
2. Take proper steps to ensure that deficiencies do not occur again (e.g., counseling, remedial training, increased monitoring and review).

## 402.3 FIELD OBSERVATION CARDS AND ELECTRONIC STREET CHECKS

(a) An FO card or electronic street check is required when an officer detains an individual for more than simple, preliminary questioning to find out their level of involvement in a particular incident and no other record of the contact (other than CAD) is produced. Examples of this include, but are not limited to:

1. Detaining a suspicious person and no report is written; or
2. Initiating a traffic stop when no field release citation or warning is issued; or
3. Conducting a subject stop and the officer initiates a police action (e.g., detaining, frisking, or searching).

(b) An FO card or electronic street check is **NOT** required in the following situations:

1. When an incident report, field release citation, warning or crash report (including blue form) is completed.
2. During a non-custodial interview or casual contact where the individual is free to leave and no frisk or search has occurred.



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### 402.3.1 DETENTION GUIDELINES

The following examples are intended to guide officers in understanding when a person has been detained. These examples are not meant to describe all possible situations where documentation is required.

(a) Was the person free to leave?

(b) Would a reasonable person feel they were free to leave?

(c) Was force used to prevent the person from leaving?

(d) Was the person checked for warrants?

(e) Is the person being frisked or asked for a consent search?

### 402.3.2 MULTIPLE SUBJECTS

It is not always necessary for an officer to complete an FO card or electronic street check on every individual in a group of 2 or more persons.

(a) If the passenger(s) in a car or the cohort(s) of a subject who has been detained by police is not the primary focus of the officer, it is not necessary to complete more than one FO card or street check.

(b) If at any point during the contact an officer goes past the point of asking preliminary questions (e.g., detaining, frisking, searching) to determine a level of involvement for a passenger or cohort, those subjects shall also be documented.

## 402.4 FIELD RELEASE CITATIONS AND WARNINGS

Field release citations and warnings shall be completed as outlined in Policy 308 (Misdemeanor Citations) and Policy 342 (Traffic Enforcement).

## 402.5 REPORTING THE ACTIVE TARGETING OF A FIREARM AT A PERSON

By the nature of their duties, officers may be required by policy and training to point their firearm, including impact munitions, and actively target at a person. This section does not create an additional requirement for officers to initiate an incident report; however, officers that actively target their firearm at a person shall properly document the incident as outlined below.

### 402.5.1 OFFICER RESPONSIBILITIES

(a) Employees shall immediately notify and brief their supervisor. If their supervisor is unavailable, another field supervisor shall be notified

  1. When employees the rank of sergeant or above are involved in the incident, another supervisor the rank of the involved employee or higher will be notified.

  2. If the incident involves multiple employees with different supervisors, the lieutenant of the area where the incident occurred, or the Watch Lieutenant, will be notified and assign one supervisor to conduct the review.

(b) Employees shall adhere to the following documentation guidelines:

  1. **FO Card or Electronic Street Check**

    (a) When a report is not otherwise required for the incident, complete an FO card or electronic street check to document that a firearm was actively targeted at a person and the details of the incident.



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2. **Reports and Supplements**

   (a) Add a study notation to the report to document that a firearm was actively targeted at a person or notify their supervisor the notation needs to be added.

   (b) Document the details of the incident in the narrative of an incident report or supplement.

### 402.5.2 SUPERVISOR RESPONSIBILITIES

(a) Supervisors shall review the employee's incident report, supplement, FO card or electronic street check when notified of an incident involving an officer actively targeting a firearm at a person. Incomplete or inadequate documentation shall be returned for correction.

(b) Supervisors will forward a memorandum up the chain-of-command if a safety, policy, training, equipment, tactical, or other specific issue is identified.

(c) Supervisors shall adhere to the following documentation guidelines:

1. **FO Card**

   (a) Legibly sign the FO Card with the supervisors name and employee number that reviewed the incident.

2. **Electronic Street Check**

   (a) Add a supplement using the electronic street check incident number to document that the employee made a supervisor notification and the incident was reviewed.

3. **Reports and Supplements**

   (a) Add a study notation, if not already added, to document that an officer's firearm was actively targeted at a person.

   (b) Add a case note to the incident report to document that the employee made a supervisor notification and the incident was reviewed.

## 402.6 REPORTING GANG AFFILIATION

Certain offenses may be enhanced when committed by subjects who are documented gang members. Only employees assigned to the Gang Suppression Unit may designate a subject as affiliated with a gang in the report writing system.

Employees who interact with a subject that may be affiliated with a gang should initiate an incident report titled "Gang Information" and include specific details that give rise to the belief the subject is affiliated with a gang. This includes, but is not limited to, subjects who:

(a) Wear known, gang-related clothing (i.e., specific colors, designs).

(b) Have known, gang-related tattoos.

(c) Associate with documented gang members.



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# Follow-Up Investigations

## 403.1 PURPOSE AND SCOPE

Criminal investigations are a complex, multi-step process that require employees to be aware of, operate within and comply with federal, state, and local regulations so as not to prejudice the case or jeopardize the prosecution of the defendant. It is the policy of the Department to comply with the highest standards of legal and professional conduct when performing a criminal investigation. This policy provides guidelines to ensure that criminal investigations are conducted under legal authorization using extraordinary safeguards to protect innocent persons from unauthorized invasions of privacy.

## 403.2 FOLLOW-UP INVESTIGATIONS

Follow-up investigations may include, but are not limited to:

(a) Reviewing and analyzing preliminary reports.

(b) Reviewing Department records and databases.

(c) Seeking additional information from complainants, witnesses, neighbors, informants, officers and Department employees.

(d) The incident may require contact with the victim(s) and witness(es) by the assigned personnel to obtain information not uncovered during the preliminary investigation.

(e) Upon request and without jeopardizing case security, the assigned personnel or designee shall advise the victim(s) of the status of the case.

(f) Conducting interviews and interrogations. Arranging for the dissemination of information, as appropriate.

(g) Soliciting assistance and/or information from other Units within the Department and/or outside law enforcement agencies.

(h) Planning, organizing and conducting searches.

(i) Collecting physical evidence.

(j) Identifying and apprehending suspects.

(k) Follow-up on emergency mobile phone request court orders and related paperwork within 48 hours of first request.

(l) Checking suspects' criminal histories.

(m) Determining the involvement of suspects in other crimes.

(n) Reviewing the results of laboratory examinations.

(o) Preparing cases for court presentation.

(p) Assisting in the prosecution.

## 403.3 CASE ASSIGNMENT AND RESPONSIBILITY

Generally, follow-up investigations shall be the responsibility of the Investigative Unit assigned to the case. Report routing to an Investigative Unit is an automated process that is controlled by the title code(s) used. Unit ownership of a title code is programmed into the current reporting system and updated as needed.



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(a) With supervisor approval, first responders should conduct limited follow-up investigations when there is a reasonable chance of apprehending the suspect, a need for obtaining additional information for the preliminary investigation report, or when there are other compelling circumstances.

(b) Once a report is routed to an Investigative Unit, the supervisor or designee of that Unit will assign each case to appropriate employee. The assigned employee will be responsible and accountable for any additional investigation. When assigning cases, a supervisor or designee should:

1. Take into account the level of expertise, specialized skill, knowledge and abilities of the employee.
2. Provide direction and guidance to employees by periodically reviewing their supplements and affidavits.
3. Record and maintain the following information to ensure a timely and complete investigation:
   (a) Incident number.
   (b) Personnel assigned.
   (c) Date assigned.
   (d) Clearance type.
   (e) Date cleared.

(c) When assigned to a case for follow-up investigation, investigators shall proceed with due diligence in evaluating and preparing the case for appropriate clearance or presentation to court personnel for the filing of criminal charges.

(d) Employees will not participate in an unassigned investigation, regardless of the source, which is unusual, protracted, or not in the normal course of their duties without the express, written approval of their chain-of-command.

### 403.3.1 CASE FILES/JACKETS

(a) Active cases shall be maintained by the assigned personnel. Case files/jackets shall be:

1. Kept from public view while the person assigned is working on the case.
2. Locked up at the end of the assigned personnel's tour of duty.

(b) All original case files/jackets on investigations shall be maintained and secured by the appropriate Investigative Unit.

(c) Case files shall be maintained and purged in accordance with established record retention schedules for law enforcement and Department policy regarding records.

### 403.3.2 FELONY CASE MANAGEMENT

All felonies direct filed by an arresting officer require follow-up investigation by the appropriate Investigative Unit. The assigned investigator shall be responsible for completing any further investigative steps necessary.

(a) Assigned investigators shall prepare a case jacket for the prosecutor's office with copies of all paper documents.

1. Photographic evidence will be made available through the Department's Digital Crime Scene Management System Web Client.



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2. The presence of audio/video media evidence will be documented in the report but does not need to be copied unless requested by a prosecutorial agency.

(b) The case jacket will be forwarded to the prosecutor's office within two (2) weeks of the date the individual is booked into jail and an investigator assigned the case.

1. The case jacket will contain *DA Control Sheet* [PD0050 - PD0055] specific to the type of crime being investigated to document the evidence contained in the jacket and to make notation about any evidence that is pending (e.g., DNA and Print comparison results).
2. Assigned investigators shall notify their supervisor if the case is not completed within the two-week guideline. Supervisors will monitor the progress of the case to ensure it is forwarded to the prosecuting agency in a timely manner.

### 403.3.3 TITLE CODE RECLASSIFICATION

Employees shall not delete or change a title code from a Part I UCR crime to a Part II UCR crime on any incident report, once the report comes out of report review, without the signed approval of the appropriate unit supervisor.

(a) This policy is only intended to prevent serious Part I UCR crimes from being dropped to a less serious Part II UCR crime without proper review after a report comes out of report review.

(b) This policy does not prevent title code(s) being changed:

1. From one Part I UCR crime to a different Part I UCR crime; or
2. From a Part II UCR crime to a Part I UCR crime; or
3. To any UCR classification, prior to the report coming out of report review (i.e. a dispatcher may, upon request, correct/update the title code on a dispatched call if an officer discovers the incident is different from the original call).

(c) Nothing in this policy prevents adding title codes to a report at any time if the investigation supports the need for additional title codes.

(d) Employees who discovers a Part I UCR crime that needs to be reclassified as a Part II UCR crime shall use the following procedure to request a title code change:

1. Employees wanting to reclassify a title code shall do so by submitting the request by email to the supervisor over the unit that has ownership of the title code.
   (a) Employees who originate a reclassification request shall document the reason(s) for the title code change in the "notes" portion of the incident report.
2. Upon receiving notice of the title code change request, the unit supervisor will review the request and electronically document their agreement or disagreement with the request in the "notes" section. Title code change requests approved by the unit supervisor must be forwarded to the Central Records Manager for review
3. The Central Records Manager (CRM) will review all approved title code reclassification requests and make a ruling on whether the requested change is appropriate. The determination shall be based on UCR reporting guidelines for the incident reported rather than what state charge could or will be filed.
   (a) If the Central Records Manager agrees with the decision of the unit supervisor, the CRM will make the title code change in Versadex.



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(b) If the Central Records Manager does not agree with the decision of the unit supervisor, the issue may be brought to the commander/manager of the unit. The commander/manager shall indicate "Approved" or "Denied" in the "notes" section. The CRM will then make the change in accordance with the commander/manager of the unit's decision.

## 403.4 STATEMENTS AND CONFESSIONS

The purpose or objective of a statement or confession is to take lawful and accurate statements that corroborate the elements and details of an incident. In doing so, investigators and supervisors will be cognizant of such factors as the mental and intellectual abilities of the subject being interviewed and the duration of the interview itself. Written and oral statements or confessions should not be utilized as the sole basis for the filing of charges; any statement or confession should be corroborated by other legally obtained evidence or verified in an appropriate manner.

(a) Whenever possible, employees shall record all interviews and interrogations by audio and/or video.

(b) Separate statements and confessions should be taken when more than one crime has been committed.

(c) Statements and confessions should be taken in the suspects own words and typed by the person taking the statement or confession.

(d) Written or recorded copies of statements or confessions will not be given to the person from whom the statement or confession was obtained.

### 403.4.1 MIRANDA WARNING AND ADMISSIBILITY

No statement or confession made by an adult as a result of custodial interrogation is admissible as evidence unless the person has first been administered the Miranda warning and knowingly, intelligently and voluntarily waives those rights.

(a) To evidence that the Miranda Warning was read to the person, employees will record the following by audio/video:

1. Reading of the Miranda card to the person in its entirety; and
2. Writing the name of the employee reading the rights to the person, the date and time, and the incident number on the face of the warning card; and
3. Requesting the person to initial each right and sign the card indicating that he understands the warning and freely waives his rights; and
4. The Miranda card will become part of the original case jacket.

(b) Once the person requests to speak with an attorney or indicates a desire for legal representation, the interrogation will be discontinued at that point.

1. Should the person request to continue the interrogation after requesting legal representation, the Miranda rights will be administered again.

(c) Guidelines on admissibility of statements and confessions of a person accused of an offense as evidence is outlined in Tex. Code of Crim. Pro. art. 38.22.

### 403.4.2 PROCEDURES FOR LIMITED ENGLISH AND DEAF SUBJECTS

(a) If the person does not speak English, or speaks limited English:

1. The Miranda warning will be read in the person's primary language.



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2. The statement or confession will be written or typed, whenever possible, in the primary language that the person understands.
   (a) If the statement or confession is not typed in the person's primary language, it will be translated aloud for them in the person's primary language prior to obtaining their signature. This will be done in the presence of two civilian witnesses.
3. The statement or confession will be witnessed by at least one person who speaks the same language as the person.

(b) If the person is deaf, a certified interpreter from the current service contractor will assist in translating during the interrogation. Sign language statements and confessions must be recorded by video.

### 403.4.3 JUVENILE STATEMENTS AND CONFESSIONS

(a) Oral confessions made in non-custodial interviews of juveniles are admissible if the statement is given voluntarily and not as a result of coercion, threats, promises, or an extensive interview with the oral admission being the primary objective.
   1. To ensure the non-custodial statement is given voluntarily, personnel shall release the juvenile to a parent or guardian after taking the statement and then obtain a warrant to take the juvenile into custody.

(b) Statements and confessions given in custodial interrogations of juveniles require additional steps to ensure the statement or confession is given voluntarily. Personnel shall comply with State Law and Policy 317 (Handling Juveniles) when interviewing or interrogating a juvenile.

### 403.4.4 DOCUMENTING STATEMENTS AND CONFESSIONS

All attempts to obtain an incriminating statement/confession, whether successful or not, shall be documented fully by supplement(s) to the incident report. This shall include:

(a) Date, time and location of the attempt; and

(b) Identity of the person being interrogated/interviewed; and

(c) The identity and role of all persons involved in the attempt to obtain the statement/confession; and

(d) Any unusual circumstances or occurrences surrounding the attempt or taking of a statement/confession; and

(e) A brief synopsis of any statement/confession obtained from the person.

## 403.5 EYEWITNESS IDENTIFICATION PROCEDURES

The investigation of criminal incidents includes many diverse aspects. Eyewitness identification is only one element of a successful criminal investigation. The purpose of this policy is to outline the proper protocol for eyewitness identification procedures thus maximizing the reliability of identifications, exonerate innocent persons, and establishing evidence that is reliable and conforms to established legal procedure.

### 403.5.1 DEFINITIONS

**Confidence Statement** - A statement in the witness' own words, articulating their level of confidence in the identification. The officer documenting the confidence statement should



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record verbatim the words used by the witness to describe their level of certainty as to the identification of the suspect.

**Field Identifications** - An identification procedure in which a single subject is shown to an eyewitness and asked to identify or reject the subject as an actual perpetrator.

**Fillers** - Non-suspect photographs or persons.

**Independent Administrator/Double Blind Testing Procedure** - An officer administrating a line-up who did not compose the line-up and has no knowledge of the actual suspect or the location of the suspect within the lineup.

**Folder Shuffle Method -** This method is employed when a blind procedure is not possible. It is a method of administering a photographic line-up such that the officer cannot see or track which photograph is being presented to the witness until after the procedure is completed.

**Illiterate Person -** An individual who speaks and understands English but cannot read or write in English.

**Interpreter -** An interpreter is a person who is fluent in English and the language of the witness and who facilitates communication between two parties in two different languages. The term includes persons who facilitate communications with persons who are deaf, hearing impaired, or speaking impaired.

**Lineup or Field Identification Instructions -** A written document that is read out loud to the witness describing the procedures of the identification process. The witness then signs the form.

**Live Line-up** - An identification procedure in which a group of persons are displayed to a witness (es) in a controlled environment in an effort to identify or reject the individual as the actual perpetrator.

**Person with Limited English Proficiency -** An individual who is unable to communicate effectively in English with a level of fluency that is typical of native English speakers. Such a person may have difficulty speaking, reading, or writing in English and includes persons who can comprehend English, but are physically unable to talk or write.

**Sequential Line-up -** An identification procedure in which line-up photos are displayed one by one (sequentially). Only sequential lineups are authorized for investigative use. with an exception for certain Child Abuse investigations that may sometimes require a simultaneous line-up.

**Simultaneous Line-up** - An identification procedure in which a group of photographs are displayed simultaneously and presented to one witness. This procedure will only be utilized in child abuse investigations and require the approval of a Child Abuse Unit Supervisor.

### 403.5.2 SIMULTANEOUS LINE-UPS

Simultaneous line-ups require the approval of a Child Abuse Unit Supervisor. The incident report will document which supervisor provided the approval. The administration of a simultaneous line-up will adhere to the Child Abuse Unit Standard Operating Procedures.

### 403.5.3 SEQUENTIAL LINE-UPS

An independent administrator will be used for all sequential line-ups unless an extraordinary circumstance(s) necessitates using the same officer to both compile and administer the



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line-up. If this occurs, the extraordinary circumstance(s) shall be documented in the incident report. No other person should be present during the lineup presentation who knows the suspect's identity.

(a) Independent administrators should avoid actions or statement that could contaminate witness perception or judgment. Be aware that witnesses may perceive such things as unintentional voice inflection or prolonged eye contact, in addition to off-hand words or phrases, as messages regarding their selection. Avoid casual conversation comments such as "very good."

(b) Photographic or live line-ups will only be conducted when a specific suspect is developed during an investigation, or when a suspect has been narrowed down to a specific group of individuals. Random suspect line-ups are not permitted.

(c) The Photographic or Live line-up Instructions Form (PD0163) will be used during the administration of all such line-ups. These forms include a confidence statement which will be completed on each administered line-up.

(d) If there are multiple witnesses:

1. Each witness shall be given an instruction form regarding the identification procedures without other witnesses present.
2. The officer will read the instructions aloud to each witness.
3. Each witness shall view the line-up separately.
4. The suspect will be placed in a different position of the line-up for each witness.
5. Witnesses shall not be allowed to confer with one another until all identification presentations have been completed and statements taken.
6. If the witness declines to sign the instruction form for some reason, then the officer will document that the witness was appropriately instructed.

(e) The suspect's photo will be grouped with at least five other subject photos (fillers). The showing of a single photograph for identification purposes is prohibited, unless the subject is positively known by the victim and the photograph is shown only to confirm the identity.

1. Photos shall be of similar characteristics (i.e., hair color, length, facial hair, age, weight and general appearance).
2. Avoid using fillers that so closely resemble the suspect that a person familiar with the suspect might find it difficult to distinguish the suspect from the fillers.
3. Do not mix color and black and white photographs. All color or all black and white photos shall be used. Photo copies are not permitted.
4. Cover any portions of mug shots or other photographs that provide identifying information about the subject.
5. If there is more than one suspect, include only one suspect in each line-up.
6. Always place a filler in the first position of a - sequential lineup (if not using the folder shuffle method).

(f) If the witness identifies a person as the perpetrator, the witness shall not be provided any information concerning such person before the officer obtains the witness' confidence statement about the selection.

(g) When showing a new suspect, avoid reusing the same fillers in line-ups shown to the same witness.



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(h) Identification procedures will be videotaped whenever possible. If this is not practical, an audio tape of the procedure will be done. If neither is possible, document why recording is not available.

(i) Document all persons present during the administration of the line-up.

(j) The line-ups should consist of at least six (6) photos - the suspect photo and a minimum of five filler photos - separated into individual envelopes.

(k) Place a filler in the lead position and the remaining five photographs in random order.

(l) Place two empty folders at the end.

(m) Witnesses should not be told how many photos will be shown.

(n) Witnesses will not be allowed to view photographs side-by-side during a sequential lineup.

(o) Witnesses will be shown all photographs, even if an identification is made on an earlier photograph. Showing all photographs greater ensures the objectivity and reliability of the identification.

(p) The witness should not view the photographs in the line-up more than two times. If a second presentation is conducted, then the lineup will be presented again in the same order as the original presentation.

(q) The officer will document in the offense report the order in which the photographs were presented.

(r) If the same suspect needs to be shown to a different witness, then the officer will remix the lineup.

### 403.5.4 FOLDER SHUFFLE METHOD

There may be unavoidable situations where an independent administration is not possible. If this occurs, then the officer will attempt the folder shuffle method of presenting the lineup and attempt a blind administration. If emergency circumstances preclude an independent administrator or folder shuffle method, then the officer will document the circumstances in the offense report. The folder shuffle method is done using only sequential lineups.

(a) The officer will place the suspect photograph and a minimum of five filler photographs in separate envelopes.

(b) The officer will shuffle the envelopes until the officer does not know which envelope contains the suspect's photograph.

(c) Place two empty folders at the end.

(d) The officer will provide the witness one envelope at a time without looking at the photograph first.

(e) Each time the witness has viewed a photograph, the witness will return the folder to the officer and indicate whether or not it is the suspect's photograph.

(f) The officer will maintain the envelopes in the original order so that it can later be documented in the offense report.

(g) The witness should not view the photographs in the lineup more than two times and will not compare photographs side-by-side.

(h) As with all lineup presentations, the administration of the folder shuffle method will be videotaped if at all possible. If videotaping is not practical, then audio recording will be done. If the circumstances do not allow either form of documentation, then the officer will document these reasons in the offense report.



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### 403.5.5 LIVE LINE-UPS

An independent administrator will be the administrator for live line-ups. Only sequential live line-ups are authorized for investigative use.

(a) The investigating officer will arrange for an Assistant District Attorney to be present to assist in coordinating the live line-up.

(b) The suspect's attorney will be notified of the date and time for the line-up.

(c) If the suspect is unable to retain an attorney, the court must appoint an attorney.

(d) The suspect's attorney and assistant district attorney will view the persons in the line-up prior to the start of the line-up.

(e) Victim(s) and witness(es) will be notified of the date and time of the line-up and where they are to wait prior to the viewing. They should remain separated prior to the viewing.

(f) The necessary personnel must also be notified of the date and time in order to document by photograph and videotape the appearance of all persons used in the line-up. The viewing of the lineup by the witness(es) will be videotaped to best document what took place.

(g) All physical line-ups can be coordinated with the supervisor of the Booking facility, if using TCSO prisoners as fillers. The booking supervisor can assist in:

1. Obtaining clothing, such as jail fatigues; and
2. Arranging for transfer of prisoners for use in the line-up; and
3. Having release forms signed by all prisoners used in the line-up.

(h) A minimum of six (6) people - the suspect and five fillers - shall be used in each physical line-up. For the line-up to be valid, each person must be:

1. Similar in physical characteristics; and
2. Approximately the same age, height, and weight; and
3. The same race and sex; and
4. Wearing similar clothing; and
5. Wearing no jewelry or other distinguishing items.

(i) Two sets of lights for the stage area of the line-up room will be turned on prior to bringing victims and witnesses into the room. (The APD line-up room is located on the 2nd floor of the Main, next to the Municipal Court waiting area).

(j) One Investigative Unit member or supervisor shall remain with the victim(s) and witness(es) during the line-up process. Victims and witnesses must not be allowed to discuss the case with each other during or immediately after the line-up process.

(k) Prior to viewing the line-up, an officer will individually administer the Live Line-up Admonition to each victim or witness viewing the line-up.

(l) The person being viewed will be out of the view of the witness before the next person is brought in.

(m) After each person is viewed, the officer will ask the witness if this was the person that he or she saw commit the crime.

(n) If the witness answers "yes," then the officer will ask the witness to describe in his or her words how sure the witness is of the identification.

(o) Document in the witness's own words how sure he or she is of the identification.



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(p) Even if the witness makes an identification, show each person one at a time until all persons have been viewed. This greater ensures the objectivity and reliability of the lineup process.

(q) Only upon request of the witness will the witness view the lineup again after the first full viewing. If a second viewing is requested, then all steps involved in the first viewing will be followed.

(r) A witness will not view the lineup more than twice.

(s) Identification of the suspect by those viewing the line-up will be done individually in writing, rather than spoken while in the company of other witnesses.

(t) No talking is allowed during the live line-up. If anyone viewing the line-up wishes to ask a question, request certain words or phrases be spoken or specific actions performed by those standing in the line-up, they should use an index card and submit the comment to the investigator.

(u) If a request is made for one person in the line-up to speak a certain word or phrase, then all those in the line-up will be instructed to individually repeat the same word or phrase.

(v) Victims and witnesses will be interviewed separately to determine any possible identification of a suspect.

(w) Personnel will take a written statement from each witness who identifies the suspect and a confidence statement obtained if an identification is made.

(x) Photos and/or video of the physical line-up will be added to the original case jacket.

(y) Persons administering the live line-up should avoid any unintentional overt actions that might influence the decision made by the witness.

### 403.5.6 SPECIAL PROCEDURES FOR ILLITERATE PERSONS OR PERSONS WHO POSSESS LIMITED ENGLISH PROFICIENCY

(a) Officers should be aware during the investigation when encountering a person who does not speak English or possess limited English proficiency that certain accommodations may be necessary to ensure the validity of the lineup process.

(b) Officers should carefully consider the ethical and legal ramifications of how to handle case where there is a language barrier.

(c) Unless the officer speaks the witness's language fluently, an interpreter should be used for persons who do not speak English. The interpreter shall sign the lineup instruction form documenting that the instructions were provided in the language best understood by the witness.

(d) The officer should consider arranging for an interpreter if a person interviewed:

1. Is unable to communicate in English
2. Has a limited understanding of English
3. Is deaf, hearing impaired or speaking impaired
4. Is otherwise physically challenged to communicate in English

(e) If the person is unable to read, the officer, in the presence of the witness, will give the explanation, read any forms, and obtain verbal acknowledgment of the witness that he or she understands what has been explained and/or read to him or her.

### 403.5.7 FIELD IDENTIFICATIONS

(a) Field identifications shall only be conducted under the following exigent conditions:



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1. Prior supervisor's approval; and
2. The suspect is detained within a reasonable time of the offense; and
3. A line-up cannot be promptly arranged; and
4. There is an immediate need to arrest the suspect.

(b) What constitutes "within a reasonable time" is dependent on the individual circumstances of the case, but generally the courts have held that a two-hour time lapse is acceptable.

(c) A full and detailed description of the suspect shall be provided by the witness before the witness observes the suspect.

(d) The witness shall be transported to the location where the suspect is being detained. If at all possible, avoid returning the suspect to the scene of the crime.

(e) Measures shall be taken to reduce potentially damaging or prejudicial inferences that may be drawn by the witness, including, but not limited to:

1. Removing the suspect from a squad car.
2. When practical, removing handcuffs from the suspect.
3. Public and officer safety is first priority on decisions regarding removing the suspect's handcuffs.

(f) If there are multiple witnesses to the offense:

1. The witness with the most complete information should participate in the field identification.
2. If a positive ID is made by the witness, the other individual(s) who witnessed the crime should be shown a photo line-up by the assigned Investigator.

(g) If there are multiple suspects:

1. The suspects shall be separated; and
2. Each suspect shall go through a separate field identification.

(h) Avoid requirement of any performance by the suspect during a field identification.

(i) Officers should avoid actions or statement that could contaminate witness perception or judgment. Be aware that witnesses may perceive such things as unintentional voice inflection or prolonged eye contact, in addition to off-hand words or phrases, as messages regarding their identification. Avoid casual conversation comments such as "very good."

(j) The Field Identification Instructions Form will be used during the administration of all such eyewitness identifications made in the field. This form includes a confidence statement.

(k) Officers in the field will utilize their in-car Mobile Audio Video (MAV) recording system to record field identifications.

## 403.6 PHYSICAL EVIDENCE COLLECTION

Property seized by personnel for processing or evidence on cases where a Crime Scene Unit is not used will be submitted to the proper agency, Department, Unit, or evidence control in accordance with Department Policy.



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## 403.7 FORENSIC "HITS" OR MATCHES

APD has multiple forensics capabilities that can aid in a criminal investigation, including but not limited to:

(a) AFIS (Latent Prints).

(b) CODIS (DNA).

(c) NIBIN (Ballistics).

### 403.7.1 NOTIFICATION OF FORENSIC "HIT" OR MATCH

(a) Forensics shall notify the assigned investigator and Unit supervisor of a forensics "hit" or match.

1. Notifications will be sent simultaneously via email to the investigator assigned in Versadex and the Unit email address.
2. The supervisor or designee shall be responsible for ensuring that the Unit email address is checked on a daily basis.

(b) The supervisor shall ensure that the currently assigned investigator is notified of the "hit" or match following one of two methods:

1. If the case is closed or suspended, the supervisor will re-open the case and assign a new follow-up with a specific completion date. Upon completion, the supervisor shall ensure that the investigator documented their follow-up actions in the reporting system.
2. If the case is still open, the supervisor shall ensure that the currently assigned investigator is aware of the "hit" or match. The supervisor shall approve the follow-up before the case is closed.

### 403.7.2 FOLLOW-UP OF "HIT" OR MATCH

The assigned investigator shall conduct a follow-up on all notifications of a forensics "hit" or match. The specific action(s) taken shall be documented in a supplement to the incident report. Follow-up includes but is not limited to:

(a) Notifying the assigned Assistant District Attorney or Assistant County Attorney of a "hit" or match in a case that has already been referred for prosecution, whether the case was direct filed by uniformed patrol or an Investigative Unit. The name of the person notified will be included in the follow-up supplement along with the date the notification was made.

(b) Documenting information that identifies if the "hit" or match belongs to the victim or some other person with legitimate access to the item or scene where the evidence was recovered.

(c) Notifying the appropriate jurisdiction if the "hit" or match stems from another "Out of City" report.

(d) Documenting the link to an identified "hit" or match from evidence recovered from the exterior of a property crime scene and whether filing a criminal charge can occur.

(e) Filing the appropriate charges when the new forensic information assists in the identification or linking the offender(s) to the offense being investigated.



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## 403.8 SURVEILLANCE

(a) Personnel will not violate the right to privacy, or other constitutional rights, of any individual while conducting a surveillance.

(b) Complex or long-term surveillance requires specialized training and equipment. These types of surveillance will be conducted only by those investigative and specialized skills units whose personnel are authorized and trained to conduct such operations.

(c) Personnel should be aware that legal authorization may be required for electronic surveillance.

## 403.9 POLYGRAPH EXAMINATIONS

The Polygraph Unit was established to provide a useful investigative tool to support the investigative and administrative mission of the Department. Polygraph examination support is also provided to other federal, state and local law enforcement agencies on an as-needed basis. Polygraph examination used for administrative purposes require the approval of the Chief of Police.

### 403.9.1 POLYGRAPH GUIDELINES

The polygraph examiner is the only person authorized to use the polygraph equipment or administer a polygraph examination.

(a) Persons with serious physical or psychological ailments are not suitable for testing. The examiner will have the responsibility of determining the suitability of all persons submitted for polygraph examinations.

(b) The examiner will determine who is authorized to observe a polygraph examination.

(c) Polygraph examinations will not be administered to a subject on a particular offense unless requested by the assigned investigator or his supervisor. Anytime a person is under arrest for one offense and is to be tested on another, the investigator of the original offense will be contacted.

(d) Polygraph examinations will not be administered unless:

1. a specific offense has been reported and prosecution is intended, or
2. The Chief has directed the polygraph use in an administrative case.

(e) The subject will be advised by the investigator that the examination will not cause pain. The investigator should not attempt to discuss the actual procedure of the examination with the subject. This will be done by the examiner before the test is given.

### 403.9.2 POLYGRAPH APPOINTMENTS

(a) Appointments for polygraph examinations must be made by the investigator assigned to the case.

1. An investigator shall not offer a polygraph test for a specific date and time unless an appointment has been made with the polygraph examiner.

(b) Appointment cancellation notices will be forwarded to the Polygraph Unit as soon as this information is known.

1. If, for any reason, the investigator and the person to be tested are 15 or more minutes late, another test may be scheduled unless the examiner has been notified.



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### 403.9.3 POLYGRAPH REPORTING PROCEDURES

The examiner will verbally advise the assigned investigator of the results of the examination. It will be the assigned investigator's responsibility to write a supplement to the incident report concerning the polygraph examination.



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# Fugitive and Search Warrants

## 405.1 PURPOSE AND SCOPE

The purpose of this policy is to establish the guidelines for filing arrest and search warrants.

## 405.2 ARREST WARRANTS

This section outlines the guidelines for employees to follow when obtaining an arrest warrant and the proper internal handling procedures to ensure the warrant is properly entered into Local, TCIC, and/or NCIC.

(a) Employees will complete the investigation of an alleged offense before obtaining an arrest warrant.

1. Exigent circumstances that supersede the completion of the investigation will be discussed with the Unit supervisor and with the appropriate County or District Attorney's office of the county where the offense occurred.

(b) The City of Austin overlaps into multiple counties. Depending on the county in which the offense occurred, personnel will prepare either a complaint or a probable cause affidavit for presentation to the appropriate Magistrate in the county where the offense occurred.

1. All felony affidavits/complaints will be reviewed by a supervisor prior to presentation to a Magistrate.
2. Affidavits/complaints for any case of a complex nature (as determined by the Unit supervisor) will be presented to an Assistant County/District Attorney from the county where charges are to be filed, if available, for review and advice on the proper wording or text of the affidavit/complaint prior to the Magistrate's review.
3. The affidavit/complaint along with the subject's criminal history, if any, will be presented to the proper Magistrate for signature. Further documentation of facts to be considered when setting bond may be presented with the affidavit/complaint and criminal history.

### 405.2.1 ARREST WARRANT "PICKUP" SUPPLEMENT

Any employee wishing to obtain an arrest warrant for a person will first complete a "PICKUP" supplement in Versadex using the "PICKUP" supplement template.

(a) Completely fill out the "PICKUP" supplement to include the following information:

1. Name, date of birth, race, and sex of the wanted person.
2. Any known aliases.
3. Identification numbers (e.g., Texas DL/ID, SSN, DPS SID, FBI, APD).
4. Any other state identifiers (e.g., handgun/firearm permit).
5. Residence address(es). Clearly notate in this field if a subject is currently in custody at any detention facility and advise the Central Records/Warrant Unit staff when dropping the warrant off.
6. Employer(s).



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7. Vehicle(s) information (e.g., license plate number, make, color, style, year model)
8. Any other vehicle identifiers (e.g., collision information, bumper stickers).
9. Charge being filed.
10. Clearly state if the person is violent, has a history of resisting arrest, any history of previous weapons charges or is licensed to carry a firearm.
11. Name and phone number of the District Attorney contacted for NCIC extradition purposes.

(b) After the warrant has been signed by a Magistrate, the employee will update the "PICKUP" supplement with the warrant number, bond amount, and issuing Magistrate.

### 405.2.2 OBTAINING AN ARREST WARRANT

(a) Depending on the County in which the offense occurred, employees will prepare the following documentation:

1. Travis County - Prepare a probable cause affidavit, a Travis County warrant, and a Municipal Court cover sheet.
2. Williamson County - Prepare a complaint, probable cause affidavit and a Williamson County warrant.
3. Hays County - Prepare a complaint, probable cause affidavit and a Hays County warrant.

(b) Employees will present the typed affidavit/complaint and warrant to a Magistrate for signatures in the County where the offense occurred.

1. A separate affidavit/complaint and warrant are required for each offense or victim.
2. The affidavit/complaint should identify the affiant, the name of the victim and suspect, the type of offense, and the elements that constitute a violation of law.
3. The contents of the affidavit/complaint must indicate that the suspect committed the crime.
4. Employees will not file any charge or complaint alleging any type of law violation in any court within Travis County except for Municipal Court without authorization from their supervisor.
5. In Williamson County, the affidavit, complaint and warrant can be presented to any Justice of the Peace and all County or District Judges currently holding office in Williamson County. Warrants, affidavits and complaints signed by a court other than a Justice of the Peace must be presented to a JP office to obtain a Cause #.

(c) Magistrate signed warrants and affidavits/complaints will be taken to the appropriate clerks office and a cause number will be obtained for both.

1. Travis County - Municipal Court charges office.
2. Williamson County - Williamson County Justice of Peace Courts have clerk services available.
3. Hays County - Hays County clerks office.

(d) Employees will:



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1. Make copies of the signed affidavits/complaints to be kept with the original warrant packet and submit the original affidavits/complaints to the appropriate clerk for retention.
2. If in Williamson County, deliver the original warrant to the Williamson County Sheriff's office located at 508 South Rock St. Georgetown, TX.
3. Scan and file the warrant packet as outlined below.

### 405.2.3 SCANNING REQUIRED ARREST WARRANT DOCUMENTATION

Warrant packet items must be scanned in the following order via a Xerox scan/copy station into the G:\Xerox\Warrants folder after the arrest affidavit/complaint is signed by a judge but prior to submitting the hard copies to the Central Records/Warrant Unit.

(a) Original signed warrant. (Copy if charges filed in Williamson County)

(b) Copy of the affidavit/complaint signed by the magistrate.

(c) Emergency Protective Order (EPO) for Family Violence offenses, if applicable.

(d) Victim Notification Form for Family Violence offenses, if applicable.

(e) Detective Warrant Served Notice form.

### 405.2.4 SUBMITTING DOCUMENTATION TO CENTRAL RECORDS/WARRANT UNIT

(a) Original APD arrest warrant packets will be filed with the Central Records/Warrant Unit immediately after being scanned if the warrant is obtained during the Central Records/Warrant Unit's normal business hours.

1. If the warrant is obtained after Central Records/Warrant Unit's normal business hours, Teletype will be notified directly by phone of the arrest warrant. If the warrant meets the criteria for immediate entry, the entire arrest warrant packet will be faxed to Teletype at 974-0900.
2. An exception to this rule will be authorized when the arrest warrant is served immediately upon receipt (e.g., suspect is being interviewed, suspect is under surveillance).

(b) The arrest warrant packet will include the following documentation:

1. Original warrant.
2. Copy of the affidavit/complaint signed by the Magistrate.
3. Copy of the suspect's drivers license and/or state ID return.
4. Printout of the "PICKUP" supplement to the incident report.
5. Printout of the subject's QH from CCH (state) and QH from NCIC (national). Do not submit the QR rap sheets.
6. Emergency Protective Order (EPO) for Family Violence offenses, if applicable.
7. Victim Notification Form for Family Violence offenses, if applicable.
8. Any other information pertinent to the wanted subject or investigation.
9. Detective Warrant Served Notice form.

(c) Employees may provide a copy of a filed arrest warrant to any officer or Investigative Unit after the warrant packet has been scanned and submitted to the Central Records/Warrant Unit. Warrants will be clearly stamped "COPY."



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### 405.2.5 ARREST WARRANT SERVICE

Investigative Unit personnel may serve a filed arrest warrant as outlined in Policy 319 (Arrests). Warrants may also be turned over to the APD Fugitive Apprehension Unit (Travis County) or the appropriate County Sheriff's Office for service.

## 405.3 SEARCH WARRANTS

In order to preserve the integrity of evidence seized in search warrants and for the protection of officers involved, the following procedures are mandated regarding obtaining and executing search warrants.

### 405.3.1 OBTAINING A SEARCH WARRANT

Search warrants will not be obtained by any member of the Department without prior approval of a supervisor in the employee's chain-of-command. All search warrants will be written by an officer in the rank of detective or above.

(a) Supervisors shall review and approve search warrants by placing their initials and employee number in the upper right corner on the face of the warrant application before allowing the investigator to take the warrant to a magistrate for issuance.

  1. Search Warrants authored by sergeants or above must seek review and approval from a supervisor one rank higher than the author.
  2. A blood search warrant for DWI enforcement is exempt from this policy and shall adhere to Policy 355 (DWI Enforcement) and DWI Enforcement Unit SOP

(b) The case agent will place the incident number pertaining to the search warrant in the upper right corner on the face of the warrant as soon as it is obtained.

(c) When a search warrant is obtained relative to an offense ordinarily handled by another Investigative Unit, a supervisor of the Investigative Unit normally responsible for that type of offense will be notified prior to service of the warrant.

(d) When a search warrant is for computer equipment that is to be examined in the computer forensics lab the case agent should contact theDART Unit or the Child Abuse unit to obtain information on the proper wording of the computer search warrant before taking the search warrant to a magistrate for issuance. Prior to executing the search warrant, the seizing officer should be familiar with the document *Seizing Computers and Computer Related Evidence*.

(e) The appropriate Investigative Unit will normally be the one responsible for follow-up investigation of the case.

### 405.3.2 EXECUTION OF A SEARCH WARRANT

A supervisor will be present and in charge when any search warrant is executed.

(a) Narcotic based search warrants will not be executed by any personnel other than those assigned to Organized Crime unless an Organized Crime supervisor has been consulted. The Organized Crime supervisor will determine whether the search warrant would damage any on-going investigation and whether prior approval has been obtained from the appropriate commander, assistant chief, or the Chief of Police.

(b) Prior to execution of any search warrant:

  1. The supervisor in charge will ensure that a *Search/Arrest Warrant Threat Assessment Form* (APD Form #11) is completed, and:



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(a) Review the form for accuracy and sign the completed form in the space provided.

(b) Follow the provided line on the form to determine the level of threat to personnel and refer the warrant service to SWAT if required.

(c) Contact the on-call SWAT supervisor for consultation for assistance in completing the form or as needed.

(d) Ensure the form is added to the case file.

2. Personnel assigned to Organized Crime will use the *Operational Briefing & Threat Assessment* forms as specified in their Operations Procedure Manual.

3. If the search warrant is for computer equipment, the seizing officers should be familiar with the document *Seizing Computers and Computer Related Evidence*.

4. A meeting will be held with all participating personnel.

(a) A sufficient number of officers will be assigned to execute the search warrant safely and to conduct a thorough search.

(b) One officer will be assigned as the seizing officer for all evidence seized and is responsible for properly tagging all evidence.

(c) One officer will be assigned to draw an accurate diagram of the premises. The diagram will be used to assign officers' positions for the entry to the location.

(d) One officer will be assigned the responsibility of seizing personal papers to show an affirmative link between the defendant(s), premises, and evidence.

(e) The supervisor or designee shall prepare the inventory and receipt of items seized.

(c) The supervisor of the Investigative Unit obtaining the search warrant shall be responsible for notifying the Communications supervisor of the location and approximate time of the warrant service unless it is determined that such notification would compromise the case or jeopardize officer safety.

(d) When executing a search warrant:

1. Department-approved raid jackets and body armor will be worn by all plainclothes officers involved in the execution of a search warrant.

2. Department-approved body armor will be worn by all uniformed personnel involved in the execution of a search warrant.

3. Officers will announce their agency and purpose (e.g., "Austin Police search warrant!").

4. Personnel who have not received dynamic entry training will not participate in the entry portion of the execution of any narcotics search warrant.

(e) Copies of the search warrant, the inventory of seized property, and the receipt form should be given to the person in charge of the premises at the time the search warrant is executed. If no one is home, copies should be left at the scene.

### 405.3.3 SEARCH WARRANT REPORTING PROCEDURES

(a) The officer obtaining the search warrant is responsible for writing the original incident report.



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(b) All other involved officers will write a supplement detailing their participation and actions during the warrant service.



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# Case Clearance

## 406.1 PURPOSE AND SCOPE

The proper clearance of a case, regardless of whether the crime was solved, is an important part of case management and vital for accurate reporting. This policy outlines how to properly clear a case and the guidelines for dismissing charges.

## 406.2 CLEARANCE STATUS

Reports shall be given one of the following clearance statuses as outlined in this section:

(a) Cleared Administratively.
(b) Cleared Exceptionally.
(c) Cleared by Arrest.
(d) Field Release Citation.
(e) Suspended (Not Cleared).
(f) Suspended (Pending Prosecutorial Review).
(g) Unfounded.
(h) Warrant Issued (Suspended).

### 406.2.1 CLEARED ADMINISTRATIVELY

This status is used to clear non-criminal reports such as the following:

(a) Missing persons that are found or returned home. (Juvenile runaways are Cleared Exceptionally).
(b) Found property that is returned to the owner.
(c) Request to locate where the subject is found.
(d) Accidental injuries when no crime is involved.
(e) Suicides where no crime has occurred.
(f) Dependent/neglected children when there is no criminal element.

### 406.2.2 CLEARED EXCEPTIONALLY

(a) This status is used to clear incidents that meet all the following criteria:
    1. The investigation has established the identity of the offender; and
    2. There is sufficient information to support an arrest, charge, and prosecution; and
    3. The exact location of the offender is known so that the offender could be taken into custody; and
    4. There is some reason outside law enforcement control that prevents arresting, charging, and prosecuting the offender, such as:
        (a) The victim will not cooperate with the investigation or does not wish to pursue the case; or
        (b) A prosecuting attorney has reviewed the case and declines prosecution.



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(b) This status is also used to clear cases where:
   1. The suspect is a juvenile and committed a status offense; or
   2. The suspect is under the age of criminal responsibility; or
   3. The suspect dies; or
   4. Extradition of the suspect is denied.

### 406.2.3 CLEARED BY ARREST

This status should be used if any person involved in the report meets the following criteria, regardless of the disposition of other persons involved or the status of other offenses alleged in the same report.

(a) This status is used to clear criminal cases involving adult offenders when a suspect is arrested, charges are filed, and the case is referred to court for prosecution.

(b) This status is used to clear criminal cases involving juvenile offenders when:
   1. The suspect is physically taken into custody and transported to a juvenile facility or home; or
   2. The suspect is processed and the case referred to Juvenile Court, whether or not the suspect was actually taken into custody.

### 406.2.4 FIELD RELEASE CITATION

This status is used in misdemeanor cases where all arrested persons are issued a field release citation instead of a custody arrest.

### 406.2.5 SUSPENDED (NOT CLEARED)

This status is used when approved by the Investigative Unit supervisor and:

(a) When the determination is made that any further investment of time would be inefficient or unproductive; or

(b) After 30 days from the date of assignment and the case has not progressed to the point that it can be cleared by any other means described in this section.

### 406.2.6 SUSPENDED (PENDING PROSECUTORIAL REVIEW)

This is a temporary clearance status to indicate that the case is being reviewed by the Grand Jury.

(a) Upon a Grand Jury decision, the status will be changed to reflect the correct final disposition:
   1. "True bill" will use the status Cleared by Arrest.
   2. "No bill" will use the status Cleared Exceptionally.

### 406.2.7 UNFOUNDED

This status is used with the approval of the Investigative Unit supervisor if the investigation shows that no offense occurred or was attempted.

(a) If the facts of a case indicate that an offense occurred but not the offense indicated by the title code of the report, the supervisor will change the title code.

(b) This status shall not be used when a report includes multiple title codes where at least one of the offenses listed is supported by the facts of the case.



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### 406.2.8 WARRANT ISSUED (SUSPENDED)

This is a temporary clearance status to indicate that a warrant is outstanding for the arrest of one or more suspects. When all suspects have been arrested the clearance status shall be changed to Cleared By Arrest.

## 406.3 DISMISSAL OF COMPLAINTS AND CHARGES

Employees are not authorized to recommend alteration or dismissal of charges to the District Attorney, City Attorney or to any other official of the court without proper authorization. Employees will not sign any form or affidavit to obtain a dismissal of a complaint without going through the following procedure:

(a) When an employee learns of facts or circumstances to suggest a case they initiated should be dismissed, the employee will discuss the case with his supervisor.

(b) If the supervisor and employee both feel the case should be dismissed, they will review the case with the appropriate commander.

(c) With approval of the appropriate commander, requests for dismissal of charges will be handled as outlined below.

### 406.3.1 MUNICIPAL COURT

A recommendation to dismiss a case in Municipal Court will be handled as follows:

(a) With the approval of the appropriate commander, the employee and supervisor will sign the *Request for Dismissal* form in municipal court.

1. The employee will take the form to a prosecuting attorney and explain the reasons for recommendation; and

    (a) If an incident report has been written, a supplement will be prepared by the employee setting out the reasons for recommending dismissal.

    (b) If there is no incident report the employee will write a memorandum or letter, as appropriate.

2. A copy of the supplement, memorandum, or letter will be forwarded to the appropriate commander.

### 406.3.2 COUNTY OR DISTRICT COURT

A recommendation to dismiss a case in County or District Court will be handled as follows:

(a) With the approval of the appropriate commander, the employee will:

1. Prepare a detailed supplement or appropriate documentation (memorandum or letter) setting out the facts or circumstances that lead them to believe the case should be dismissed.

2. If the employee requesting the dismissal is not part of the Investigative Unit assigned the case, an employee from the assigned Investigative Unit will review the case with the appropriate prosecutor.

3. The final decision to dismiss a case must be made by the prosecuting attorney.

4. No case may be dismissed without the consent of the presiding judge.



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# Emergency and Disaster Operations

## 407.1 PURPOSE AND SCOPE

This policy establishes procedures for the initial response, assessment, and containment of unusual occurrences that result from natural disasters, man-made disasters, acts of terrorism, and civil disturbances.

These unusual occurrences are of such magnitude that they may necessitate the recall of personnel and/or the request for support from other agencies in order to maintain Life and Safety, Incident Stabilization, Property Conservation, and Societal Restoration (LIPS).

## 407.2 INITIAL RESPONSE AND ASSESSMENT

The first officer arriving on the scene of an incident involving a disaster or major civil disturbance will:

(a) Immediately notify Communications of the following:
  1. Nature of the incident.
  2. Specific details (e.g., exact location, extent of damage, size of the crowd).
  3. Type of additional assistance required (e.g., AFD, EMS, Specialized Units).
  4. Establish an initial perimeter (e.g., street or lane closures, initial staging area).

(b) Exercise control of the scene until the arrival of a higher ranking officer.
  1. If the incident is of such a nature that an officer cannot reasonably assume control, he will observe the incident from a safe distance and keep Communications advised until additional personnel arrive.
  2. Upon arrival of sufficient personnel, the highest ranking officer will organize and direct those police functions as necessary for the immediate preservation of life, property, and order (e.g., traffic control, rescue, first aid) until the arrival of a supervisor. This officer should maintain contact with Communications to advise of actions taken and incident updates.

### 407.2.1 INITIAL SUPERVISOR RESPONSIBILITIES

The first supervisor at the scene will immediately assume command of the operation until relieved by higher authority. Supervisors responsibilities include:

(a) Making a rapid survey of the scene and estimating the seriousness of the occurrence.

(b) Requesting Communications to:
  1. Clear all normal radio traffic to an alternate channel.
  2. Broadcast citywide that all units involved in the incident to remain on initial radio channel.

(c) Determining whether a need exists for an alternate radio channel and if so, requesting Communications to establish a secure channel.

(d) Determining if immediate evacuation of adjacent areas or structures is needed.
  1. It is recommended that immediate evacuation be limited to areas within the inner-perimeter or other direct line-of-fire areas.



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2. In the event that a widespread evacuation is needed or required, it should be conducted under ICS protocol.

(e) Establishing a temporary Command Post and notifying the affected patrol lieutenant and Watch Lieutenant of the following:

1. Current status of the situation.
2. Number of additional personnel needed.
3. Open routes to the scene.
4. Location of the temporary Command Post and parking areas.
5. Specific equipment needed.
6. Any rescue operations/evacuations underway.

(f) Maintaining communication with appropriate personnel to provide status updates.

(g) Relaying all available information regarding the incident to succeeding supervisors and/or the Incident Commander, including:

1. Actions taken and anticipated.
2. Personnel present and needed.
3. Equipment present and needed.
4. Immediate problems.

## 407.3 COMMAND PROTOCOL AT MAJOR INCIDENTS

The first supervisor at the scene of a major incident will immediately assume command of the operation until relieved by higher authority. Long term command protocol at major incidents is as follows:

(a) If one or more Specialized Units (e.g., SWAT, Bomb Squad) are needed for the situation, the supervisor of the appropriate Specialized Unit will become responsible for the command of tactical aspects of the situation when that supervisor arrives on scene.

(b) Once a Specialized Unit supervisor has assumed command of tactical aspects of the operation, a patrol supervisor will maintain control of non-tactical aspects (e.g., outer perimeter maintenance, traffic control).

(c) Overall control will be assumed by a patrol lieutenant, Specialized Unit lieutenant, or Incident Commander (as outlined below) upon arrival.

### 407.3.1 INCIDENT COMMAND SYSTEM

Certain large-scale incidents requiring multi-agency coordination will adhere to the Austin-Travis County Multi-Agency Incident Command System (ICS). When ICS is implemented, command protocol will be as follows:

(a) **Incident Commander:**

1. The Special Operations commander or other on scene commander will serve as the Department's overall "Incident Commander."
2. Duties of the APD Incident Commander:
   (a) Work with other agencies at the command post; and
   (b) Identify and prioritize principle hazards which concern law enforcement; and



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(c) Ensure that legal responsibilities are upheld; and

(d) Develop overall law enforcement objectives; and

(e) Give objectives to the APD Operations Chief.

3. Operational control will remain with the Incident Commander unless relieved from duty.

(b) **Operations Chief:**

1. The APD Incident Commander may appoint a designee to serve as APD's ICS "Operation's Chief."
2. The Operation's Chief will develop and implement specific tactical plans in response to the stated objectives of ICS.

## 407.4 COMMAND POST SELECTION AND ACTIVATION

A Command Post is established for all unusual occurrences that require a major commitment of Department resources for an extended period of time. A Command Post may be established by the supervisor at the scene for any event or occurrence, regardless of the size of the operation.

(a) The creation of a Command Post helps the Incident Commander on scene with the vital tasks of commanding the operation, maintaining a system of communications, acquiring additional personnel and equipment, accumulating, utilizing and disseminating intelligence information, and coordinating efforts with law enforcement and other agencies.

(b) The location for a Command Post should be:

1. In the vicinity and strategic to the occurrence; and
2. Readily accessible to responding personnel; and
3. Large enough to accommodate personnel and vehicles; and
4. Connected to public services (e.g., telephone, electrical, water, restrooms); and
5. Secure and defensible.

(c) Once a command post is established, it remains operational until the situation has stabilized and order is restored. The deactivation of the Command Post is determined by the Incident Commander in charge.

(d) It may be necessary to establish a staging area separate from the Command Post in incidents requiring a large number of personnel or which continue for an extended period of time. This allows the command operations to remain free from disruption. The deactivation of the staging area is determined by the Incident Commander in charge.

## 407.5 UNIFIED TACTICAL RESPONSE PLAN

The Austin Police Department has prepared a Unified Tactical Response Plan (UTRP) for use by all employees in the event of a major disaster, civil disturbance, mass arrest or other emergency event. The UTRP provides for a strategic response by all employees and assigns specific responsibilities in the event the plan is activated.

(a) The Chief of Police or the highest ranking official on-duty may activate the UTRP in response to a major emergency.



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(b) In the event the incident has escalated to the degree requiring multiple City Departments and resources, the City of Austin will most likely implement the City's Emergency Operations Master Plan.

## 407.6 ALERT AND MOBILIZATION OF PERSONNEL

In certain circumstances it may be necessary for the Department to deploy additional on-duty personnel through Mobile Field Force (MFF) or to alert and mobilize off-duty personnel through the Mobilization Plan.

(a) Mobile Field Force mobilization of on-duty personnel is outlined in Policy 408 (Mobile Field Force).

(b) Alpha/Bravo mobilization of off-duty personnel is outlined in the UTRP.



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# Mobile Field Force

## 408.1 PURPOSE AND SCOPE

Civil disorders may arise from a number of contributing factors and the event may be triggered by a single cause or a combination of causes. The Department is dedicated to utilizing the most effective techniques and procedures when dealing with civil unrest.

The initial response to emergency and disaster incidents by patrol officers is outlined in Policy 407 (Emergency and Disaster Operations). This policy covers the activation and mobilization of on-duty personnel to handle civil disorder situations when it has been determined to use the Mobile Field Force (MFF) concept.

### 408.1.1 MOBILE FIELD FORCE ACTIVATION

Several different types of scenarios can utilize a MFF. These include planned events, such as a rally or protest, as well as spontaneous incidents that exceed normal response capabilities and require a MFF response.

(a) The activation of a MFF should be considered when dealing with any:
  1. Large scale disturbance; or
  2. Disturbance where there is potential for escalation of violence if a large scale show of force is not present.

(b) The following personnel have the authority to activate a MFF response:
  1. Chief of Police.
  2. Assistant chiefs.
  3. Commanders.
  4. Watch Lieutenant.
  5. Patrol and support lieutenants.

## 408.2 MOBILE FIELD FORCE CONCEPT

The Mobile Field Force (MFF) is an organized group of specially trained and disciplined officers that can vary in size depending on the scale of the situation. The objectives of the MFF are to

(a) Life/Safety.
(b) Incident Stabilization.
(c) Property Protection.
(d) Societal Restoration.

### 408.2.1 MOBILE FIELD FORCE COMPOSITION

(a) The MFF is commanded by the on scene Incident Commander (IC) and/or designated Operations Section Chief(s) who are in charge of the event per ICS protocol. IC responsibilities include:
  1. Determining how many officers will respond to form the MFF; and
  2. Designating the location of a Command Post and rally point.



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(b) The Incident Commander and/or Operations Section Chief(s) may be assisted by a lieutenant or sergeant acting as a Deputy or Executive Officer (XO).

(c) A MFF squad is usually divided into groups of seven to ten officers and one supervisor.

(d) A MFF platoon is composed of four MFF squads.

1. A platoon should be commanded by a lieutenant, if available.
2. A preemptive platoon will provide the Incident Commander with the flexibility to conduct offensive operations, if needed, and to make mass arrests.

### 408.2.2 MOBILE FIELD FORCE EQUIPMENT AND SUPPLIES

The MFF will be equipped with Batons or PR24's (excluding ASPs), OC spray, less-lethal shotguns, and helmets with face shields.

(a) Each Patrol Region will maintain an inventory of items necessary for the MFF (e.g., OC spray, less-lethal munitions, flex-cuffs).

(b) The Patrol Region where the incident occurs will be responsible for resupplying the MFF.

(c) When resupply is needed, the Incident Commander will have dispatch designate an available Patrol supervisor from the Region where the incident occurred to deliver these items to the MFF.

## 408.3 TRAINING AND PREPAREDNESS

Being prepared for incidents of civil unrest can be the key to reducing the potentially catastrophic consequences associated with these incidents. All sworn personnel are responsible for maintaining a level of proficiency in MFF training and tactics.

(a) Patrol commanders shall ensure that all lieutenants and sergeants under their command are familiar with the Unified Tactical Response Plan (UTRP) and MFF implementation.

(b) Patrol and support lieutenants are responsible for:

1. Ensuring that personnel under their command are proficiently trained in MFF tactics, procedures, and commands; and
2. Verifying personnel attend training in MFF procedures and tactics on a regularly scheduled basis.

(c) Sergeants are responsible for ensuring that members of their squad attend MFF training.

(d) All personnel who have received specialty training in the deployment of impact munitions are responsible for maintaining a level of proficiency in those capacities.

(e) All supervisors are responsible for making personnel in their chain-of-command aware of existing conditions or actions that may affect them. This may include:

1. Changing officers' and supervisors' schedules.
2. Changing officers' and supervisors' assignments.
3. Implementing a callback plan.
4. Inspecting and assessing the readiness of MFF equipment and munitions.
5. Advising personnel of any situation, or potential situation, involving a riot or civil disturbance that could require deployment of an MFF.



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## 408.4 MOBILE FIELD FORCE RESPONSE

The number of officers comprising the MFF will depend on the time of day that the MFF is initiated and is at the discretion of the Incident Commander.

(a) Initiation of the MFF will be broadcast citywide by dispatch.

(b) The MFF activation will utilize a tiered response plan.

1. Tier I Response - This involves using two designated officers from each on-duty patrol shift to respond to a MFF call up.
2. Tier II Response - This involves using officers from the Highway Enforcement Command (Motors, L&W, and Highway Response) and can be supplemented by additional officers from patrol or other Department units as dictated by the Incident Commander.

(c) Generally a Tier I Response will be utilized for most situations. At the Incident Commander's discretion, a Tier II Response can be utilized.

(d) Designated MFF officers will respond to the MFF broadcast.

(e) The Incident Commander will make the determination whether MFF officers will respond to the scene or to a designated staging area. In some situations, MFF officers may be directed to respond directly to the scene to support the on scene officers while others are directed to respond to the staging location to form up a MFF response.

## 408.5 CONTROL STRATEGIES AND CONSIDERATIONS

The control strategies employed by the MFF include:

(a) Containment.

(b) Arrest.

(c) Local Emergency Orders.

(d) Emergency Response.

### 408.5.1 CONTAINMENT

After the initial response, the next most important control objective is to contain the spread of disorder. Through the use of perimeter control, officers will limit access to the affected area. The three basic concepts of perimeter control are linear strategy, cordoning, and sectoring.

(a) **Linear Strategy** - Deploys police as a blocking force along a roadway or geographic barrier perpendicular to access routes into the impacted area.

(b) **Cordoning** - Surrounds a particular problem area by using the linear strategy to seal off access on all sides. These two maneuvers allow the police to prevent outsiders from being drawn into the unrest as victims or participants and, at the same time, limit the spread of violence from inside the affected area.

(c) **Sectoring** - Divides the cordoned area into smaller sized units. Order can be restored one sector at a time as sufficient police resources are assembled to begin the process of regaining control.

### 408.5.2 ARRESTS

During acts of civil disorder, police must act quickly to arrest violators of the law. These arrests will help diffuse the unrest while also providing a break in the violence.



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(a) Arrests must commence from the outset and be made early, quickly, constitutionally, fairly, and reasonably. This pattern must be sustained for the duration of the unrest.

(b) If mass arrests occur, the Incident Commander will request prisoner transport vehicles to the scene.

### 408.5.3 LOCAL EMERGENCY ORDERS

An essential component of the Department's strategy for responding to a civil disorder is the issuance of emergency orders. The Mayor has the authority to issue and enforce rules, regulations, orders, and directions necessary to maintain Life Safety, Incident Stabilization, Property Conservation, and Societal Restoration (e.g., establish a curfew).

### 408.5.4 EMERGENCY RESPONSE

A major civil disorder will require the Department to devote a large portion of its resources to restore order. When circumstances indicate that such a response is required, the Incident Commander will announce the mobilization of the MFF and will give the location of the assembly area. Once this has been initiated, all specified personnel will respond to the designated location.



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# Swift Water and Flooding Incidents

## 409.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidance and direction in responding to a swift water/flooding incident. The objective in responding to swift water/flooding incidents is to safely remove victims from the danger of swift water or flooding while keeping the safety of responders and citizens at a premium. These situations are inherently dangerous. The possibility of a rescuer becoming a victim is ever present and should be considered at all times.

## 409.2 EQUIPMENT AND TRAINING

(a) Each patrol vehicle shall be equipped with a Department approved Personal Floatation Device (PFD) and Throw Bag.

(b) Each patrol officer shall be trained in the proper use of the PFD and Throw Bag.

## 409.3 OFFICER RESPONSE

Water rescue incidents may involve individuals or vehicles trapped in swift water, water evacuations involving individuals stranded by slow moving but rising water, or individuals reported under water. Water rescue is normally a technical rescue to be accomplished only by a swift water rescue Special Operations Team.

(a) Officers should request the AFD Special Operations Team, if not already dispatched.

(b) Upon arrival at the scene, officers will:

1. Park the patrol unit out of potentially vulnerable areas in the event rising water becomes more widespread.
2. Wear their Personal Flotation Device (PFD) at all times at water rescue incidents.
3. Keep personnel and citizens without PFD's a minimum of 15 feet away from the waters edge.
4. Assess the situation, victim status and water conditions and continually update Communications.

## 409.4 WATER RESCUE GUIDELINES

A water rescue should not be undertaken unless a victims life is in immediate peril or conditions are rapidly deteriorating and it is unlikely that any immediate assistance will be available from a swift water rescue Special Operations Team.

(a) Officers will only initiate a water rescue after a thorough risk/benefits analysis, including:

1. Life safety issues for both victim(s) and officers; and
2. Risks of initiating rescue operation versus delaying until arrival of trained Special Operations Team resources.

(b) Notify communications if a rescue operation is attempted.

(c) Do not attempt to swim to a victim.



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1. If victim is seen struggling in water, attempt to assist with a Throw Bag from the shore.
2. Never tie a victim or yourself to the Throw Bag rope.



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# Hazardous Material Response

## 410.1 PURPOSE AND SCOPE

Hazardous substances present a potential harm to employees resulting from their exposure. This policy outlines the Department's response when dealing with hazardous materials.

### 410.1.1 HAZARDOUS MATERIAL DEFINED

**Hazardous material** - A substance which, by its nature, containment and reactivity, has the capability of inflicting harm during exposure. It is characterized as being toxic, corrosive, flammable, reactive, an irritant or strong sensitizer and thereby poses a threat to health when improperly managed (Tex. Health and Safety Code § 501.002).

## 410.2 HAZARDOUS MATERIAL RESPONSE

Employees may encounter situations involving suspected hazardous materials, such as at the scene of a traffic crash, 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 Austin Fire Department is the agency trained and equipped to properly respond and mitigate most hazardous substances and biohazards. In an effort to increase efficiency and effectiveness, AFD and APD will communicate and coordinate activities in accordance with an Incident Command System.

Responders entering the area may require decontamination before they are allowed to depart the scene and should be evaluated by appropriate technicians and medical professionals for signs of exposure.

The following steps should be considered at any scene involving suspected hazardous materials:

(a) Attempt to identify the type of hazardous substance. Identification may be determined by placard, driver's manifest or statements from the person transporting the material.

(b) Utilization of personal protective gear. If in doubt about whether the use of personal protective equipment is appropriate, officers should contact on scene Hazmat personnel.

(c) Notify the Fire Department.

(d) Provide first aid to injured parties if it can be done safely and without contamination.

(e) Begin evacuation of the immediate area and surrounding areas, dependent on the substance. Voluntary evacuation should be considered; however, depending on the substance, mandatory evacuation may be necessary. The decision to continue evacuation beyond the immediate area or shelter in place should be made after consultation with AFD Haz-Mat units.

(f) Responders should remain up hill and upwind of the hazard until a zone of entry and a decontamination area is established.



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### 410.2.1 RADIOLOGICAL TESTING

All explosions should be assumed to have dispersed radiological material. Testing for signs of radiation should be conducted by trained APD officers or AFD Hazmat personnel as soon as possible after an incident.

## 410.3 REPORTING EXPOSURE

(a) Employees who believe they have been exposed to a hazardous material shall immediately report the exposure to a supervisor.

1. Supervisors informed of an employee exposed to a hazardous material shall ensure that immediate medical treatment is obtained and appropriate action is taken to lessen the exposure.
2. Each exposure shall be documented by the employee in an employee memorandum that shall be forwarded via chain-of-command to the employee's Commander.
3. Should the affected employee be unable to document the exposure for any reason, it shall be the responsibility of the notified supervisor to complete the memorandum.
4. Supervisors shall complete the required Workers' Compensation forms as outlined in Policy 956 (On-Duty Injury or Illness).



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# Hostage, Barricaded, and Suicidal Subject Incidents

## 412.1 PURPOSE AND SCOPE

Hostage situations and barricaded suspects present unique problems for law enforcement. The protection of the public and law enforcement personnel is of the utmost importance. Proper planning and training will tend to reduce the risks involved with these incidents. The Critical Incident Negotiation Team's (CINT) sole purpose is to facilitate the professional resolution of hostage and/or barricaded subject incidents.

For purposes of this document, "professional resolution" means utilizing nationally recognized law enforcement negotiation techniques which focus on saving human life during critical times involving emotionally disturbed persons and/or criminal subjects. Professional resolution further means recognizing the importance of safety and inter-unit communication and cooperation with regard to the overall success of critical incident resolution.

### 412.1.1 DEFINITIONS

**Barricaded Subject** - A person who takes a position of cover or concealment or maintains a position in a structure and who resists capture by law enforcement personnel. A barricaded subject may be armed, suspected of being armed, threatening violence and/or have demonstrated the potential to commit violence against others or themselves.

**Hostage** - A person held by one party in a conflict as security, so that specified terms will be met by the opposing party.

**Hostage Negotiator** - An officer who has been selected, trained and certified by the CINT Coordinator.

**"Jumper" Situations** - An unarmed suicidal subject who is threatening to jump from an elevated position which is capable of causing death.

**Unarmed Suicidal Subject** - An unarmed suicidal subject who presents no immediately apparent danger to officers or the public.

## 412.2 CRITICAL INCIDENT NEGOTIATION TEAM RESPONSE

The primary function of the Austin Police Department Critical Incident Negotiation Team is to assist other members of the Austin Police Department and/or other law enforcement agencies who require assistance with the professional resolution of hostage/barricaded subject situations, and unarmed suicidal subjects.

The CINT is a direct support unit to the SWAT Team and together comprise a component of Special Operations. As such, the CINT is on the SWAT call-up trigger page. All requests for hostage negotiators or the CINT are made through the Communications supervisor.

(a) **Hostage and Barricaded Subjects**

1. SWAT and CINT shall always respond to hostage/barricaded subject incidents.

(b) **"Jumper" Situations**



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1. Hostage negotiators may be called to the scene of "jumper" situations. When requested, generally two (2) hostage negotiators will respond.

(c) **All Other Unarmed Suicidal Subjects Situations**

1. SWAT and CINT will not normally respond to any other type of unarmed suicidal subject. In unarmed suicidal subject situations other than a "jumper," officers may request a response from crisis intervention officers or the Crisis Intervention Team (CIT).

## 412.3 FIRST RESPONDER ASSESSMENT

Nothing in this policy precludes an officer from making a call inside a structure to determine what is going on, or to request that a subject come outside to speak with officers.

The ranking officer may request the assistance of an on-duty hostage negotiator to aid in the initial assessment, phone call or verbal contact.

As soon as it becomes apparent that a hostage/barricaded subject incident or "jumper" situation is in progress, officers shall adhere to the notification process outlined in this policy.

### 412.3.1 NOTIFICATION PROCESS AND RESPONSIBILITIES

(a) If the assessment determines a hostage/barricade situation exists, the first responder shall immediately request a supervisor to respond and notify Communications to request a SWAT/CINT response.

(b) If the assessment determines that a "jumper" situation exists, the ranking officer should notify Communications to request a CINT-only response.

(c) The ranking officer on the scene of an actual or potential hostage/barricade situation shall consider the following:

1. Avoid confrontation in favor of controlling and containing the situation until the arrival of trained personnel and/or trained hostage negotiation personnel.
2. Evacuation of bystanders and injured persons.
3. Provide responding officers with a safe arrival route to the location.
4. Follow Department guidelines for perimeter control, containment, and communications.

(d) The ranking officer is responsible for ensuring that personnel on scene with pertinent information are available to relay it to SWAT/CINT as soon as possible.

(e) The responsibility for the disposition of a subject who has been taken into custody for a criminal offense or mental health evaluation lies with the uniformed first responders.

## 412.4 SUPERVISORS RESPONSIBILITY

(a) Supervisors shall immediately respond to the scene of all hostage/barricade situations and be responsible for the following:

1. Rapidly evaluate and assess the situation, and obtain a briefing by the initial responders.
2. Assume the role of Incident Commander and retain this role until relieved.
3. Establish a Command Post and appropriate chain-of-command.
4. Notify tactical and hostage negotiation personnel.



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5. Notify appropriate persons within and outside the agency, such as command officers, dog handlers or helicopter pilots.
6. Establish inner and outer perimeters.
7. Request ambulance, rescue, fire and surveillance equipment.
8. Authorize news media access and news media policy.
9. Pursuit/surveillance vehicles and control of travel routes.

(b) Supervisors or the Watch Lieutenant should advise the Special Operations commander with as much of the following information as is available:

1. The number of suspects, known weapons and resources available.
2. Whether the suspect is in control of hostages.
3. If the suspect is barricaded.
4. The type of crime involved.
5. If the suspect has threatened or attempted suicide.
6. The location of the Command Post and a safe approach to it.
7. The extent of any perimeter and the number of officers involved.
8. Whether the suspect has refused an order to surrender, and any other facts critical to the immediate situation.

## 412.5 ON-SCENE COMMAND RESPONSIBILITIES

(a) Upon arrival of the Special Operations supervisor at the scene, the Special Operations supervisor shall be briefed about the situation by the original on-scene supervisor and/or on-scene personnel with knowledge of the incident.

(b) Once briefed, the Special Operations supervisor or designee shall be responsible for the tactical portion of the operation.

(c) The original on-scene supervisor shall be responsible for perimeter security and general support for the Special Operations teams.

(d) The original on-scene supervisor and the Special Operations supervisor, or authorized designees, shall maintain communication as the situation develops.

## 412.6 REPORTING

Unless otherwise relieved by a supervisor, the initial officer at the scene is responsible for completion of reports or coordination of reports for the hostage/barricade incident.



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# Clandestine Lab

## 413.1 PURPOSE AND SCOPE

Clandestine laboratory enforcement actions are complicated by the presence of hazardous and/or explosive chemicals. Clandestine laboratories often house substantial quantities of highly toxic, corrosive and explosive chemicals posing serious human health and environmental risks. To ensure that issues concerning health, officer safety, and safety of the environment are properly handled, the following procedures will be followed when an employee discovers apparatus they suspect may be used to manufacture narcotics. There are strict federal and state guidelines for the dismantling, removal, and transporting of clandestine lab chemicals and apparatus.

### 413.1.1 CLANDESTINE LAB TEAM

The Organized Crime Division (OCD) has a certified Clandestine Lab Team (CLT) that is specially equipped and trained for the purpose of investigating, dismantling, and transporting clandestine laboratories. This team is on call 24 hours a day, seven days a week to respond to clandestine labs.

## 413.2 CLANDESTINE LABS

A clandestine lab can be either a cooking lab in the process of producing an illegal drug, or it can be a boxed-up or dismantled lab.

(a) Clandestine Labs can be found in, but are not limited to, the following places:
   1. Residential structures (e.g., houses, motel rooms).
   2. Vehicles, boats, and travel trailers.
   3. Self-storage units.
   4. Wooded areas.

(b) Clandestine labs are dangerous due to the threat of explosion, fire, and chemical contamination to officers and civilians who are close to a lab.

(c) Except in emergency situations, no employee, other than members of the CLT, will enter any room or structure known to contain or reasonably suspected to contain a clandestine laboratory.

(d) Officers should be aware that clandestine laboratories may also be established for the production of biological or chemical agents to be used in weapons of mass destruction (WMD). If a WMD lab is suspected, notification should be made to the APD Bomb Squad as well as the CLT.

## 413.3 PROCEDURES AFTER THE DISCOVERY OF A LABORATORY OR LABORATORY APPARATUS

Only certified, trained CLT members or an APD Chemist will be involved in the dismantling, removal and transportation of clandestine lab chemicals and apparatus.

(a) Officers who discover any item(s), which may resemble a clandestine lab and/or chemicals, will notify APD Communications immediately.
   1. Communications will contact the Fire Department if any clandestine lab, chemical spill, or chemical situation presents an immediate threat of fire,



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2. Communications will immediately notify the on-call CLT sergeant. In the absence of the CLT sergeant, the CLT lieutenant will be notified.

(b) Officers will not attempt to disconnect any apparatus, except in extreme circumstances where taking no action would lead to more serious consequence (e.g., fire, explosion).

(c) If officers discover a clandestine lab during the course of an investigation or arrest, all persons in the house or vehicle should be moved a safe distance from the lab.

1. Any suspect(s) believed to have involvement should be detained until the CLT members arrive and debrief the suspect(s).

2. Residents in nearby dwellings should be moved to a safe location until the area has been declared safe by the CLT supervisor.

(d) Officers will not transport any chemicals or apparatus in police vehicles unless directed otherwise by a CLT member.

(e) Officers should never discard or move any chemical substances found unless at the direction of a CLT member.



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# Bomb Threats, Explosive Devices, and Bombing/Explosion Incidents

## 414.1 PURPOSE AND SCOPE

These guidelines have been prepared to assist officers in the initial response to incidents involving bomb threats, explosive devices, or bombing/explosion incidents. Under no circumstances should these guidelines be interpreted as compromising the safety of first responders or the public. When confronted with an incident involving explosives, safety shall always be the primary consideration.

### 414.1.1 REQUIRED BOMB SQUAD NOTIFICATION

(a) The Bomb Squad shall be notified of, and respond to:

1. Bomb threats made at mobile targets such as aircraft, trains, and watercraft.
2. Incidents where a suspected or known explosive device is discovered.
3. Explosive emergencies.
4. All incidents where an explosion has occurred.
5. Scenes where suspected explosives have been located or recovered (e.g., commercial, military, homemade).

(b) The Bomb Squad should NOT normally be utilized in response to bomb threats targeting a building, dwelling or fixed structures unless an explosive device is found or circumstances warrant it. This includes all fixed structures such as:

1. Industrial buildings.
2. Shopping centers or malls.
3. School or college campuses.
4. Government buildings.
5. Residential dwellings.

### 414.1.2 USE OF RADIOS/CELLULAR PHONES DURING BOMB RELATED INCIDENTS

The use of equipment during bombing/bomb threat response incidents that generate radio frequency energy is a subjective matter that must balance risk versus benefit. The need for communications among responders can outweigh the risk of communication equipment inadvertently causing a detonation of an unknown explosive device. With this is mind it is permissible to leave radios and cell phones on during a bomb threat search or life saving measures at explosion scenes, but if a suspicious item is identified, do not transmit from a position near the item(National Guidelines for Bomb Technicians, Section 8.5, rev 3/10, U.S. Dept of Justice, Federal Bureau of Investigation).

## 414.2 BOMB THREATS AND FOUND EXPLOSIVE DEVICES

Officers responding to a bomb threat and/or who find a potential explosive device shall follow the guidelines outlined in this section.



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### 414.2.1 BOMB THREATS

When dispatched to a bomb threat, officers should:

(a) Advise Communications of arrival one (1) to two (2) blocks from the location.

(b) Locate, identify and interview the following personnel:

1. Person in charge of the premises.
2. Person who received the threat.
3. Anyone who knows anything about the threat or the suspect.
4. Evaluate the validity of the threat.

(c) Evacuate the premises or area, if necessary:

1. The decision to evacuate a premises on a bomb threat should be made by the person in charge of the premises, but may be superseded by a supervisor at the scene.
2. If evacuation occurs, establish a perimeter of 300 feet or more from the target.

(d) Search for potential explosive devices:

1. The decision to conduct a search of the target of a bomb threat should be made by the person in charge of the premises based on an evaluation of validity of the threat. Officers should assist in conducting any search.
2. If possible, obtain a search team of volunteers who are familiar with the area to be searched.
3. Systematically search the area starting with areas accessible to the public.
4. Search for unusual items that seem out of place or suspicious.
   (a) If no potential explosive device is found, officers can clear the call and go back in-service.
   (b) If an potential explosive device is found, officers shall follow the guidelines below.

### 414.2.2 FOUND EXPLOSIVES/SUSPECT DEVICES

No known or suspected explosive device should be considered safe regardless of its size or apparent packaging. The device should not be touched or moved except by qualified Bomb Squad personnel. When officers locate a suspected explosive device, the following guidelines should be followed:

(a) All equipment within 300 feet of the suspected device that is capable of producing radio frequency energy (e.g, two-way radios, cell phones, MDC, personal communication devices) should be turned off. These devices may cause a detonation.

1. When it is necessary to communicate with a radio or cell phone, officers should place as much distance and shielding between themselves and the suspect item as possible or use a land line telephone.

(b) Notify a supervisor and request additional assistance, as necessary.

(c) Have Communications contact the Bomb Squad and Duty Commander. Provide the following information to Communications, as available:

1. Any stated threat(s).



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2. Exact comments.
3. Time of device discovery.
4. Exact location of the device.
5. Full description of the device (e.g., size, shape, markings, construction).

(d) Establish a minimum perimeter of 300 feet around the location of the device and evacuate the area. In establishing a perimeter, wind speed and direction must be considered. This information is available from Communications.

(e) Set up an initial Command Post.

1. The designated site for the initial Command Post should be swept for possible secondary explosive devices and other hazards and established upwind of the incident scene if possible.
2. Advise Communications of the Command Post location and direct initial responding units to perimeter locations.
3. Request anyone who has seen the device/explosive to stand by at the Command Post.

(f) Officers will have their Personal Protective Equipment (PPE) immediately available in the event an explosion occurs.

(g) A search of the area should be conducted for secondary devices or other objects that are either hazardous or foreign to the area, and a perimeter should be established around any additional suspicious device found.

(h) Explosive or military ordnance of any type should be handled only by the bomb squad or military ordnance disposal team.

### 414.2.3 SUPERVISOR RESPONSIBILITY

The first supervisor on the scene to a legitimized bomb threat should do the following:

(a) Assume command of the scene.

(b) Establish the primary Command Post.

1. The primary Command Post can be the same as the initial Command Post or it can be moved at the discretion of the supervisor based on the best information available at the time.
2. The site should be swept for possible secondary explosive devices and other hazards.
3. The Command Post should be established up-wind of the incident scene if possible.

(c) Establish an outer perimeter if believed necessary.

(d) Order an evacuation if believed necessary.

(e) If possible, contact the responding bomb techs and brief them on the information about the device/explosive.

(f) Execute all suggestions of the bomb techs and await their arrival.

(g) Do not allow anyone other than Bomb Squad personnel to approach the suspected explosive device for any purpose without consulting responding bomb technicians first.



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## 414.3 RESPONSE TO EXPLOSION/BOMBING INCIDENTS

When an explosion has occurred, there are multitudes of considerations which may confront the responding officers. As in other catastrophic incidents, a rapid response may help to minimize injury to victims, contamination of the scene by gathering crowds or additional damage by resulting fires or unstable structures.

(a) Whether the explosion was the result of an accident or a criminal act, responding officers should consider the following actions:

1. Immediately don PPE upon arrival at the scene.
2. Attempt an up-wind approach if feasible.
3. Notify a supervisor and request assistance.
4. Immediately establish a safety perimeter and evacuate anyone in the immediate area. In establishing the perimeter, wind speed and direction must be considered. This information is available from Communications.
5. Have Communications contact the Bomb Squad and Duty Commander.
6. Set up an initial Command Post with other emergency services providers and advise Communications of its location. The location selected for a Command Post should be swept for secondary explosive devices and other hazards
7. Direct initial responding units to perimeter locations.
8. Request anyone who has seen the device/explosion to stand by at the Command Post.
9. Be aware of the possibility of secondary devices and/or explosions.

(b) All explosions should be assumed to have dispersed radiological material. Officers should not attempt to enter the immediate area of the explosion until AFD Hazmat or trained APD officers have made an assessment of possible hazards.

### 414.3.1 SUPERVISOR RESPONSIBILITIES

(a) The first supervisor on the scene of a post-explosion incident should:

1. Assume command of the scene.
2. Establish the primary Command Post. This site can be the same as the initial Command Post or it can be moved at the discretion of the supervisor based on the best information available at the time. The location selected for the primary Command Post should be swept for secondary explosive devices and other hazards and established up-wind of the incident scene if possible.
3. Establish an outer perimeter if believed necessary.
4. Order an evacuation if believed necessary.
5. Ensure all APD personnel are wearing appropriate PPE.
6. Contact Communications and advise that a potential WMD/CBRN event is in progress.
7. Contact the responding bomb techs and brief them on the information about the incident, if practicable.
8. Execute all suggestions of the bomb technicians and Hazmat Commanders and await their arrival at the scene.

(b) Supervisors will not permit officers to enter the inner perimeter area until Hazmat has evaluated the scene for potential hazards.



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(c) Supervisors will insure that personnel are properly decontaminated at the conclusion of the incident. AFD Hazmat should be contacted for assistance.

### 414.3.2 CROWD CONTROL

Only authorized personnel with a legitimate need shall be permitted access to the scene. Spectators and other unauthorized individuals shall be excluded to a safe distance as is reasonably practicable given the available resources and personnel.

### 414.3.3 SCENE OF INCIDENT

As in any other crime scene, steps should immediately be taken to preserve the scene. The scene could extend over a long distance. Evidence may be imbedded in nearby structures or hanging in trees and bushes. The initial perimeter at an explosion scene should be set at 1.5 times the distance from the site of the explosion to the farthest found piece of debris if possible.



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# Aircraft Crashes

## 416.1 PURPOSE AND SCOPE

This policy describes situations involving aircraft crashes, including responsibilities of personnel, making proper notification and documentation.

## 416.2 RESPONSIBILITIES

In the event of an aircraft crash, employee responsibilities are as follows:

### 416.2.1 OFFICER RESPONSIBILITY

Officers should treat an aircraft crash site as a crime scene until it is determined that such is not the case. If a military aircraft is involved, additional dangers, such as live ordnance or hazardous materials, may be present. The scene may require additional security due to the potential presence of confidential equipment or information.

(a) Officers arriving on scene of an aircraft crash should:
   1. Determine the nature and extent of the crash.
   2. Request additional personnel and other resources to respond as needed.
   3. Provide assistance for the injured parties until the arrival of EMS, AFD and/or other emergency personnel.
   4. Cordon off and contain the area to exclude unauthorized individuals as soon as practicable.
   5. Provide crowd control and other assistance until directed otherwise by a supervisor.

(b) Entering an aircraft or tampering with parts or debris is only permissible for the purpose of removing injured or trapped occupants, protecting the wreckage from further damage or protecting the public from danger. If possible, the investigating authority should first be consulted before entering or moving any aircraft or any crash debris. Photographs or sketches of the original positions should be made whenever feasible.

(c) The fire department will be responsible for control of the crash scene until the injured parties are cared for and the crash scene has been rendered safe for containment. Thereafter, police personnel will be responsible for preserving the scene until relieved by the investigating authority.

(d) Once the scene is relinquished to the investigating authority, personnel from this department may assist in containment of the scene until the investigation is completed or assistance is no longer needed.

(e) An airport service worker or the airport manager may respond to the scene to assist the on-scene commander with technical expertise, should it be needed during the operation.

### 416.2.2 NATIONAL TRANSPORTATION SAFETY BOARD

The National Transportation Safety Board (NTSB) has the primary responsibility for investigating crashes involving civil aircraft. In the case of a military aircraft incident,



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the appropriate branch of the military will be involved in the investigation. The NTSB is concerned with several aspects of a crash as described in this section.

Every effort should be made to preserve the scene to the extent possible in the condition in which it was found until such time as NTSB or other authorized personnel arrive to take charge of the scene.

Military personnel will respond to take charge of any military aircraft involved, regardless of any injury or death.

If the crash did not result in a death or injury and the NTSB elects not to respond, the pilot or owner may assume control of the aircraft.

Removal of the wreckage shall be done under the guidance of the NTSB or military authorities or, if the NTSB is not responding for an on-site investigation, at the discretion of the pilot or the owner.



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# Family Violence

## 418.1 PURPOSE AND SCOPE

Family Violence is alleged criminal conduct and it is the policy of the Austin Police Department to stress enforcement of criminal laws related to family violence, the protection of the victim and the availability of civil remedies and community resources.

### 418.1.1 DEFINITIONS

**Dating Relationship** - A relationship between individuals who have or have had a continuing relationship of a romantic or intimate nature. A casual acquaintanceship or ordinary fraternization in a business or social context does not constitute a dating relationship. The existence of such a relationship shall be determined based on consideration of the (Tex. Fam. Code § 71.0021(b & c)):

(a) Length of the relationship; and

(b) Nature of the relationship; and

(c) Frequency and type of interaction between the persons involved in the relationship.

**Dating Violence** - An act by an individual that is against another individual with whom that person has or has had a dating relationship and that is intended to result in physical harm, bodily injury, assault or sexual assault or that is a threat that reasonably places the individual in fear of imminent physical harm, bodily injury, assault or sexual assault. However, dating violence does not include actions taken in self defense. (Tex. Fam. Code § 71.0021).

**Family** - Individuals who are related either by blood or by marriage. Family includes former spouses, parents of the same child regardless of the marital status or the legitimacy of the child and foster child/parent relationships (Tex. Fam. Code § 71.003).

**Family Violence** - An act by a member of a family or household against another member of the family or household that is intended to result in physical harm, bodily injury, assault or sexual assault or that is a threat that reasonably places the member in fear of imminent physical harm, bodily injury, assault or sexual assault. However, family violence does not include actions taken in self defense (Tex. Fam. Code § 71.004).

- *Family violence also includes the term dating violence (Tex. Fam. Code § 71.004).*

**Household** - A unit composed of persons living together in the same dwelling, without regard to whether they are related to each other (Tex. Fam. Code § 71.005).

**Member of a household** - Includes a person who previously lived in a household. (Tex. Fam. Code § 71.006).

**Primary Aggressor** - The person who appears to be the most significant aggressor rather than the first aggressor. In identifying the primary aggressor an officer shall consider:

(a) The intent of the law to protect victims of family violence from continuing abuse.

(b) The threats creating fear of physical injury.

(c) The history of family violence between the persons involved.

(d) Whether either person acted in self-defense.



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## 418.2 ENFORCEMENT GUIDELINES

The primary duties of an officer who investigates a family violence allegation, or who responds to a disturbance call that may involve family violence, are to protect any potential victim of family violence and enforce the law by making lawful arrests of violators.

Officers making an arrest for any incident involving family violence shall direct file all charges as outlined in Policy 323 (Booking and Arrest Review), unless directed otherwise by the appropriate investigator.

### 418.2.1 ARREST REQUIREMENT FOR ASSAULTIVE OFFENSES

(a) Officers are required to make an arrest for incidents involving family violence when:

1. An assault has occurred that resulted in a minimum of bodily injury or complaint of pain; and
2. The suspect is still on-scene; and
3. The assault meets the definition of "family violence" or "dating violence."

(b) If both parties have been assaulted, officers shall make reasonable efforts to identify the primary aggressor. Arrests of both parties should be avoided unless warranted.

1. If officers at the scene cannot determine the primary aggressor, an on-duty supervisor shall be contacted to make the determination.
2. If the on-duty supervisor cannot determine the primary aggressor and there is adequate and articulable probable cause to believe that each person contributed to the violence, supervisors may authorize officers to make multiple arrests.
   (a) Officers shall write probable cause affidavits for each of the arrests and direct file the charges.
   (b) The name of the supervisor authorizing a multiple arrest situation shall be included in the incident report.

(c) Officers shall not use mediation at the scene as a substitute for appropriate reporting and enforcement action when physical violence has taken place.

(d) Officers shall arrest for assault by threat or assault by contact if no physical violence has occurred but circumstances reasonably show further violence is likely to happen. Supervisor approval is required when the arrest is made from inside a residence.

(e) Supervisors may authorize an exception to an arrest if there are articulable facts that lead a reasonable person to believe the alleged suspect was acting in self-defense. The facts leading to the decision for an exception shall be fully documented in the incident report, along with the name of the supervisor approving the exception.

(f) In felony incidents involving family violence, except for enhancement due to a prior conviction, the on-call investigator from the Family Violence Protection Team shall be contacted by a supervisor:

1. When no arrest is made, prior to clearing the scene; or
2. When an arrest is made, prior to the suspect being transported to the jail.

### 418.2.2 FAMILY VIOLENCE INVOLVING MENTAL ILLNESS

If there is reason to believe a suspect that is still on-scene suffers from a mental illness, an on-duty patrol officer that is a certified Crisis Intervention Team (CIT) officer shall be requested to the scene.



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(a) A Peace Officer Emergency Commitment (POEC) may be used to remove a suspect from the scene for the purpose of a psychiatric evaluation and/or treatment in lieu of a custodial arrest. The discretion to use a POEC rests solely with the on-scene CIT officer.

(b) It is recommended that a suspect in a family violence offense only be placed in protective custody pursuant to a POEC when sufficient psychiatric bed space is available and has been confirmed at the proper psychiatric facility by the CIT officer prior to transport. Under no condition will a suspect in protective custody pursuant to a POEC be transported to a hospital ER for a family violence offense when no psychiatric beds are available in lieu of filing criminal charges.

(c) If the CIT officer determines the subject fits the criteria for a POEC, the CIT officer may transport the subject to a psychiatric facility on the POEC.

1. Once at the facility, the CIT officer will remain with the subject pending the physician's evaluation.

   (a) If the facility admits the subject, the CIT officer shall complete all required family violence documentation but will not file any charges on the subject. Additional charges may be filed at a later time.

   (b) If the facility does not admit the subject, the CIT officer will place the subject under arrest for the family violence criminal offenses(s) committed. Once arrested, the CIT officer shall complete all documentation and use direct file procedures for the filing of charges at the time of booking.

(d) This section does not:

1. Remove the requirement to complete an *Assault Victim Statement* (AVS) and make any applicable notifications as outlined in this policy.

2. Supersede an officer's authority to arrest for a felony offense at the scene in accordance with Department policy.

### 418.2.3 FAMILY VIOLENCE INVOLVING JUVENILES

(a) **Juvenile Suspects**

1. Family violence incidents involving a juvenile suspect between the ages of 10-16 years old shall be enforced and reported the same way as if the suspect was an adult.

(b) **Juvenile Victims**

1. Officers investigating an allegation of family violence that involves the discipline of a child/juvenile should make the determination if the force used was reasonable. Officers are reminded not to allow personal beliefs regarding discipline to interfere with their legal judgment.

   (a) Officer determining the force was unreasonable, serious injury occurred, or the potential for serious injury is likely, shall contact their supervisor prior to making an arrest.

   (b) Supervisors shall contact the appropriate Investigative Unit prior to transporting the suspect; these arrests are not direct filed.

(c) **Investigative Unit Responsibility**

1. The incident shall be handled by the Family Violence Protection Team when:



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(a) The victim is 15, 16, or 17 years of age and the alleged suspect is any "family member;" or

(b) The victim is 14 years of age or younger and the alleged suspect is a "family member" who **does not** have care, custody and control of the child at the time of the incident (e.g., older sibling, cousin or person not authorized to discipline the child).

2. The incident shall be handled by the Child Abuse Unit when:

(a) The victim is a juvenile 14 years of age or younger and the alleged suspect is a "family member" who **does** have care, custody and control of the child at the time of the incident (e.g., parent, guardian, related babysitter).

### 418.2.4 FAMILY VIOLENCE INVOLVING STRANGULATION/SUFFOCATION

When the suspect impedes the normal breathing or circulation of the blood of the victim by applying pressure to the victim's throat, neck or by blocking the victim's nose or mouth, the assault shall be enhanced to a felony of the third degree (Tex. Penal Code § 22.01(b)(2)(B)).

(a) While in most cases there is evidence of both external and internal injury to the neck, many times there are no visible injuries. In those instances, an internal injury may still have occurred that can result in death. Victim may not understand the danger of their injuries and may be reluctant to seek medical attention.

1. Call EMS to the scene to evaluate the victim even if the victim doesn't want them.
2. Advise EMS you suspect strangulation with possible life threatening injury.

(b) Proper documentation of an assault involving strangulation/suffocation is critical and should include at least the following:

1. **Physical Signs** - This may include, but is not limited to:

(a) Red marks or bruising around the neck.

(b) Loss of memory in the recollection of the sequence of events.

(c) Petechial hemorrhaging (burst blood vessels) in the eye or face area.

(d) Difficulty and/or painful swallowing or hoarseness in the voice.

2. **Type/Method**

(a) Ligature - Involves the use of a weapon (e.g., belt, telephone cord, shoe string, rolled up shirt) to impede breathing or cause air restriction.

(b) Manual - Involves the use of the suspects' hands to impede breathing or to cause air restriction.

1. Describe in detail the position of the suspect in relation to the victim (e.g., grabbed from the front or from behind) and what body part was used by the suspect (e.g., one hand, both hands, arm using choke hold).

3. **Specific Questions**

(a) What did you think was going to happen?

(b) What did the suspect say?

(c) How did it stop?

(d) What did you say during the assault?



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(e) How did you feel?

4. **Additional Observations**

(a) If the victim has trouble swallowing, breathing or any pain or tenderness in neck area.

(b) Any changes in the victim's voice during interview (e.g., hoarseness, raspy, loss of voice).

### 418.2.5 ENHANCEMENT DUE TO PRIOR CONVICTION

(a) A misdemeanor assault shall be enhanced to a felony of the third degree if the suspect has an eligible prior conviction on his CCH (Tex. Penal Code § 22.01(b)(2)(A)).

(b) An assault involving strangulation/suffocation shall be enhanced to a felony of the second degree if the suspect has an eligible prior conviction on his CCH, with the exception of a prior conviction involving continuous violence against family (Tex. Penal Code § 22.01(b-1)).

(c) **Eligible Prior Conviction**

1. A prior conviction meets the guidelines for enhancement if:

(a) The victim in the previous offense had a family or dating relationship with the defendant; and

(b) The offense is classified as:

1. Any offense in Tex. Penal Code Chapter 19; or
2. Any offense in Tex. Penal Code Chapter 22; or
3. Kidnapping (Tex. Penal Code § 20.03); or
4. Aggravated kidnapping (Tex. Penal Code § 20.04); or
5. Indecency with a child (Tex. Penal Code § 21.11); or
6. Continuous violence against the family (Tex. Penal Code § 25.11).

### 418.2.6 CONTINUOUS FAMILY VIOLENCE

(a) Continuous violence against family (Tex. Penal Code § 25.11) is a separate offense and should only be used when the defendant does not have a qualifying previous conviction.

(b) The determination of whether to file the continuous violence against family charge shall be at the discretion of Arrest Review.

### 418.2.7 INTERFERENCE WITH EMERGENCY TELEPHONE CALL

Interference with emergency telephone call has its own arrest authority (Tex. Code of Crim. Pro. art. 14.03(a)(5)) that is separate from the arrest authority for family violence.

(a) Officers should consult with their supervisor or Arrest Review to confirm there is enough probable cause for the arrest of this offense. If enough probable cause exists, officers may make an arrest.

(b) When no arrest is made, officers shall write up a report and detail whether the victim wants to file charges for the offense.

(c) When this offense also involves a family violence incident, officers shall make sure an *Assault Victim Statement* (AVS) is completed.



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## 418.3 ADDITIONAL INVESTIGATIVE GUIDELINES

This section includes additional guidelines and required notifications when investigating any incident that involves family violence or may have involved family violence.

### 418.3.1 ASSAULT VICTIM STATEMENT

(a) An *Assault Victim Statement* (AVS) form shall be completed on every incident involving family violence, regardless of whether an arrest is made. This includes, but is not limited to, the following offenses:

1. Any assault offense involving family violence.
2. Harassment.
3. Stalking.
4. Interference with emergency telephone call.

(b) Officers shall advise victims of their right to obtain an emergency protective order (EPO) and ask them if they wish to file one. The required guidelines for filing an EPO are outlined later in this policy.

(c) Victims of family violence are to be given the opportunity to complete the AVS and sign it.

1. Victims should be advised that the AVS may be used to file charges.
2. In the event the victim refuses to complete and sign the AVS, the reporting officer shall complete the form and sign it under the signature refused section with a witness to the refusal, if possible.
3. The AVS form must be reviewed for completeness by the officer prior to leaving the scene.

### 418.3.2 VICTIM INFORMATION

(a) Officers shall provide each adult present with a copy of the information pamphlet entitled *Victim Assistance Information* that includes the *Notice to Adult Victims of Family Violence* and write the incident number on the front page.

(b) Victims should always be referred to Victim Services for counseling.

(c) Victims and offenders should be told that assault charges on family violence arrests may be filed even if the victim does not wish charges to be filed.

1. Victims who express a desire to drop charges should be referred to Victim Services. Victim Services will refer the victim, after counseling, to the County or District Attorney.

(d) Victims with additional questions should be referred to the Family Violence Protection Team.

1. On felony arrests, the victim should be told to contact the Family Violence Protection Team the next day to determine if the assigned investigator needs additional information or statements.
2. On non-arrest incidents, the victim should be told that the case will be assigned to an investigator for follow-up investigation.

### 418.3.3 REQUIRED CHILD PROTECTIVE SERVICES NOTIFICATION

(a) **When CPS Notification is Required**



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1. Child Protective Services (CPS) must be notified following all incidents of family violence that resulted in a visible injury or aggravated assault if a child is:
   (a) Present at the scene of the incident; or
   (b) Known to reside at the location of the incident.
2. The notification shall be made:
   (a) Regardless of whether the child witnessed the incident; or
   (b) If an officer has reason to be concerned for the physical or emotional welfare of the child.

(b) **How CPS Notification may be Completed**

1. The incident should be reported to CPS from the scene or immediately after clearance; however, notification shall be made prior to the end of the primary officer's tour of duty.
2. It is ultimately the primary officers responsibility to ensure the required notification is completed, regardless of what method is used.
   (a) The primary officer can complete the notification by using the CPS Law Enforcement Hotline number available through Communications.
   (b) APD Victim Services may be requested to complete the notification.
      1. If Victim Services is used, officers need to provide all the required pertinent information to the team member.

(c) **Required Information for CPS**

1. APD incident number.
2. Brief summary of incident.
3. Names, ages and dates of birth of all children involved.
4. Names, ages, dates of birth of adults involved.
5. Address where incident occurred.
6. Address where parties reside and/or may be located.

(d) **Reporting**

1. Any received CPS call ID number provided to the officer or Victim Services member should be included in the narrative of the incident report.

### 418.3.4 EVIDENCE COLLECTION AND PHOTOGRAPHS

(a) **Evidence Collection**

1. Any weapon or object used in the commission of the offense shall be seized as evidence.
2. Any other evidence that relates to the offense (e.g., ripped clothing, soiled clothing, broken phone).
3. Evidence shall be submitted as outlined in Policy 701 (Property and Evidence Collection Procedures).

(b) **Photographs**

1. Digital photographs should be taken of:
   (a) All visible injuries on the victims and suspects, regardless of severity.



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1. All victims and suspects shall receive proper medical care prior to being photographed, if needed or desired.
2. Photographs should include, but are not limited to:
    1. Full body;
    2. Close up of face;
    3. Visible injuries;
    4. Area of body surrounding injury;
    5. Body part used as a weapon.
3. Victims whose injuries are not visible at the time of the incident shall be advised to contact the Investigative Unit in the event they become visible. An investigator may be assigned to ensure the injuries are photographed during the course of preparing the case for court.

(b) The overall scene if there was a struggle or damage to property.

(c) Any weapon or object used in the commission of the offense.

2. Digital photographs shall be downloaded into the Digital Crime Scene Management System.

## 418.4 EMERGENCY PROTECTIVE ORDERS

Officers shall offer all victims of family violence the opportunity to file an EPO.

(a) Officers shall file a motion for an EPO on the victim's behalf in all felony family violence arrests, including felony enhancements.

(b) Officers shall file a motion for an EPO on the victim's behalf in all other family violence arrests when:
    1. The victim wishes to have an EPO filed; or
    2. The victim is unable or refuses to file and the officer has sufficient reason to believe it is imperative to the safety of the victim to file an EPO.

(c) The reason why the suspect will be a further danger to the victim shall be documented on a motion for an EPO and included in the incident report.

(d) Completed motions shall be turned in at Arrest Review.

## 418.5 CIVIL STANDBY

Officers may respond to a call for service where a complainant is requesting an officer to standby while he removes some of his minor belongings from a residence. The goal of the standby is to prevent a disturbance from occurring while the complainant takes necessary items from a residence.

(a) When requested to conduct a standby, officers shall:
    1. Check to see if the complainant has a protective order against him for the requested address. No person, including the protected person or a law enforcement officer, can authorize any person to violate a protective order.
    2. Advise the complainant that only minor belongings needed for the immediate future should be taken (e.g., clothing, child items, toiletries); arrangements should be made at another time if the complainant requires prolonged assistance for the retrieval of his additional items.



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3. Advise the complainant that the determination of property ownership is not the officer's responsibility. Any contest to property ownership should be handled by the appropriate Justice of the Peace.

(b) The incident may be cleared as a civil issue without an incident report as long as no disturbance occurs. However:

1. Officers are encouraged to include notes in the call log summarizing the incident and whether the complainant needs to return for more belongings.
2. Officers shall complete an incident report if a disturbance occurs.

## 418.6 REPORTING GUIDELINES

(a) A written report shall be completed on all incidents involving:

1. Family disturbances and dating disturbances.
2. Family violence and dating violence allegations.
3. Any complaint of unreasonable discipline against a juvenile, regardless of whether an arrest is made.

### 418.6.1 USE OF PROPER TITLE CODES

When initiating an incident report, the use of proper title codes is critical to ensure proper report routing.

(a) When no offense has been committed, the following title codes shall be used:

1. Dating Disturbance (2400) - When the incident involves a dating disturbance or dating violence incident.
2. Family Disturbance (3400) - When the incident involves a family disturbance or family violence incident.
3. Family Disturbance/Parental (3458) - When the incident involves a parent/guardian and child under 17.

(b) When a family violence related offense is alleged or found to have been committed, the following title codes shall be used:

1. Assault W/Injury Fam/Dating Violence (0900-1).
2. Assault by Threat Fam/Dating Violence (0901-1).
3. Assault by Contact Fam/Dating Violence (0902-1).
4. Agg Assault Fam/Dating Violence (0402-1).
5. Agg Aslt Strangle/Suffocate - FV (0410-1).
6. Agg Aslt Enhancement Strangle/Suffocate - FV (0411-1) - When an assault involving strangulation/suffocation is enhanced due to an eligible prior conviction.
7. Continuous Violence Against Family (4030-1).
8. Felony Enhancement Assault with Injury - FV (0909-0) - When a misdemeanor assault is enhanced due to an eligible prior conviction.

### 418.6.2 REQUIRED INFORMATION

Officers shall document the following information in an incident report:



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(a) Specific facts that lead to the probable cause for an arrest, including a detailed description of injuries sustained and threats made by the victim and/or suspect.

(b) Information supporting, and the name of the supervisor approving, a decision to:

1. Not make an arrest when a suspect is on-scene of a family violence incident; or
2. Make multiple arrests in a family violence incident.

(c) The identity of all children witnessing or residing at the location of an incident. This includes the child's full name, date of birth, race, and sex in the "Persons" section of the incident report.

1. List as witness if the child was present in the household during the disturbance.
2. List as observed/seen if the child was not present in the household during the incident of family violence.

(d) Whether a motion for an EPO is being filed and the reason why, including why the suspect is believed to be a further danger to the victim upon release from jail.

(e) The CPS Call ID number in the event a CPS notification is made as outlined in this policy.

(f) A description of any evidence seized or photographs taken.

(g) Names of EMS and/or AFD personnel on scene that cares for any person, if applicable.

(h) Name of any medical facility that any person is transported to, if applicable.

### 418.6.3 FOSTER HOME LOCATIONS

In addition to the required incident report, an officer who investigates a family violence incident, or who responds to a disturbance call that may involve family violence, shall make an oral or electronic report to the Department of Family and Protective Services within 24 hours if the location of the incident or call, or the known address of a person involved in the incident or call, matches the address of a current licensed foster home or a verified agency foster home as listed in the Texas Crime Information Center (Tex. Code of Crim. Pro. art. 5.05(a-1)).

## 418.7 SUPERVISOR RESPONSIBILITIES

Supervisors shall:

(a) Contact the Family Violence Protection Team anytime there is a felony incident, regardless of whether an arrest is made. The contact should be made:

1. Prior to transporting the suspect, when an arrest is made; or
2. Prior to clearing the scene, when no arrest is made.

(b) Contact the appropriate Investigative Unit when there is an arrest situation involving a juvenile victim 14 years of age or younger.

(c) Determine whether to authorize the following types of family violence arrests:

1. Multiple arrest situations when the primary aggressor can not be determined; or
2. No arrest is made at the scene; or
3. Assault by contact or assault by threat arrests from inside a residence.

(d) Review family disturbance and dating disturbance report to ensure the report does not meet the qualifications of a criminal offense. Should a criminal offense be reported,



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supervisors shall ensure the correct title code is added and the report is routed to the appropriate Investigative Unit.



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# Protective Orders

## 419.1 PURPOSE AND SCOPE

Victims of family violence are entitled by law to protection from harm or abuse and the threat of harm or abuse. Various types of orders may be issued by various courts in family violence cases.

## 419.2 PROTECTIVE ORDERS AND BOND CONDITIONS

(a) Protective orders and bond conditions set by a court may prohibit a person found to have committed family violence from (Tex. Fam. Code 85.022):

1. Committing family violence.
2. Communicating:
   (a) Directly with the protected person or a member of the family or household in a threatening or harassing manner;
   (b) A threat through any person to the protected person or a member of the family or household;
   (c) In any manner with a member of the family or household except through the party's attorney or a person appointed by the court.
3. Going to or near the residence, place of employment or business of the protected or a member of the family or household of the protected person.
4. Going to or near the residence, child care facility, or school of a child protected under the order where the child normally attends or in which the child normally resides.
5. Engaging in conduct directed specifically toward the protected person or a member of the family or household, including following the person, that is reasonably likely to harass, annoy, alarm, abuse, torment, or embarrass the person.
6. Possessing a firearm unless the person is a peace officer, as defined by Penal Code 1.07, actively engaged in employment as a sworn, full-time paid employee of a state agency or political division.

### 419.2.1 EMERGENCY PROTECTIVE ORDERS

A magistrate may issue an emergency protective order (EPO) against a defendant at the defendant's initial appearance before the magistrate, if the defendant is under arrest for family violence, sexual assault, aggravated sexual assault, or stalking. The order may be issued on the magistrate's own motion, or on request of the victim, the guardian of the victim, a peace officer, or the attorney representing the State (Tex. Code of Crim. Proc. art 17.292).

(a) An EPO may be effective for a period:

1. Between 31-61 days; or
2. Between 61-91 days if the suspect used or exhibited a deadly weapon during the assault.

(b) A violation of an EPO is included in Penal Code § 25.07.



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(c) EPO's for victims of family violence shall be filed by officers as outlined in Policy 418 (Family Violence).

### 419.2.2 TEMPORARY EX-PARTE ORDERS

Temporary ex-parte orders are issued by the court when the court finds there is a clear and present danger of family violence contained in the application for a protective order. The court, without further notice to the individual alleged to have committed family violence and without a hearing, may enter a temporary ex-parte order for the protection of the applicant or any other member of the family or household of the applicant (Tex. Fam. Code § 83.001).

(a) Temporary ex-parte orders may be effective for a period not to exceed 20 days.

(b) A violation of a temporary ex-parte order is included in Penal Code § 25.07 but only after it has been served to the person named in the order.

### 419.2.3 FINAL PROTECTIVE ORDERS

A final protective order is designed to protect victims of violence by stopping violent and harassing behavior for a longer period of time (Tex. Fam. Code § 85.021).

(a) Final protective orders issued by a court may be effective for the following time periods:

1. A period not to exceed two years; or
2. If a period is not stated in the order, until the second anniversary of the date the order was issued; or
3. If the respondent is in prison on the date the protective order is set to expire, the expiration date is extended for one year from the date the respondent is released.

(b) A violation of a final protective order is included in Penal Code § 25.07.

### 419.2.4 BOND CONDITIONS

Judges and magistrates can attach conditions to a bond set in a family violence case preventing certain actions. A violation of a bond condition is included in Penal Code § 25.07.

## 419.3 ENFORCEMENT PROCEDURES

Court orders that are enforceable by law enforcement are

(a) Emergency protective orders.

(b) Final protective orders.

(c) Temporary ex-parte orders after they have been served to the person named in the order.

(d) Certain bond conditions.

(e) Valid out-of-state and tribal court protective orders (Tex. Fam. Code § 88.004).

### 419.3.1 VERIFICATION OF ORDER

Whenever a complainant advises of the existence of a protective order, officers shall immediately attempt to determine the following:

(a) If a protective order exists through the following means:



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1. The complainant has a certified or official court copy of a protective order in his possession.
2. A protective order is on file via NCIC, TCIC, or APD Central Records. Temporary ex-parte orders are not entered into TCIC or NCIC and can only be verified by checking through APD Central Records.

(b) If the protective order is valid by checking the termination or expiration date of the order, or whether the order has been vacated by the court.

1. Temporary ex-parte orders must have been served prior to enforcement action in order for them to be valid. Service of temporary ex-parte orders can only be verified by checking through APD Central Records.

(c) If a violation of the protective order has occurred by checking:

1. The terms of the protective order; and
2. The location of the protected address.
   (a) Some orders specify the applicant's county of residence rather than a specific street address. This attempt by the court to further protect the applicant does not invalidate the order's protection of the residence address. In these cases, if a residence appears to be the applicant's home, it shall be considered the protected address and the order will be enforced accordingly.

(d) 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 utilize all reasonably available resources to confirm the validity of the order.

### 419.3.2 ARREST GUIDELINES

Officers must carefully read a protective order prior to taking enforcement action to verify the details of the prohibited conduct and that the order is still in effect.

(a) No person can grant the subject of a protective order permission to violate any tenet of the order, including a law enforcement officer or the victim.

(b) The protected person cannot be arrested for personally violating any tenet of the order.

(c) If it is found that a person has violated a court order, the following arrest guidelines apply:

1. An arrest shall be made when an officer witnesses a violation of any enforceable court order. (Tex. Court of Crim. Proc. art. 14.03(b)).
2. An arrest should be made when an officer has probable cause to believe a violation of any enforceable court order has been committed (Tex. Code of Crim. Proc. art. 14.03(a)(3)).

(d) In the event the suspect is no longer at the scene, officers shall document the incident in a report for follow-up investigation.

### 419.3.3 WHEN ORDER IS NOT VERIFIABLE

If the victim is not in possession of the protective order and/or for any reason the officer cannot verify the validity of the order, the following action shall be taken:

(a) Write a report and give the report number to the victim.



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(b) Inform the victim of how to contact the appropriate Investigative Unit for further action.

## 419.4 REPORTING

When officers investigate a family disturbance or similar incident and are informed that any person has violated a protective order, officers shall initiate an incident report regardless of whether an arrest is made.

(a) Officers shall use the appropriate title code to the incident report:

1. Viol of Bond Conditions (3006).
2. Viol Temp Ex Parte Order (3007).
3. Viol of Emerg Protective Order (3008).
4. Viol of Protective Order (3009).
5. Viol PO / Sexual Assault Victim (3010).
6. Viol of Court Order - Non EPO/PO (2008) - When the incident is of a civil nature (e.g., restraining order, child custody).

(b) Officers should document the identifying information of the protective order (e.g., order number, effective dates, judge's name) in the narrative.



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# Sexual Assault

## 420.1 PURPOSE AND SCOPE

This policy will establish a procedure by which officers shall investigate and report sexual assault related crimes.

## 420.2 INVESTIGATION CONSIDERATIONS

### 420.2.1 INITIAL INTERVIEW OF THE VICTIM

Officers shall adhere to the following guidelines when conducting an initial interview of a victim involved in a sexual assault.

(a) The physical well-being of the victim takes precedence in the initial response by officers. If the victim requires medical attention, the officer will summon EMS to the scene.

(b) Officers shall contact a Victim Services Unit.

(c) Officers shall conduct the interview of the victim with dignity and respect, being mindful that the victim has experienced a traumatic event.

1. Officers should make every attempt to maintain the victim's privacy and protect the integrity of the investigation.
2. Officers should not interview a victim 12 years of age or younger; these interviews shall be done by an investigator from the appropriate Investigative Unit. However, if the victim made an "outcry" statement to an adult, the officer should identify and interview the adult, if possible.
3. Officers will not ask a victim if they want to prosecute (the suspect / crime); this inquiry is premature.

(d) Officers shall provide the victim with the information outlined in this policy on the SAFE (Sexual Assault Forensic Exam). If the victim consents to the exam, approval shall be at the discretion of the Sex Crimes investigator.

(e) Once a determination is made that a sexual assault has occurred, officers shall contact the on-call Sex Crimes investigator and fully brief him on the incident. The investigator will determine if there is a need to respond to the scene.

(f) Officers should contact a Crime Scene Unit when a crime scene or evidence is present. Officers should be mindful that there are multiple crime scenes in a majority of sexual assaults; the victim, the suspect and the actual scene itself.

### 420.2.2 INVESTIGATIVE UNIT RESPONSIBILITY

When conducting a preliminary investigation of an alleged sexual assault, officers shall contact the appropriate Investigative Unit for assistance:

(a) **Child Abuse Unit** - If the victim is 16 years of age or younger.

(b) **Sex Crimes Unit** - If the victim is 17 years of age or older.



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## 420.3 SEXUAL ASSAULT FORENSIC EXAM INFORMATION

(a) Officers will explain the following information to the victim concerning the Sexual Assault Forensic Examination (SAFE) to allow them to make an informed decision about having the exam conducted.

1. A SAFE is not mandatory, but is strongly recommended.
2. The SAFE provides medical attention necessary for emergency and preventative treatment. Additionally, the examination allows for the collection and documentation of valuable forensic evidence.
3. Charges for the SAFE shall be paid for by the City of Austin and not billed to the victim. However, all other charges shall be the responsibility of the victim.
4. Officers should suggest that victims bring a change of clothing to the hospital if they are wearing the clothing they had on during the assault. Officers should explain that the clothing worn during the assault will be collected by the nurse for evidentiary purposes.
5. Whether or not a victim has bathed, showered, or douched does not preclude the exam from being conducted.
6. If the victim needs to urinate prior to the start of the SAFE, officers should obtain a sterile container from hospital personnel and give it to the victim so the victim's urine can be collected and preserved as evidence.

(b) Officers should determine if the victim, a person authorized to act on behalf of the victim or an employee of the Department of Family and Protective Services, will consent to the forensic examination, as appropriate (Tex. Code of Crim. Pro. art. 56.06). If the consent is given, officers shall request authorization from the appropriate Investigative Unit.

(c) Generally, exams shall be approved if the incident occurred within 120 hours. However, if a sexual assault is not reported within 120 hours, the Investigative Unit may still authorize a medical examination.

### 420.3.1 PREFERRED HOSPITAL FOR FORENSIC EXAM

The gender and age of the victim shall determine the preferred hospital for the examination. However, the victim may choose a particular hospital as long as it is within the city limits of Austin.

(a) The preferred hospitals are:

1. **St. David's Hospital**
   (a) Any adult victim.
   (b) Males who are 12 and older.
   (c) Females who have started their menstrual cycle.
2. **Dell Children's Hospital:**
   (a) Males under the age of 12.
   (b) Females who have not started their menstrual cycle.

(b) The charge nurse at St. David's Hospital will be given the incident number upon arrival. This is to ensure the SANE (Sexual Assault Nurse Examiner) is contacted and can respond to the hospital in a timely manner.



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### 420.3.2 CLOTHING COLLECTION AS FORENSIC EVIDENCE

(a) Officers should attempt to gather clothing worn by victims during the time the sexual assault occurred for evidentiary purposes when victims do not consent to a forensic exam or are no longer wearing the clothing they were wearing at the time the sexual assault occurred.

(b) Proper handling of evidence can be found in Policy 701 (Property and Evidence Collection Procedures).



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# Elder Abuse

## 422.1 PURPOSE AND SCOPE

The purpose of this policy is to provide members of this department with direction and understanding of their role in the prevention, detection and intervention in incidents of elder abuse. It is the policy of the Austin Police Department to treat reports of violence against elderly persons as a high priority criminal activity that is to be fully investigated regardless of the relationship between the victim and the suspect(s) (Tex. Hum. Res. Code § 40.0527).

## 422.2 DEFINITIONS

For purposes of this policy, the following definitions are provided (Tex. Hum. Res. Code § 48.002).

**Dependent Adult** - A person with a mental, physical or developmental disability that substantially impairs the person's ability to provide adequately for the person's own care or protection, and who is 18 years of age or older.

**Elder** - Any person 65 years of age or older.

**Abuse** -

(a) The negligent or willful infliction of injury, unreasonable confinement, intimidation or cruel punishment with resulting physical or emotional harm or pain to an elderly or disabled person by the person's caretaker, family member or other individual who has an ongoing relationship with the person.

(b) Sexual abuse of an elderly or disabled person, including any involuntary or non-consensual sexual conduct that would constitute an offense under Section 21.08, Penal Code (indecent exposure) or Chapter 22, Penal Code (assaultive offenses), committed by the person's caretaker, family member, or other individual who has an ongoing relationship with the person.

**Exploitation** - The illegal or improper act or process of a caretaker, family member or other individual who has an ongoing relationship with the elderly or disabled person, using the resources of an elderly or disabled person for monetary or personal benefit, profit or gain without the informed consent of the elderly or disabled person.

**Protective Services Agency** - A public or private agency, corporation, board or organization that provides protective services to elderly or disabled persons in the state of abuse, neglect or exploitation.

**Neglect** - The failure to provide for one's self the goods or services, including medical services, which are necessary to avoid physical or emotional harm or pain, or the failure of a caretaker to provide such goods or services.

## 422.3 MANDATORY REPORTING REQUIREMENTS

The Austin Police Department is considered a mandated reporter. If during the course of an investigation an officer has cause to believe that the elderly or disabled person has been abused, neglected or exploited by another person in a manner that constitutes a criminal offense under any law, the officer shall take a report and notify the appropriate state agency (Tex. Hum. Res. Code § 48.051).



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## 422.4 OFFICER'S RESPONSE

All incidents involving actual or suspected elder and dependent abuse shall be fully investigated and appropriately documented.

### 422.4.1 INITIAL RESPONSE

Officers may be called upon to make a forced entry as the first responders to the scene of a suspected elder abuse case. Entry should be immediate when it appears reasonably necessary to protect life or property. When the need for an emergency entry is not evident, officers should seek supervisory approval. Officers must be prepared to provide emergency care pending the arrival of medical personnel, if medical personnel not already present.

### 422.4.2 STABILIZE THE SITUATION

Officers must quickly assess the situation to ensure the immediate safety of all persons. Officers shall also consider the following:

(a) Attempt to identify the victim, suspect and witnesses as well as the roles and relationships of all parties. Parties should be interviewed separately when possible. Frequently it is wrongfully assumed that elderly persons are incapable of accurately reporting the incident. Do not automatically discount the statement of an elderly person.

(b) Preserve the crime scene where evidence may be present. All persons should be removed from the scene until it has been photographed and processed. Any evidence that may change in appearance, such as injuries, should be photographed immediately.

(c) Assess and define the nature of the problem. Officers should assess the available information to determine the type(s) of abuse that may have taken place or the potential for abuse in the future that may be eliminated by law enforcement intervention.

(d) Make on-scene arrests when appropriate. Immediate arrest of an abuser (especially when the abuser is a family member or caretaker) may leave the elderly victim without necessary support and could result in institutionalization. The effect of an arrest on the victim should be considered and weighed against the assessed risk and the competent victim's desires. The present and future safety of the victim is of utmost importance.

### 422.4.3 SUPPORT PERSONNEL

The following person(s) should be considered if it appears an in-depth investigation is appropriate:

(a) Patrol supervisor.

(b) Investigative personnel.

(c) Evidence collection personnel.

(d) APD Victim Services.

(e) Adult Protective Services.

### 422.4.4 PROTECTIVE ORDERS AND EMERGENCY PROTECTIVE ORDERS

In any situation which an officer reasonably believes that an elder or Dependant 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 contact Adult Protective



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Services and request that they obtain a protective order against the person alleged to have committed or threatened such abuse if that person is not in custody.

Refer to Policy 418 (Family Violence) for guidelines on filing an EPO on any incident where a suspect is arrested and it is clear there has been family violence against an elder or dependent adult.

## 422.5 ELDER ABUSE REPORTING

Every allegation of elder abuse shall be documented. When documenting elder/dependent abuse cases, the following information should be included in the report:

- Current location of the victim
- Victim's condition/nature and extent of injuries, neglect or loss
- Names of agencies and personnel requested and on-scene
- Any information that indicates a victim or critical witness may suffer from a health condition that may warrant an expedited investigation/prosecution or the preservation of testimony under Tex. Code of Crim. Pro. art. 39.025

Reporting of cases of elder/dependent abuse is confidential and will only be released in accordance with the Security and Release of Records and Information Policy.

## 422.6 ELDER ABUSE IN A CARE FACILITY

Officers investigating allegations relating to the abuse, neglect or exploitation of an elderly or disabled person in a care facility or under the care of a facility shall notify the Texas Department of Health regardless of whether a crime report was taken (25 Tex. Admin. Code § 1.205).



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# Child Abuse

## 424.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidelines and procedures for reports of suspected child abuse and the taking of minors into protective custody.

## 424.2 DEFINITIONS

For purposes of this section the following definitions are provided:

**Child -** A person who is under 18 years of age (Tex. Fam. Code § 101.003).

**Abuse** - Includes the following acts or omissions by a person (Tex. Fam. Code § 261.001):

(a) Mental or emotional injury to a child that results in an observable and material impairment in the child's growth, development or psychological functioning.

(b) Causing or permitting the child to be in a situation in which the child sustains a mental or emotional injury that results in an observable and material impairment in the child's growth, development or psychological functioning.

(c) Physical injury that results in substantial harm to the child, or the genuine threat of substantial harm from physical injury to the child, including an injury that is at variance with the history or explanation, given and excluding an accident or reasonable discipline by a parent, guardian or managing or possessory conservator, that does not expose the child to a substantial risk of harm.

(d) Failure to make a reasonable effort to prevent an action by another person that causes physical injury that results in substantial harm to the child.

(e) Sexual conduct harmful to a child's mental, emotional or physical welfare, including conduct that constitutes the offense of continuous sexual abuse of a young child or children under Tex. Penal Code § 21.02, indecency with a child under Tex. Penal Code § 21.11, sexual assault under Tex. Penal Code § 22.011 or aggravated sexual assault under Tex. Penal Code § 22.021.

(f) Failure to make a reasonable effort to prevent sexual conduct harmful to a child.

(g) Compelling or encouraging a child to engage in sexual conduct as defined by Tex. Penal Code § 43.01.

(h) Causing, permitting, encouraging, engaging in or allowing the photographing, filming or depicting of the child if the person knew or should have known that the resulting photograph, film or depiction of the child is obscene as defined by Tex. Penal Code § 43.21 or pornographic.

(i) The current use by a person of a controlled substance as defined by Tex. Health and Safety Code Chapter 481, in a manner or to the extent that the use results in physical, mental or emotional injury to a child.

(j) Causing, expressly permitting or encouraging a child to use a controlled substance as defined by Tex. Health and Safety Code Chapter 481, or causing, permitting, encouraging, engaging in or allowing a sexual performance by a child as defined by Tex. Penal Code § 43.25.



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## 424.3 MANDATORY NOTIFICATION

When this department receives a report of abuse occurring at the facilities listed below, notification shall be made promptly to the licensing office with jurisdiction over the facility.

(a) A state operated, licensed or certified facility (Tex. Fam. Code § 261.103).

(b) A report of the death of a child who was, at the time of death, living at, enrolled in or regularly attending a facility licensed by the state to care for children, unless the circumstances of the child's death are clearly unrelated to the child's care at the facility.

Additionally, an immediate notification is required to the appropriate licensing agency if the suspected child abuse occurs while the child is being cared for in a child-day care facility, involves a child-day care licensed staff person or occurs while the child is under the supervision of a community care facility licensee or staff person.

## 424.4 FAMILY VIOLENCE RELATED CHILD ABUSE

Officers should follow the guidelines outlined in Policy 418 (Family Violence) on the proper investigation and notification procedures for allegations of child abuse and/or excessive discipline.

## 424.5 SEXUAL ASSAULT RELATED CHILD ABUSE

Officers should follow the guidelines outlined in Policy 420 (Sexual Assault) on the proper investigation and notification procedures for sexual assaults involving children.

## 424.6 TAKING POSSESSION OF A CHILD IN EMERGENCY OR OTHER SITUATIONS

If there is no time to obtain a court order, a child may be taken into protective custody if an officer determines emergency circumstances described by Tex. Fam. Code § 262.104 exist.

Whenever practicable, the officer should inform a supervisor of the circumstances prior to taking a child into protective custody, and articulate the facts indicating why an immediate danger to the child may exist. If prior notification is not practicable, officers should contact a supervisor promptly after taking a child into protective custody.

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 minor or result in abduction. If this is not a reasonable option, the officer shall ensure the minor is delivered to the appropriate child welfare authority.

An officer may take possession of a child without a court order on the voluntary delivery of the child by the parent, managing conservator, possessory conservator, guardian, caretaker or custodian who is presently entitled to possession of the child (Tex. Fam. Code § 262.004). The officer should contact a supervisor as soon as practicable upon taking possession of a child under this authority.

An officer may take possession of a child when, during a criminal investigation relating to the child's custody, the officer believes that someone may flee or conceal that child (Tex. Fam. Code, § 262.007). The officer should contact a supervisor as soon as practicable upon taking possession of a child under this authority.



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Supervisors who have been made aware that a child has been taken into an officer's possession should make reasonable inquiries to ensure the possession is lawful and that the Department of Family and Protective Services (DFPS) will be contacted when appropriate.

## 424.7 CHILD SAFETY CHECK ALERT LIST

The Texas Department of Public Safety has created a Child Safety Check Alert List as part of the Texas Crime Information Center to help locate a family for purposes of investigating a report of child abuse or neglect (Tex. Fam. Code § 261.3022 (a)).

An officer who encounters either a person alleged to have abused or neglected a child, or a child on the alert list who is the subject of a report of child abuse or neglect that the state is attempting to investigate, shall request information from the person or the child regarding the child's well-being and current residence (Tex. Fam. Code §261.3023 (a)).

The officer should investigate as to whether it is appropriate to take possession of the child without a court order under Tex. Fam. Code § 262.104 and Policy § 424.6 above.

The officer should inform a supervisor as soon as practicable when a child on the Texas Crime Information Center's Child Safety Check Alert List is located. The circumstances shall be documented in an appropriate report. The officer shall contact the Texas Crime Information Center and advise that the child has been located and shall provide the case number related to the incident.



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# Missing Persons

## 426.1 PURPOSE AND SCOPE

This policy describes the procedure for acceptance, reporting, documenting and investigating missing persons. State law, as well as federal law under 42 USC 5779(a), specify certain requirements relating to missing persons (Tex. Code of Crim. Pro. art. 63.002 et. seq)

### 426.1.1 DEFINITIONS

For purposes of this section the following definitions are provided (Tex. Code of Crim. Pro. art. 63.001):

**Missing Person** - A person 18 years of age or older who cannot be located and the circumstances surrounding the disappearance are unknown.

**Child** - A person under 18 years of age (For purposes of federal law, a child is considered any person under 21 years of age).

**Missing Child** - A child whose whereabouts are unknown to the child's legal custodian, the circumstances of which indicate that:

(a) The child did not voluntarily leave the care and control of the custodian, and the taking of the child was not authorized by law.

(b) The child voluntarily left the care and control of his legal custodian without the custodian's consent and without intent to return (e.g., runaway).

(c) The child was taken or retained in violation of the terms of a court order for possession of, or access to, the child (e.g., Interference with Child Custody, Enticing a Child, Harboring a Runaway).

**High-Risk Missing Person** - A person who is missing (Tex. Code of Crim. Pro. art. 63.051(5)):

(a) As a result of an abduction by a stranger; or

(b) Under suspicious or unknown circumstances; or

(c) More than 30 days; or

(d) Less than 30 days if there is reason to believe that the child or person is in danger of injury or death.

## 426.2 INVESTIGATION GUIDELINES

Upon arrival to a missing person call, officers shall:

(a) Completely identify and interview the complainant to determine the circumstances surrounding the disappearance, along with the last person to have seen or been in contact with the missing individual.

(b) Verify the person is missing, especially in the case of a child, by conducting a thorough search of immediate area where the individual was last seen or known to have been.

(c) Obtain a complete description of the missing individual, consisting of, but not limited to:



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1. Full name.
2. Date of birth.
3. Race/Sex.
4. Hair color and length.
5. Eye color.
6. Height and weight.
7. Last known clothing description.
8. Scars, body markings, or tattoos.

(d) Attempt to obtain the following items and forward them to the Missing Persons Unit:

1. A color photograph of the person.
2. A birth certificate if the child is under 11 years of age.

(e) Identify the missing person's zone of safety to determine how far the individual could travel from the location before he would most likely be at risk of injury or exploitation.

(f) In the case of a missing child, confirm custody status to determine possible role in the disappearance (e.g., parental kidnap, interference with custody, enticing a child).

(g) In the case of dementia or senile patients, determine last known location that the patient would indicate if asked by a citizen where they were living.

### 426.2.1 SPECIAL CIRCUMSTANCES

(a) Officers will contact their supervisor if the missing individual fits any category outlined below:

1. Aged or senile adults that require continuous supervision by a care-giver and are not capable of being left unsupervised.
2. Aged or senile adults 65 or over with a documented mental or medical impairment which imminently creates a threat to personal safety.
3. Children under age 12.
4. Mentally or physically handicapped individuals whose impaired ability would create an imminent risk to their safety and well-being.
5. Suicidal persons who are missing after immediately taking threatening actions against their life or making imminent threats to harm themselves.
6. Individuals with a medical condition or an immediate need for medication which creates an imminent risk to their safety and well-being.
7. If kidnapping or foul play is feared in the individual's disappearance.

(b) Supervisors will review the incident to determine if it meets the requirements for an AMBER or Silver Alert and notify the appropriate Investigative Unit as outlined in this policy. Final approval for an AMBER or Silver Alert rests with the appropriate Investigative Unit.

(c) Supervisors will contact the Missing Persons Unit, or the appropriate Investigative Unit if an Alert System activation is required to make a determination as to what type of field search effort will be undertaken.

1. Factors to be considered are:
   (a) Length of time that has passed since the disappearance.



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(b) Age and mobility of the missing person.

(c) Infirmity and/or need for medication.

(d) Suspicious circumstances (foul play feared).

2. Field searches that may be used include, but are not limited to:

(a) Door-to-door (foot search making contact with residents).

(b) Neighborhood canvas (larger scale foot and vehicle search).

(c) Use of the Canine Unit.

(d) Use of Air Support as outlined in Policy 504 (Air Operations and Air Support).

## 426.3 MISSING PERSONS REPORTING

### 426.3.1 INCIDENT REPORT

Officers shall initiate an incident report for all individuals alleged to be missing.

(a) If the missing person does not meet one of the special circumstances listed above, officers shall:

1. Initiate an incident report titled Request to Locate if the missing person is an adult; and

2. Initiate an incident report titled Runaway Child if the missing person is a runaway.

(b) If the missing person does meet one of the special circumstances, officers shall initiate an incident report with the appropriate title related to the circumstance.

### 426.3.2 COMMUNICATIONS NOTIFICATION

Communications will enter missing person's information into NCIC at the time the report is taken if the disappearance involves a missing child, any person under the age of 21, and/or is under suspicious circumstances.

(a) Officers must provide the following information:

1. Name, race, sex, date of birth; and

2. Physical description; and

3. Clothing description; and

4. Physical/Mental disabilities/infirmities; and

5. Unusual circumstances; and

6. Vehicle information, if applicable.

(b) Central Records personnel shall notify the U.S. Department of Justice and the National Crime Information Center within two hours after accepting the report (42 U.S.C. § 5779(a) and 42 U.S.C. § 5780(3)).



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## 426.4 AMBER AND SILVER ALERT

### 426.4.1 AMBER ALERT

AMBER™ Alert is the recruitment of public assistance to locate an abducted child via a widespread media alert. Utilizing the assistance of local radio, television and press affiliates, the public will be notified of the circumstances of a child's abduction and how they can assist law enforcement in the child's recovery. The goal of the AMBER Alert program is the safe return of an abducted child by establishing an effective partnership between the community, the media and law enforcement (37 Tex. Admin. Code § 9.21).

(a) **Abducted Child**

1. A child 17 years of age or younger whose whereabouts are unknown and whose disappearance poses a credible threat to the safety and health of the child, as determined by a local law enforcement agency (Tex. Gov't Code § 411.351(1)).
2. Abduction includes a child who is younger than 14 years of age who departed:
   (a) Willingly with someone who is more than three years older than the child; and
   (b) Without the parent or legal guardian's permission; and
   (c) With a person who is not an immediate relative of the child as defined by Subchapter B, Chapter 573, Tex. Gov't. Code.

(b) An AMBER Alert can only be implemented if **all** of the following criteria are met (Tex. Gov't Code § 411.355 and Tex. Gov't Code § 411.356):

1. There is reason to believe that a child 17 years of age or younger has been abducted; and
2. It is believed that the abducted child is in immediate danger of serious bodily injury or death or of becoming the victim of a sexual assault; and
3. A preliminary investigation has taken place that verifies the abduction and eliminates alternative explanations for the child's disappearance; and
4. There is sufficient information available to disseminate to the public that could assist in locating the child, a person suspected of abducting the child or a vehicle suspected of being used in the abduction.

### 426.4.2 SILVER ALERT

The Silver Alert Network was developed as a statewide emergency response system for certain missing senior citizens. The network is designed to be activated when missing senior citizens with a diagnosed impaired mental condition poses a credible threat to their health and safety (37 Tex. Admin. Code § 9.31(a)).

(a) Definitions

1. **Diagnosed Impaired Mental Condition** - A mental condition or disorder as defined by the current version of the Diagnostic and Statistical Manual as a clinically significant behavioral or psychological syndrome or pattern that occurs in an individual and that is associated with present distress or disability or with a significantly increased risk of suffering death, pain, disability or an important loss of freedom. In addition, this individual's current condition presents a level of impairment significant enough to pose a credible threat to the individual's health and safety. The condition, e.g., Alzheimer's disease or dementia, shall



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be documented by a medical or mental health professional (37 Tex. Admin. Code § 9.31(b)).

2. **Senior Citizen** - A person who is 65 years of age or older (Tex. Gov't Code § 411.381(3)).

(b) The Department may issue a Silver Alert if (Tex. Gov't Code § 411.386):

1. The person reported missing is 65 years of age or older.
2. The senior citizen's location is unknown.
3. The senior citizen's domicile is in Texas.
4. The senior citizen has an impaired mental condition.
5. It is determined that the senior citizen's disappearance poses a credible threat to the senior citizen's health and safety.
6. The Silver Alert request is made within 72 hours of the senior citizen's disappearance.
7. There is sufficient information available to disseminate to the public that could assist in locating the senior citizen.

### 426.4.3 ALERT PROCEDURES

In the event of a confirmed missing person that meets the criteria for an AMBER or Silver Alert, the following procedure shall be followed:

(a) Employees shall notify their supervisor.

(b) Supervisors shall notify the appropriate Investigative Unit supervisor to request an Alert System activation:

1. For an AMBER alert, supervisors will notify the Missing Persons or Homicide Unit to determine if the circumstances meet the criteria for an AMBER alert, as appropriate. The Missing Persons and/or Homicide Unit will handle the alert notification procedure.
2. For a Silver alert, supervisors will contact the Missing Persons Unit to determine if the circumstances fit the criteria for a Silver alert. The Missing Persons Unit will handle the alert notification procedure.

(c) The Public Information Office should be notified.

(d) An initial press release shall be prepared by PIO or the Investigative Unit as soon as practicable to include:

1. The person's identity, age and description.
2. Photograph, if available.
3. Pertinent vehicle description.
4. Suspect information, if applicable.
5. Details regarding location of incident, direction of travel, potential destinations, if known.
6. Name and phone number of the authorized media liaison.
7. A telephone number for the public to call in with leads/information.

(e) Fax the press release to local law enforcement agencies, television, and radio stations.



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(f) PIO or the Investigative Unit shall prepare follow-up press releases with updates regarding the search and investigation, or immediately upon locating the missing person.

### 426.4.4 EXTENSION OF ALERT

If it is determined that an extension beyond the initial 24 hours is needed, the Investigative Unit supervisor should contact the State Operations Center during the 23 hour reminder.

### 426.4.5 TERMINATION OF ALERT

An Alert system activation should be terminated with respect to a particular missing person if:

(a) The missing person is located or the situation is otherwise resolved; or

(b) It is determined that the AMBER Alert system is no longer an effective tool for locating and recovering the missing child; or

(c) The Silver Alert notification period ends.

## 426.5 MISSING PERSONS LOCATED

A missing persons investigation may be concluded when the missing person is located or when another agency accepts the case and formally assumes the investigative responsibilities.

(a) **Runaways**

1. Refer to Policy 317.3.1.c (Handling Juveniles) on how to properly recover juvenile runaways.

(b) **All Other Missing Persons**

1. Officers that locate all other missing persons or respond to the scene of a located missing person shall immediately notify Communications and advise them to cancel any BOLO, NCIC, TCIC, and the state clearinghouse (Tex. Code of Crim. Pro. art. 63.009(f)).
   (a) If the person recovered is 18 years of age or older, the officer's responsibility is to confirm that the person is safe.
   (b) Officers shall not divulge the location of a located person 18 years of age or older if the located person requests his location not be disclosed to anyone unless there is a court order that places that person in the care and custody of another.
2. Officers shall document the recovery as follows:
   (a) Complete a supplement to the original incident report if the missing person originated from APD; or
   (b) Complete an incident report if the missing person originated from another agency.



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# Exigent Mobile Phone Ping Requests

## 427.1 PURPOSE AND SCOPE

Case law has determined that pinging a mobile phone is the equivalent of conducting a search; therefore, probable cause must be exist prior to obtaining ping results. A court order, signed by a district judge, must be obtained prior to pinging a mobile phone, except under exigent circumstances. This policy outlines the procedure for officers wishing to use a mobile phone ping in emergency (exigent) situations.

## 427.2 EXIGENT MOBILE PHONE PING REQUESTS

Some examples of incidents that may qualify for an exigent mobile phone ping are:

(a) Active kidnappings.

(b) Missing subjects in imminent danger of serious injury or death.

(c) Suicidal persons communicating an imminent threat.

(d) Aggravated Crime Sprees within a short amount of time (e.g., multiple robberies involving shootings within an hour of each other).

Officers requesting a mobile phone ping in emergency situations shall adhere to the following guidelines.

### 427.2.1 EXIGENCY REQUIREMENTS

An exigent mobile phone ping request must meet all of the following requirements:

(a) An immediate threat of serious injury or loss of life of any person; and

(b) Reason to believe a criminal offense is, or will be, involved; and

(c) There is no time to obtain a court order; and

(d) Belief that the phone number is subscribed to or is in possession of the suspect or victim and/or is likely to determine the location of the suspect or victim; and

(e) Other means to locate suspect have been attempted and were unsuccessful and/or employing other means would create a substantial risk of serious injury or loss of life to the officer or another if attempted.

### 427.2.2 REQUESTING AN EXIGENT MOBILE PHONE PING

Officers shall contact their supervisor when requesting an exigent mobile phone ping that:

(a) has originated from a non-911 source and

(b) meets all the exigency requirements:

1. The Watch Lieutenant shall be contacted and briefed on the incident.
2. The Watch Lieutenant shall notify the unit ultimately responsible for investigation of this incident (ie. Homicide for Kidnappings, Missing Persons for endangered missing, Robbery, etc.) to get permission/approval from its designated detective (a detective who has been authorized by the Travis County District Attorney's Office) to determine if the request shall be approved.



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3. Once approved, the Watch Lieutenant shall assist with completing and, if necessary, signing the Exigent Request form to be sent to the cell phone provider.
4. The Watch Lieutenant will scan the faxed exigent request document and e-mail it to assigned investigating detective who will be responsible for having it placed in the case jacket.



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# Death Investigations

## 434.1 PURPOSE AND SCOPE

The investigation of cases involving death includes those ranging from natural causes 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.

## 434.2 INVESTIGATION CONSIDERATIONS

Death investigation cases require certain actions be taken. Officers responding to the scene of a death incident shall adhere to the following guidelines:

(a) Paramedics shall be called in all suspected death cases unless the death is obvious (e.g., decapitated, decomposed). Officers are not authorized to pronounce death.

(b) A supervisor shall be notified in all death investigations.

(c) Gather as much information regarding the incident and deceased as possible.

1. Identify the name, DOB, address and social security number of the deceased, if possible.
2. Identify the attending physician and whether he will sign the death certificate, if applicable.
3. Identify any witness(es) to the incident. Attempt to detain witness(es) until the Homicide Unit determines if any witnesses need to be interviewed.

(d) Notify the Homicide Unit to determine if the death is reportable and whether an investigator from the Homicide Unit will respond.

(e) Establish a perimeter for suspicious deaths/homicides or as necessary.

(f) Initiate a *Crime Scene Log* for suspicious deaths/homicides, or as necessary, to include a list of all persons who enter the crime scene and their purpose for doing so.

(g) Contact the Travis County Medical Examiners Office and advise the investigator of the circumstances of the death and the deceased persons information.

1. The investigator shall notify the officer of who will sign the death certificate and who the deceased will be released to.
2. If the deceased can be released to a funeral home, ensure the requested funeral home is notified.

(h) Remain at the scene until the deceased has been removed by personnel from the Medical Examiner's Office or funeral home.

(i) Document all reportable natural deaths and suspicious deaths/homicides in an incident report as outlined in this policy.

### 434.2.1 SEARCHING DEAD BODIES

The Medical Examiner is generally the only person permitted to search a body that is known to be dead. 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. If such a donor card is located, the Medical Examiner shall be promptly notified. Should exigent circumstances indicate to an officer that any search of a known dead body is warranted



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prior to the arrival of the Medical Examiner, the investigating officer shall first obtain verbal consent from the Medical Examiner.

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 Medical Examiner. The name and address of this person shall be included in the narrative of the death report. The handling officer should obtain a receipt from the Medical Examiner whenever personal effects are removed from the body of the deceased. This receipt shall be attached to the death report.

## 434.3 REPORTABLE AND NON-REPORTABLE NATURAL DEATHS

Officers should assume that an apparent natural death is reportable until the officer can determine that all qualifications for a non-reportable natural death are met and approved by the Homicide Unit. Officers shall always initiate a report entitled "Deceased Person" when responding to a reportable natural death.

(a) **Reportable Natural Death**

1. A reportable death is a death that requires a law enforcement agency or a medical examiner to be notified and an incident report to be written.
   - (a) Any death at a private residence is a reportable death unless the death meets the requirements of a "hospice death" as explained below.
   - (b) Any death of a child 17 and under is a reportable death and investigated by the Homicide Unit and reviewed by the Travis County Child Fatality Review Team.

(b) **Nursing Home Death**

1. An apparent natural death at a nursing home is not always reportable; nursing homes are considered 24 hour health care facilities. A death that occurs at a nursing home is reportable if it meets any of the conditions set forth in the Texas Code of Criminal Procedure (Art. 49.25, Sec 6 (a)).
2. An apparent natural death that occurs at an Assisted Living facility is considered an at home death and shall be reported.

(c) **Hospice Death**

1. An apparent natural death at a qualified Hospice facility is not considered a reportable death.
2. Although a private residence hospice death is a reportable death, by agreement with the Travis County Medical Examiner's office, the responding officer does not need to initiate an incident report. A private residence hospice death is one that meets the following criteria:
   - (a) The deceased has been diagnosed by an attending physician as having a terminal illness with no expectation of cure.
   - (b) A "Directive to Physicians" has been signed and witnessed in accordance with the "Texas Natural Death Act".
   - (c) A registered nurse is present at the home at the time the death, or shortly thereafter, to assess the condition of the deceased.
   - (d) The nurse notifies the attending physician immediately of the death.
   - (e) The attending physician states a willingness to sign the death certificate.



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(f) The attending physician notifies the appropriate funeral home to have the deceased removed from the residence.

## 434.4 DEATH NOTIFICATION

It is normally the responsibility of the Medical Examiner's Office to make death notifications to the next-of-kin.

(a) At the Medical Examiners' request and when practicable, notification to the next-of-kin may be made by the Victim Services Unit or investigative personnel.

(b) If the next-of-kin lives in another jurisdiction, the law enforcement agency from that jurisdiction shall be requested to make the notification.

## 434.5 REPORTING GUIDELINES

Officers shall include the following information when an incident report is required:

(a) Deceased persons information (e.g., name, DOB, race, sex).

(b) How the body was discovered and by whom.

(c) A description of the body and scene as it was found at the officers arrival.

(d) Any alterations to the body or the scene made by the officer or any other person (e.g., EMS, AFD).

(e) Time of death.

(f) Name of physician who will sign the death certificate.

(g) Name of witnesses.

(h) Name and employee number of Homicide Investigator.

(i) Name(s) of Medical Examiner's personnel.

(j) Next of kin information.



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# Abandoned, Stolen, and Unauthorized Use of A Motor Vehicle

## 435.1 PURPOSE AND SCOPE

This policy prescribes the guidelines for handling:

(a) Abandoned/Junked Motor Vehicles.

(b) Stolen Vehicles.

(c) Unauthorized Use of Motor Vehicles.

## 435.2 ABANDONED/JUNKED MOTOR VEHICLES

(a) Generally, routine calls regarding abandoned/junked vehicles shall not be dispatched to field officers.

1. Communications shall obtain what information the complainant can give and forward it to the Abandoned Vehicle Unit. Communications shall direct the complainant to contact the Abandoned Vehicle Unit for further assistance.
2. An officer should be dispatched to the scene if the complainant reports that the vehicle may be stolen, is creating an immediate traffic problem, or appears to have been involved in the commission of a crime.

(b) When Communications and/or officers receive a complaint regarding an alleged violation of the Parking in a Front or Side Yard City Ordinance (16-5-22) they shall direct the complainant to the appropriate District Representative Unit.

(c) Follow-up on all calls for service referred to the Abandoned Vehicle Unit shall become the responsibility of the Abandoned Vehicle Unit. The supervisor shall be responsible for ensuring that the proper follow-up investigation is conducted.

(d) Tagging Abandoned Vehicles

1. If a field officer tags an abandoned vehicle on public property, the officer will initiate an incident report using the "Abandoned Vehicle" title code.
   (a) The Abandoned Vehicle Unit will be responsible for follow-up on the removal of the vehicle.
2. Field officers shall not tag abandoned vehicles on private property. Officers shall contact the Abandoned Vehicle Unit or appropriate District Representative officer for assistance with abandoned/junked vehicles on private property.

(e) Unless the vehicle is a traffic hazard, officers will not tow any tagged vehicle except as authorized by the Abandoned Vehicle Unit.

### 435.2.1 ABANDONED MOTOR VEHICLES ON UT PROPERTY

(a) Abandoned Vehicles on Public Streets

1. The University of Texas Police Department (UTPD) directly provides abandoned vehicle information to the Abandoned Vehicle Unit.
2. Upon receipt, the Abandoned Vehicle Unit shall handle the complaint in the same manner as any other abandoned vehicle in the city limits.



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(b) Abandoned Vehicles on Private Property

1. UTPD directly provides the Abandoned Vehicle Unit with the private property affidavit signed by the owner of the property stating that the owner wants the vehicle removed.

## 435.3 STOLEN VEHICLES

### 435.3.1 STOLEN VEHICLE REPORT

(a) Prior to determining if a vehicle is stolen, officers shall:

1. Determine if the alleged stolen vehicle is actually an Unauthorized Use of a Motor Vehicle (UUMV); and
2. Find out if the vehicle has been impounded or repossessed by running the license plate.

(b) **Stolen Vehicles**

1. Officers should inform a subject reporting a stolen vehicle of the reporting and recovery process.
2. Officers shall require the subject to complete and sign an Auto Theft Affidavit.
   (a) If the subject refuses to sign the affidavit, the officer will inform him that the vehicle information will not be entered into TCIC/NCIC.
   (b) Auto Theft Affidavits shall be sent via interoffice mail to the Auto Theft Interdiction Unit.
3. Officers shall inform the subject that the assigned investigator will notify him if the vehicle is recovered.
4. Officers shall provide the complainant/victim with the incident number and the phone number to the Auto Theft Interdiction Unit.
5. Officers should inform the complainant/victim to notify 3-1-1, 9-1-1 or the Auto Theft Interdiction Unit if he recovers the vehicle so an officer can be dispatched to the scene.
6. Request Communications to enter the vehicle into TCIC/NCIC and the BOLO file.

(c) **Stolen Vehicle Incident Report Guidelines**

1. Officers shall complete an incident report titled "Auto Theft." Indicate whether the subject signed an Auto Theft Affidavit.
   (a) If there is one victim involving multiple stolen vehicles (e.g. Auto Dealership) then only one report incident number is required.
   (b) If there is more than one victim involving multiple stolen vehicles at one location (e.g. Apartment Complex) then separate incident numbers are required for each victim.

### 435.3.2 RECOVERING STOLEN VEHICLES

(a) When a call for service indicates a stolen vehicle has been found, or a stolen vehicle hit is returned through TCIC/NCIC, confirmation shall be obtained by an officer prior to recovering the vehicle.

1. Officers shall be dispatched to all recovered stolen vehicle incidents.



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2. Officers shall request Communications to have the vehicle removed from TCIC/NCIC.
3. All confirmed and recovered stolen vehicles shall be processed for latent prints.
   (a) Vehicles should be processed by a Property Crime Technician if one is on-duty and available within a reasonable amount of time. A Property Crime technician shall not be left alone while processing a recovered stolen vehicle.
   (b) If a Property Crime Technician is not available, the responding officer shall process the recovered vehicle for prints.
   (c) If a stolen vehicle is not processed at the time it is confirmed and recovered, the reason must be explained in the narrative of the incident report/supplement.
4. Confirmed stolen vehicles may be returned to the registered owner if he is present at the scene, however, they shall still be processed for latent prints.
5. If the registered owner is not present, confirmed stolen vehicles shall be impounded by the City contracted impound wrecker, regardless of its involvement in other incidents, collisions, or its condition.
6. Recovered stolen vehicle incidents at a wrecker company other than the City contracted impound wrecker shall be handled as follows:
   (a) The vehicle should remain at the storage lot except under unusual circumstances (e.g., investigative purposes).
      1. Supervisor or Investigative Unit approval is required to move the vehicle.
      2. If there is no need to move the vehicle:
         1. The vehicle shall be confirmed and processed at its current storage location.
         2. A hold can be placed on the vehicle for the Investigative Unit involved, if needed.
   (b) When a recovered stolen vehicle has been processed and no hold is placed, the wrecker company may release the vehicle to the owner, lien holder or insurance company and collect accumulated fees.
7. Recovered out-of-city stolen vehicles where a suspect is present, and no local charges exist, shall be handled as follows:
   (a) The request for confirmation shall include:
      1. All pertinent information regarding the vehicle and suspect; and
      2. Authorization to hold the suspect for that agency before officially arresting the suspect.
   (b) The suspect shall be detained until the confirmation is received.

(b) **Recovered Stolen Vehicle Incident Report Guidelines**

1. If the vehicle was originally reported stolen to APD, the responding officer shall write a supplement to the original incident report.
2. If the vehicle was originally reported stolen to another law enforcement agency, the responding officer will generate a new incident report titled "OOC Auto



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Theft". The originating agency case number should be documented in the narrative.

## 435.4 UNAUTHORIZED USE OF A MOTOR VEHICLE

An Unauthorized Use of a Motor Vehicle (UUMV) occurs when a subject has allowed another person to use his vehicle and the person has not returned it. Officers responding to a possible stolen vehicle incident need to determine if the subject is aware of who is in possession of the vehicle and if the person had been given permission to use the vehicle at one point in time.

(a) Officers responding to a UUMV incident shall take the following steps:

1. Provide the subject with the UUMV form letter and incident number.
2. Inform the subject it is his responsibility to send the UUMV form letter to the person who has possession or control of the vehicle, by registered mail with return receipt requested. This will serve as an official notice demanding return of the vehicle within 10 days of receipt of the letter.
3. Inform the subject the incident will remain a civil matter until the return receipt has been received and the 10 days have passed.
4. Inform the subject that once the 10 days have passed he should contact the Auto Theft Interdiction Unit.
5. Request Communications to enter a BOLO on the vehicle to "Stop, ID and Impound." Do not request the vehicle to be entered as stolen.

(b) **UUMV Incident Report Guidelines**

1. Officers shall initiate an incident report titled "Unauthorized Use of a Motor Vehicle".



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# Identity Theft

## 436.1 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.

## 436.2 REPORTING

(a) In an effort to maintain uniformity in reporting, officers presented with the crime of identity theft (Tex. Penal Code § 32.51) shall initiate a report for victims residing within Austin, regardless of where the incident occurs.

(b) While victims should make a report to the law enforcement agency where the victim resides, officers of this department should investigate and report any identity theft related incident that occurs within Austin, regardless of where the victim resides (e.g., the victim lives elsewhere but the stolen credit card was used in Austin).

(c) If a victim does not reside within Austin and the incident did not occur within APD jurisdiction, the officer may either take a courtesy report to be forwarded to the victim's residence agency or encourage the victim to promptly report the identity theft to the law enforcement agency where he resides.

(d) 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).

(e) Officers should also reference all known reports made by the victim (e.g., U.S. Secret Service, credit reporting bureaus, U.S. Postal Service and Department of Public Safety, Driver License Division) with all known report numbers.

(f) Officers should make a notation in the report narrative if the victim is an elderly individual, as defined by Tex. Penal Code § 22.04, since the penalty for offenses committed against an elderly individual is enhanced (Tex. Penal Code § 32.51).

(g) Following supervisory review and department processing, the initial report should be forwarded to the appropriate Investigative Unit for follow-up investigation, coordination with other agencies and prosecution as circumstances dictate.

## 436.3 INFORMATION

The victim should also contact the Federal Trade Commission, which is responsible for receiving and processing complaints under the Identity Theft and Assumption Deterrence Act. The victim can contact the FTC online at http://ftc.gov or by telephone at 1-877-ID Theft (877-438-4338). Additional information may be found at the United States Department of Justice (USDOJ) website, http://www.usdoj.gov.



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# Criminal Trespass

## 437.1 PURPOSE AND SCOPE

This policy outlines the procedures for handling criminal trespass situations.

### 437.1.1 DEFINITIONS

**Entry -** The intrusion of the entire body.

**Notice** - This may be in the following forms:

(a) Oral or written communication by the owner or someone with apparent authority to act for the owner; or

(b) A sign(s) posted on the property or at the entrance to a building where it is reasonably likely to come to the attention of intruders indicating that entry is forbidden; or

(c) Fencing or any other enclosure designed to exclude intruders.

**Owner/Agent** - Person(s) designated as the owner or with apparent authority to act on behalf of the owner (e.g., manager, custodian).

## 437.2 INVESTIGATION GUIDELINES

For a violation to have occurred:

(a) A subject must enter (or remain) in or on the property without consent of the owner/agent and the subject received notice that entry was forbidden (within one year prior to the current date); or

(b) A subject had consent to be on the property but the owner/agent has withdrawn consent and the subject fails to leave.

### 437.2.1 ARREST AUTHORITY

Officers should be familiar with Texas Penal Code 30.05 (PC 30.05) when enforcing criminal trespass offenses. Criminal trespass is not considered a breach of the peace, therefore:

(a) Residents may not legally arrest for this offense (e.g., citizen's arrest).

(b) No arrest for criminal trespass will be made unless the violation occurs in the officer's presence and meets the guidelines outlined in this policy.

### 437.2.2 CONSENT WITHDRAWN

In cases where a subject initially enters a property with consent but fails to leave when given notice to do so by the owner/agent, officers shall adhere to the following guidelines:

(a) Officers must witness:

1. The subject in/on the property; and
2. The owner/agent administer to the subject the notice to leave.

(b) If the subject does not leave, officers may make an arrest for criminal trespass.

(c) If the subject leaves, officers shall write a criminal trespass notice report as outlined in this policy.



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### 437.2.3 TRESPASS NOTICE DOCUMENTED

Officers may make an arrest for criminal trespass when the officer witnesses a subject on the property without the consent of the owner/agent after the subject received notice that he was not to enter and meets the following guidelines:

(a) The complainant has sole or undisputed authority to restrict the subject from the location (e.g., another tenant in an apartment complex may allow others on the premises' common areas).

(b) Confirm and document the way in which the subject received notice:

1. Previous oral notice witnessed by the officer and less than one year old.
2. Previous oral notice was documented in an incident report and less than one year old.
3. Written notice less than one year old (e.g., *APD Criminal Trespass Incident Form*, proof by registered letter).
4. Fencing or other enclosure obviously designed to exclude intruders.
5. Posted sign prohibiting entry:
   (a) The sign should state "No Trespassing," and may lay out the parameters of the restriction. The sign may allow for certain individuals to enter the premises such as tenants, customers, or patients.
   (b) Arrest will not be made when conditions of the posted sign single out a specific class group such as transients, homeless people, or a minority group.

### 437.2.4 TRESPASS NOTICE NOT DOCUMENTED

In cases where the subject is witnessed on the property by an officer and the owner/agent claims to have previously given a trespass notice to the subject but it is not documented; and

(a) The owner/agent <u>will</u> immediately furnish an affidavit attesting that a prior trespass notice was given to the subject, the subject may be arrested.

(b) The owner/agent <u>cannot or will not</u> immediately furnish an affidavit attesting that a prior trespass notice was given to the subject:

1. The owner/agent should administer another trespass notice to the subject in the officers presence and advise the subject to leave the property:
   (a) If the subject does not leave, officers may make an arrest for criminal trespass.
   (b) If the subject leaves when given notice, the officer will write a criminal trespass incident report as outlined in this policy and instruct the owner/agent to follow-up with the appropriate Investigative Unit if he wishes to file charges.

### 437.2.5 TRESPASS NOTICE MORE THAN ONE YEAR OLD

In cases where the subject is witnessed on the property by the officer but the trespass notice is more than one year old:

(a) The owner/agent should administer another trespass notice to the subject in the officer's presence and advise the subject to leave the property:

1. If the subject does not leave, officers may make an arrest for criminal trespass.



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2. If the subject leaves when given notice, officers will write a criminal trespass incident report as outlined in this policy and instruct the owner/agent to follow-up with the appropriate Investigative Unit if he wishes to file charges.

(b) If the owner/agent provides compelling information, or the current incident contains aggravating circumstances that would substantially warrant an arrest for criminal trespass and the documented notice was given more than one year prior, the officer may make an arrest with supervisor approval. The details warranting arrest, as well as the supervisor's name, must be articulated in the incident report narrative.

### 437.2.6 OWNER/AGENT NOT ON-SCENE

Officers may arrest a subject that trespasses on a property when the owner/agent is not on-scene if all of the following are met:

(a) A letter is on file from the owner/agent authorizing APD to facilitate an arrest on the owner's/agent's authority in the owner's/agent's absence; and

(b) An APD incident report documenting the owner/agent's written authorization is verified prior to an arrest being made; and

(c) A criminal trespass notice has previously been given to the subject in accordance with the PC 30.05.

## 437.3 REPORTING PROCEDURES

### 437.3.1 CRIMINAL TRESPASS NOTICE

When an officer witnesses a subject being given a trespass notice by an owner/agent, the officer shall document the incident by either writing a "Criminal Trespass Notice" incident report (title code 2730) or complete a *Criminal Trespass Notice Incident Form* (PD0040 or PD0040E).

If the notice is to be temporary and the suspect leaves when told to do so by the owner/agent, the officer will title the report "Assist Complainant" and document that the notice was temporary and should not be considered a permanent (e.g., up to one year) notice.

(a) **Criminal Trespass Notice Report**

1. Use the offense title "Criminal Trespass Notice" (title code 2730).
2. Use the Trespass Notice template when writing the narrative.
3. The narrative should contain the following information:
   (a) Location of occurrence.
   (b) Date and time of occurrence.
   (c) Witnesses to the incident.
   (d) Type of notice issued (e.g. oral, written, posted sign).
   (e) Name and identifying information on the owner/agent who issued notice.
   (f) Reason the owner/agent wants to issue the notice.
4. Under no circumstances will "Criminal Trespass Warning" or "CTW" be used in the body/narrative of the report. Refer to it as a criminal trespass notice, not a warning.



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(b) ***Criminal Trespass Notice Incident Form***

1. Officers may use the *Criminal Trespass Notice Incident Form* in lieu of writing an incident report.
2. The officer shall complete all the fields of the form except for the narrative and have the suspect read and sign the form in the officer's presence. If the suspect refuses to sign the form, notice is still considered to be valid. The officer will note the refusal on the form.
3. The officer shall detach both the yellow and pink pages of the completed form prior to beginning the narrative portion.
4. The suspect will be given the pink page of the completed 3-part form.
5. The owner/agent will be given the yellow page of the completed 3-part form. The officer shall recommend to the owner/agent that the copy be kept accessible and on file for future reference and documentation.
6. Officers will complete the narrative portion of the white page:
   (a) The same information listed above shall be included in the narrative portion of the form.
   (b) A copy of the white page will be turned in to the appropriate Investigative Unit inbox.
   (c) The original white copy shall be turned in to Data Entry for entry into APD's electronic report writing system.
7. If additional narrative space is needed, attach a narrative form to the *Criminal Trespass Notice Incident Form*.

### 437.3.2 CRIMINAL TRESPASS ENFORCEMENT ACTION OR FOLLOW-UP

Any time an incident leads to an arrest or requires follow-up by an Investigative Unit where the owner/agent wishes to file charges, officers shall complete an incident report.

(a) Use the offense title "Criminal Trespass" (title code 2716).

(b) The following information must be documented in the narrative section of the report:

1. Location of occurrence.
2. Date and time of occurrence.
3. Witnesses to the incident.
4. Name and identifying information on the owner/agent who issued notice and whether or not that person still has authority to issue the notice.
5. History of prior notices including any applicable incident report numbers. If history exists between the owner/agent and the suspect, the court prefers to have this information prior to acceptance of PC affidavit. Include it in both the narrative of the report and in the PC affidavit.

## 437.4 SUPERVISOR RESPONSIBILITIES

Supervisors shall review each criminal trespass incident report to confirm the correct title code is used. If the incident is a:

(a) Criminal trespass warning only and no enforcement action is needed, title code 2730 (Criminal Trespass Warning) shall be used.



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(b) Criminal trespass offense that includes charges being filed or follow-up is required from an Investigative Unit, title code 2716 (Criminal Trespass) shall be used.



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# Hate Crimes

## 438.1 PURPOSE AND SCOPE

This department recognizes and places a high priority on the rights of all individuals guaranteed under the Constitution and the laws of this state. When such rights are infringed upon by violence, threats or other harassment, this department will utilize all available resources to see that justice is served under the law. This policy has been developed to meet or exceed the provisions of the James Byrd, Jr. Hate Crimes Act and provides members of this department with guidelines for identifying and investigating incidents and crimes that may be motivated by hatred or other bias.

### 438.1.1 FEDERAL JURISDICTION

The federal government also has the power to investigate and prosecute bias-motivated violence by providing the U.S. Department of Justice with jurisdiction over crimes of violence where the perpetrator has selected the victim because of the person's actual or perceived race, color, religion, national origin, gender, sexual orientation, gender identity or disability (18 USC 245).

## 438.2 DEFINITIONS

**Hate Crimes** - An intentional criminal act committed in whole or in part because of a bias or prejudice against a person or group's (Tex. Code of Crim. Pro. art. 42.014):

(a) Disability

(b) Gender

(c) National origin or ancestry

(d) Race, ethnicity or color

(e) Religion

(f) Sexual orientation

(g) Age

## 438.3 CRIMINAL STATUTES

Tex. Penal Code § 12.47 - Penalty enhancement if an offense is committed because of bias or prejudice.

Tex. Penal Code § 22.04 - Prohibits assaulting elderly or disabled individuals.

Tex. Penal Code § 25.071 - Violation of a protective order preventing an offense caused by bias or prejudice.

## 438.4 UNDERSTANDING THE HATE CRIME ENHANCEMENT

"Hate Crime" is not a specific offense that any person can be charged with but rather a penalty enhancement (Tex. Penal Code § 12.47).

(a) Officers cannot enhance the level of a crime at the time of booking even if there is sufficient evidence that the crime was motivated because of bias or prejudice.



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(b) Investigators do not control whether an offense committed because of bias or prejudice is enhanced; the decision to file for the enhancement is handled by the prosecution.

(c) The enhancement allows for specific offenses to be increased to the next category of offense; however, a Class A misdemeanor cannot be increased to a felony.

## 438.5 PROCEDURE FOR INVESTIGATING AN ALLEGED HATE CRIME

Whenever any member of the Department receives a report of a suspected hate crime, or other activity that reasonably appears to involve a potential hate crime, the following should occur:

(a) Officers will be assigned to the incident to conduct a preliminary investigation.

(b) A supervisor should be notified of the circumstances as soon as practicable.

(c) Once all "in progress" aspects of any such situation have been stabilized (e.g., treatment of victims, apprehension of suspects), the assigned officers will take all reasonable steps to preserve available evidence that may tend to establish that a hate crime was involved.

(d) Officers will interview available witnesses, victims and others to determine what circumstances, if any, indicate the situation may involve a hate crime.

(e) Officers should not tell individuals they are a victim of a hate crime as the determination is not made by law enforcement, however, officers should treat victims with empathy.

(f) Officers or supervisors may request additional assistance from the appropriate Investigative Unit or other resources to further the investigation.

(g) Officers should take photographs and collect physical evidence such as hate literature, spray paint cans, and symbolic objects used by hate groups (e.g., graffiti, clothing with symbols, letters).

(h) Officers will provide victims of any suspected hate crime with a *Victim Assistance Information* pamphlet.

(i) Officers will completed an incident report and include:

1. The title code that relates to the specific offense (e.g., assault, robbery). There is no "Hate Crime" title code.
2. Specific facts (e.g., racial slurs, ethnic slurs, other derogatory slurs, signs and symbols) used during the incident to indicate the likelihood a hate crime occurred. It is important to use the exact language of any statements made by the suspects.

### 438.5.1 HATE CRIME REPORTING

This department shall report hate crimes in the form and manner and at regular intervals as prescribed by rules adopted by the Department of Public Safety. This shall be conducted by the Central Records Manager or assigned to the Investigation Unit (Tex. Gov't. Code § 411.046(b)).

(a) The Department may request hate crime-related information or statistics from the Department of Public Safety to carry out investigations or other lawful business (Tex. Gov't. Code § 411.046(c)).



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# Animal Related Incidents

## 439.1 PURPOSE AND SCOPE

The purpose of this policy is to establish guidelines for Austin Police Department personnel in dealing with animal related calls for service and to set forth procedures regarding animal control services.

## 439.2 OFFICER RESPONSIBILITY

Officers dispatched to animal-related calls should take appropriate actions to control the situation until the arrival of Animal Control. Due to the hazard of handling animals without proper equipment, responding officers generally should not attempt to capture and contain any animal unless it can be done safely. If necessary, officers should keep the animal under observation until the arrival of Animal Control. The following are examples of when an officer may consider acting immediately:

(a) When there is a threat to the public safety.

(b) When an animal has bitten someone, officers should take measures to confine the animal to 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.

### 439.2.1 IMPOUNDING AN ANIMAL

Officers that impound an animal as authorized by this policy will have the dispatcher contact Animal Control. If Animal Control is not available, and there is no medical emergency for the animal, officers may transport the animal to Town Lake Animal Shelter.

(a) Officers should attempt to locate and identify the owner:

1. If the owner is present, the officer will notify the owner of the impoundment.
2. If the owner is not present, the officer will leave a notice posted in a conspicuous place.

(b) Officers shall initiate the appropriate incident report and list the animal as "Seized" in the property section of the report.

## 439.3 ANIMAL RELATED INCIDENTS

### 439.3.1 ANIMAL CRUELTY AND ABANDONED ANIMALS

(a) Officers investigating an abandoned animal on private property (e.g., inside a home or fenced-in yard) shall not impound the animal unless exigent circumstances exist that the animal is at risk of injury or death if not immediately removed, regardless of whether the residence is occupied.

1. An empty residence does not necessarily mean the animal is abandoned.
2. Officers must be able to articulate the exigent circumstances and the name of the complainant in an incident report when impounding an animal.



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(b) If an animal is found dead and human involvement is suspected, officers will request Animal Control to the scene to take custody of the carcass. Officers will ensure the Animal Control officer takes the carcass to the Town Lake Animal Center for the follow-up investigation.

(c) Officers shall write an incident report to be forwarded to the Animal Cruelty Unit for follow-up.

1. The report should contain the following information:
   (a) Condition of the animal; and
   (b) Conditions in which the animal is housed; and
   (c) Exigent circumstances that require the impound of the animal, if applicable; and
   (d) Identity of the owner; and
   (e) Identity of the complainant.
2. Officers should take digital photographs of the animal and scene, or contact a Crime Scene Unit.

### 439.3.2 STRAY AND WILD ANIMALS

(a) If the animal has a license or can otherwise be identified, the owner should be contacted, if possible.

1. If the owner is contacted, the animal should be released to the owner and a citation may be issued if appropriate.

(b) If an owner is not located or no one claims ownership, contact Animal Control.

### 439.3.3 INJURIES CAUSED BY ANIMALS

(a) When an animal injures a person, officers shall:

1. Render first aid and call EMS, if necessary; and
2. Attempt to locate and contain the animal; and
3. Attempt to locate and identify the owner; and
4. Contact Animal Control.

### 439.3.4 NOISE CALLS RELATING TO ANIMALS

Officers responding to noise complaints from animals should attempt to locate and identify the owner of the animal. If the complainant wants to file charges, provide the complainant with the animal owners' information and refer the complainant to Municipal Court.

## 439.4 DECEASED ANIMALS

Officers that encounter a deceased animal on public property will notify Communications to have the City Sanitation Department contacted. Officers should provide the following information:

(a) Location of the deceased animal; and

(b) Size of the animal.

If human involvement is suspected as the contributing cause of the animals death, officers shall follow the guidelines outlined in the Animal Cruelty section of this policy.



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## 439.5 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.

(a) When the owner is located and the animal is not an immediate danger to the community, the owner may take responsibility of the injured animal.

(b) When the owner 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.

1. During normal business hours the animal should be taken to an authorized veterinary care clinic.
2. After normal business hours the animal should be taken to the authorized veterinary emergency care clinic.

(c) When there is a need to kill a seriously injured or dangerous animal, officers shall follow the guidelines outlined in Policy 202 (Firearm Discharge Situations).

(d) Injured wildlife should be referred to the Society for the Prevention of Cruelty to Animals (SPCA) of Texas, Marine Mammal Center or Department of Fish and Game, as applicable. The SPCA of Texas will not pick up common pigeons (red legs), starlings, bats or skunks.

(e) Each incident shall be documented in an incident report to include the name of the complainant, the owner, and the veterinary hospital and/or person to whom the animal is released.

## 439.6 RABID ANIMALS

Officers handling an alleged rabid animal incident should adhere to the following guidelines.

(a) Officers should:

1. Request Communications to contact Animal Control.
2. Attempt to contain the animal. If the animal cannot be contained, contact a supervisor prior to terminating the animal and follow the guidelines outlined in Policy 202 (Firearm Discharge Situations).
   (a) When terminating a suspected rabid animal, do not shoot the animal in the head. The head must be preserved for testing by the State Health Department.
3. Prevent persons from coming into contact with the animal carcass. State Health Department personnel and/or Animal Control officers are responsible for picking up, testing and the disposal of the carcass.

(b) Officers coming into contact with a suspected rabid carcass shall take the following precautions:

1. Wear gloves, mask, and eye protection.
2. Contact a supervisor to report contact with a suspected rabid animal.
3. Ensure the proper reporting forms regarding exposure to infectious disease are completed.
4. Follow proper clean up procedures as directed by the State Health Department.



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# Service Animals

## 440.1 PURPOSE AND SCOPE

Service animals play an important role in helping to overcome the limitations often faced by people with disabilities. The Austin Police Department recognizes this need and is committed to making reasonable modifications to its policies, practices and procedures in accordance with Title II of the Americans with Disabilities Act of 1990 (ADA) to permit the use of any animal that is individually trained to assist a person with a disability.

## 440.2 SERVICE ANIMALS

The ADA defines a service animal as any guide dog, signal dog or other animal individually trained to provide assistance to an individual with a disability. Service animals may be of any type or breed and need not be certified by any government agency or service group.

Some service animals, such as guide dogs, may be readily identifiable but many do not have a distinctive symbol, harness or collar.

The following examples are just some of the ways service animals may provide assistance:

(a) Guiding people who are blind or have impaired vision.

(b) Alerting people who are deaf or hard of hearing.

(c) Retrieving or picking up items, opening doors or flipping switches for people with disabilities that limit use of their hands, arms or legs.

(d) Pulling wheelchairs.

(e) Providing physical support by assisting people with physical disabilities with stability and balance.

(f) 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 or to wake the person.

(g) 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, to find places or to follow daily routines.

## 440.3 EMPLOYEE RESPONSIBILITIES

Under the Americans with Disabilities Act, service animals assisting individuals with disabilities are permitted in all police facilities and areas where the general public is allowed. Employees are expected to treat individuals with service animals with the same courtesy and respect that the Austin Police Department affords to all members of the public.

If an animal exhibits vicious behavior, poses a direct threat to the health of others or unreasonably disrupts or interferes with normal business operations, the employee may direct the partner/handler to remove the animal from the premises. Barking alone is not a threat nor does a direct threat exist if the partner/handler takes prompt, effective action to control the animal. Each incident must be considered individually and past incidents alone are not cause for excluding a service animal. Removal of a service animal may



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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 the individual with the disability.

If it is unclear whether an animal meets the definition of a service animal, officers should ask the individual only the following questions:

(a) Is the animal required because of a disability?

(b) 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. No further question as to the animal's status should be asked. The person should not be asked questions about his disabilities nor should the person be asked to provide any license, certification or identification card for the service animal.

Service animals are not pets. Employees should not interfere with the important work performed by a service animal by talking to, petting or otherwise initiating contact with a service animal.

## 440.4 INQUIRIES AND COMPLAINTS

When handling calls of a complaint regarding a service animal, members of this department should remain neutral and should be prepared to explain the ADA requirements concerning service animals to the concerned parties. Under the Americans with Disabilities Act, people with disabilities have the right to be accompanied by service animals in all public areas.

(a) Businesses are required to permit service animals to accompany their partner/handler in all areas that other customers or members of the public are allowed. Individuals who believe they have been discriminated against as a result of their disability should be referred to the Civil Rights Division of the U.S. Department of Justice.

(b) The Austin Police Department considers interference with or denial of this right by any member of the Department to be a serious violation of this policy. Complaints alleging violations of this policy against any Department employee will be promptly investigated and should be referred to the Internal Affairs Unit.



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# Mental Health Response

## 445.1 PURPOSE AND SCOPE

The Crisis Intervention Team (CIT) Unit was created for the sole purpose of addressing and responding to any calls for police assistance related to the mental health community. This policy sets guidelines for utilizing the CIT Unit and the certified CIT officers assigned to field duty.

### 445.1.1 DEFINITIONS

**Crisis Intervention Team (CIT) Officer** - A licensed peace officer with a minimum of 2 years of law enforcement experience who has successfully completed the TCLEOSE prescribed certification course. This includes certified officers assigned to patrol and the CIT Unit.

**Crisis Intervention Team (CIT) Unit** - A unit of specially trained CIT officers within APD who act as liaisons between the CIT officers assigned to patrol and the facilities, providers, and consumers within the mental health community. CIT Unit officers also respond to calls for service as outlined in this policy.

**Mental Illness** - An illness, disease or condition other than epilepsy, senility, alcoholism or mental deficiency that substantially impairs a person's thoughts, perception of reality, emotional process or judgment, or grossly impairs behavior as demonstrated by recent disturbed behavior.

**Mental Retardation** - A significantly sub-average intellectual function that is concurrent with deficits in adaptive behavior and which originates during the developmental period.

## 445.2 INCIDENTS REQUIRING A CIT OFFICER

(a) The following incidents require a CIT officer:

1. Any situation where the responding officer believes that a persons mental health is adversely affecting the persons behavior (e.g., attempted suicide, suicidal subject, POEC evaluation).
2. Any request from a member of the community for a CIT officer.
3. Mental health related calls from a facility/provider that furnishes services on behalf of the mental health community.
4. Any health care facility or emergency room request for assistance relating to a person suspected of a mental illness.

(b) If the incident is non-emergency in nature, a CIT officer shall respond as the primary officer.

(c) If the incident is an emergency, any patrol officer may be dispatched immediately and a CIT officer will be dispatched as soon as possible.

## 445.3 CIT OFFICER REFERRALS

Officers receiving a mental health request for assistance from a complainant will refer the individual to an on-duty CIT officer or the CIT Unit. An incident report will be completed as outlined in this policy.



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(a) If the person about whom the call is made poses any threat to safety, the responding officer will remain at the scene until contact is made with an on-duty CIT officer or the CIT Unit to determine the appropriate action to be taken.

(b) When deemed necessary by a CIT officer or the CIT Unit, a Victim Services Crisis Team will be called to the scene to assist with:

1. Assessment of the client (including suicide assessments).
2. Assessment of the situation.
3. Linking the client with existing mental health services in the community.
4. In-depth counseling for the client and family.
5. Transportation of the client, when appropriate.

## 445.4 MENTAL HEALTH COMMITMENTS

### 445.4.1 VOLUNTARY COMMITMENT

Employees encountering persons desiring to be committed to a mental health facility shall contact an on-duty CIT Officer or the CIT Unit for an assessment. The responding CIT Officer conducting the assessment shall also provide transportation to the appropriate facility, if necessary.

### 445.4.2 PEACE OFFICER EMERGENCY COMMITMENT

(a) The authority to apprehend a person by using the Peace Officer's Emergency Commitment (POEC) is granted under the Tex. Health and Safety Code § 573.001. This type of custody is protective rather than criminal in nature and does not constitute an arrest. A POEC may be used when:

1. The officer has reason to believe, and does believe, that the person is mentally ill; and
2. Because of that mental illness there is a substantial risk of serious harm to the person or to others unless the person is immediately restrained; and
3. The officer believes that there is not sufficient time to obtain a warrant before taking the person into custody.

(b) An employee encountering a person who needs to be assessed for a possible POEC shall contact an on-duty CIT Officer. If no on-duty CIT Officer is available within a reasonable amount of time (not to exceed 1 hour), the employee shall request Communications to contact the on-call CIT Unit Officer.

1. The responding CIT Officer shall be responsible for:
   (a) Conducting an assessment to determine whether the person should be handled as an emergency commitment;
   (b) Providing transportation to the appropriate mental health facility or furnishing referral information;
   (c) Preparing all required documentation.
2. If it is determined that the person does not meet the criteria for a POEC, the initial officer may:
   (a) Release the person, if no criminal violation has been committed;
   (b) Use other available referral services or release options; or
   (c) Place the person in jail, provided the officer has legal authority to do so.



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### 445.4.3 ORDER OF PROTECTIVE CUSTODY

Due to special requirements, employees receiving a request to transport a subject due to an Order of Protective Custody (OPC) shall contact the Travis County Sheriff's Office (TCSO) CIT Unit to transport the person named in the order.

### 445.4.4 UNAUTHORIZED DEPARTURES FROM MENTAL HEALTH FACILITIES

When officers comes into contact with a person who is a confirmed Unauthorized Departure (UD) from a mental health facility, officers will confirm that a court order has been issued for the individual requiring him to return to the appropriate mental health facility.

(a) If confirmed, take the person into custody and transport him to the appropriate mental health facility.

(b) If no court order exists the employee shall request an on-duty CIT officer to respond and complete a supplement detailing his observations.

## 445.5 MENTALLY ILL PERSONS REQUIRING MEDICAL ATTENTION

Officers shall call EMS to treat and/or transport the person to a medical facility when a mentally ill person needs medical attention.

(a) If the subject is transported, a *Mental Health Transport Form* shall be completed and given to EMS personnel.

(b) If the subject is not transported, officers shall request an on-duty CIT officer to respond to the scene.

## 445.6 ARRESTS OF MENTALLY ILL PERSONS

(a) At no time will a person apprehended under a POEC be placed in jail unless the individual has committed a:

1. Felony offense;
2. Family violence offense;
3. DWI offense; or
4. Public intoxication offense.
    (a) Arrests for public intoxication of persons who are also believed to be mentally ill should only be made when all other options have been exhausted (i.e., place with or transport to family, friends, or support groups).

(b) If a suspected mentally ill person is placed in jail, officers shall:

1. Advise the intake officers; and
2. Complete all paperwork required by Travis County (e.g., Mental Health Hold/Evaluation Form); and
3. Bring the person to the jail nurse.

## 445.7 REPORTING PROCEDURES

Employees responding to any incident involving a mental health individual shall comply with the following reporting requirements:

(a) **Responsibility**



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1. CIT officers responding to a scene shall complete the incident report. If the primary officer is not a CIT officer, he shall complete a supplement detailing his observations.
2. When a CIT officer does not respond, the primary officer shall complete the incident report.
3. When a mentally ill person is arrested, detained, and/or released for an offense, the arresting officer shall complete the incident report.

(b) **Guidelines**

1. Officers completing an incident report shall:
   (a) Use the appropriate EDP title code; and
   (b) Not include any reference to the mental health of a person in a report synopsis that is available for public disclosure (e.g., "press release"). All such information shall be documented in the narrative section, as needed.



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# Informants

## 450.1 PURPOSE AND SCOPE

In many instances, a successful investigation cannot be conducted without the use of informants. To protect the integrity of the Austin Police Department and the officers using informants, it shall be the policy of this department to take appropriate precautions by developing sound informant policies.

### 450.1.1 TYPES OF INFORMANTS

The following types of informants are considered resources of the Austin Police Department. Informants shall not be considered as personal sources of information to any individual officer.

(a) **Citizen Informants** - Persons who provide information or evidence to assist the Department in the reduction of crime without any expectation of payment or benefit. This is normally referred to as the "concerned citizen."

(b) **Paid Informants** - Persons who are providing information or evidence to APD in exchange for money paid by APD.

(c) **Defendant Informants** - Persons who have been:

1. Arrested and the evidence is sufficient to support a charge; or
2. Formally charged with an offense; or
3. Indicted.

(d) **Juvenile Informants** - Persons under the age of 17 years old may only be used as an informant with parental consent or as authorized by a court order.

### 450.1.2 RELATIONSHIP WITH INFORMANTS

No member of the Austin Police Department shall maintain a social relationship with a known paid or defendant informant or otherwise become intimately involved with a such an informant. Members of the Austin Police Department shall neither solicit, accept gratuities, or engage in any private business transaction with any informant.

## 450.2 PATROL GUIDELINES

### 450.2.1 CITIZEN INFORMANTS

Officers working patrol and patrol related assignments normally encounter citizen informants.

(a) Information regarding criminal activity obtained in this manner shall be handled as follows:

1. Where exigent circumstances exist, the officer should take appropriate action and document the source of information in an incident report.
2. Where no exigent circumstances exist, the officer shall refer the informant to the appropriate Investigative Unit.



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(b) Occasionally officers will encounter individuals who want to provide information but do not desire to be identified.

1. Officers shall not enter into any agreement promising that the individual's involvement in a particular incident will remain confidential. The individual could be required to testify in court or provide additional information to other law enforcement entities.

2. Informants still desiring to remain confidential should be referred to the appropriate Investigative Unit or to Crime Stoppers for follow-up.

(c) If a citizen informant wishes to be paid, officers shall follow the paid informant guidelines.

### 450.2.2 PAID INFORMANTS

Officers working patrol and patrol related assignments who encounter individuals wishing to provide information in exchange for compensation or some other benefit (other than dismissal of arrest charges - see Defendant Informants below) will be handled in the following manner:

(a) The officer's supervisor must be notified that a person is attempting to provide information.

(b) The supervisor and officer should determine whether or not exigent circumstances exist.

1. Where exigent circumstances exist (e.g., a crime is in progress or imminent):

(a) The officer should attempt to obtain the information and take enforcement action as needed.

(b) Any monetary compensation will be determined after the fact by the appropriate Investigative Unit following the Organized Crime Division (OCD) Confidential Informant Payment Guidelines.

2. Where no exigent circumstances exist (e.g., a crime has already occurred or is an on-going long-term situation):

(a) The informant should be referred to the appropriate Investigative Unit or to Crime Stoppers for follow-up.

(b) If the informant wishes to work with an Investigative Unit:

1. The officer should contact or email the appropriate Investigative Unit supervisor with the informants' identity, a brief explanation of the situation, and the incident number.

2. The Investigative Unit's supervisor will determine whether to use the informant. Informant use must be approved by OCD as outlined in this policy.

(c) With supervisor approval, officers may be requested to:

1. Act as a liaison between the informant and Investigative Unit.

2. Set up interviews with the informant and investigators.

(d) Officers will not engage in any other phase of the investigation unless authorized by the Investigative Unit and the officer's chain-of-command.



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### 450.2.3 DEFENDANT INFORMANTS

Officers working patrol and patrol related assignments who arrest an individual that wishes to provide information or evidence will be handled in the following manner:

(a) Officers shall not enter into any agreement to accept information in lieu of filing charges.

(b) Informants should be referred to the appropriate Investigative Unit.

1. Officers should contact or email the appropriative Investigative Unit supervisor with the informants' identity, a brief explanation of the situation, and the incident number.
2. Investigative Unit supervisors will determine whether to use the informant. Informant use must be approved by OCD as outlined in this policy.

## 450.3 ALL OTHER ASSIGNMENTS

### 450.3.1 CITIZEN INFORMANTS

Investigative Units within the Department wishing to utilize a citizen informant shall adhere to the following guidelines:

(a) A citizen informant does not have to be documented in the Confidential Informant Database unless he wishes to be paid for the information or evidence being provided.

(b) If a citizen informant wishes to be paid, the paid informant guidelines shall be followed or refer the informant to Crime Stoppers.

### 450.3.2 PAID AND DEFENDANT INFORMANTS

Investigative units within the Department shall not deal with any paid informant or defendant informant unless policies and procedures outlined within the unit SOP and/or Operations Manual that mirror OCD's policy on informants.

(a) **Any** potential paid informant or defendant informant shall be approved by an OCD supervisor **before** using the informant. The OCD supervisor will check the informant through the Confidential Informant Database.

(b) When use of an informant has been approved:

1. All informant information shall be entered into the Confidential Informant Database by an OCD supervisor and issued an informant control number.
2. All employees shall forward original informant files to OCD for filing, retention, and archival.
3. A copy of an informant file may be kept by the unit controlling the informant.
4. All payments made to an informant shall be immediately communicated to an OCD supervisor so the Confidential Informant Database can be updated with the payment information.

## 450.4 WILLIAMSON COUNTY GUIDELINES

Guidelines for using Defendant Informants are different for Williamson County and must be followed. When a subject is being considered for use as a Defendant Informant in Williamson County, an OCD supervisor shall be contacted before using the informant.



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## 450.5 ORGANIZED CRIME DIVISION RESPONSIBILITIES

OCD shall be the Department's central repository for all informant paper files and maintain a Confidential Informant Database that will contain informant information as well as all payments made to the informant. Informant records shall be maintained indefinitely.

### 450.5.1 REPORTING OF PAYMENTS

Each confidential informant receiving a cash payment shall be informed 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 confidential informant should be provided IRS Form 1099 (26 CFR 1.6041-1). If such documentation or reporting may reveal the identity of the confidential informant and by doing so jeopardize any investigation, the safety of peace officers or the safety of the confidential informant (26 CFR 1.6041-3), then IRS Form 1099 should not be issued.

In such cases, the confidential informant shall be provided a letter identifying the amount he/she must report on a tax return as other income and shall be required to provide a signed acknowledgement of receipt of the letter. The completed acknowledgement form and a copy of the letter shall be retained in the confidential informant's file.



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# Chapter 5 - Field Support Operations

# Bicycle Operations

## 500.1 PURPOSE AND SCOPE

Bicycle operations have been shown to be an effective way to increase officer visibility, accessibility, and response in congested areas. The purpose of this policy is to provide uniform guidelines regarding the use of bicycles by Austin Police Department personnel.

## 500.2 UTILIZATION AND DEPLOYMENT

The use of bicycle patrols will emphasize the mobility and visibility of the Department to the community.

(a) Bicycles may be used for:
   1. Regular Patrol duty.
   2. Traffic enforcement and parking control.
   3. Special events.

(b) Bicycles may be deployed to any area at any hour of the day or night in accordance with Department needs and as staffing levels allow.

(c) Requests for specific deployment of bicycle patrols may be coordinated through any chain-of-command, a specific Commander, or the Watch Lieutenant.

## 500.3 POLICE BICYCLE TRAINING AND CERTIFICATION

Officers must successfully complete all required Police Mountain Bike courses in order to use a bicycle during their normal course of duty.

(a) Officers interested in becoming a Certified Bicycle Officer by attending the initial Police Mountain Bike course must meet each of the following requirements:
   1. Have two or more years of police service with the Department unless otherwise approved by a supervisor; and
   2. Get supervisor permission prior to signing up for the Police Mountain Bike course; and
   3. Pass a prerequisite Fitness Assessment conducted by the APD Wellness Office or pass a Physical (for strenuous activity) by your personal physician within 6 months prior to the first day of class.

(b) Priority for acceptance into the Police Mountain Bike course shall go to officers assigned to a full-time Bicycle assignment (e.g., Downtown Patrol).

(c) Certified Bicycle Officers shall complete a Department-approved Police Mountain Bike Refresher course as required.

## 500.4 BICYCLE OFFICER RESPONSIBILITIES

This section establishes the specialized procedures for officers that work any part of their assigned duty on a bicycle.

(a) Bicycle Officers shall follow all guidelines outlined in Department policy, the Police Mountain Bike course, and any subsequent refresher courses.



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(b) Bicycle Officers must operate the bicycle in compliance with the Transportation Code under normal operation (Tex. Transp. Code § 551.101 et seq.).

1. Bicycle 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.

(c) Bicycle Officers are exempt from the rules of the Transportation Code under the following conditions (Tex. Transp. Code § 546.002):

1. In the execution of daily law enforcement activities and/or tactical considerations.
2. In response to an emergency call.
3. While engaged in rescue operations.
4. In the immediate pursuit of an actual or suspected violator of the law.

(d) Bicycle Officers should be deployed in teams of two.

## 500.5 REQUIRED UNIFORM AND EQUIPMENT

(a) Bicycle Officers shall:

1. Only use a Department issued bicycle and Department approved equipment in the course of their duties.
2. Wear the Department approved uniform and safety equipment (e.g., helmet and gloves) while operating a police bicycle.
3. Carry the same required equipment on their duty belt as a regular Patrol assignment.
4. Be responsible for obtaining the necessary forms, citation books and other equipment to perform the duties of their regular assignment and have these available while using a police bicycle.

(b) Bicycle Officers may wear Department approved bicycle eyewear and footwear while operating a police bicycle.

## 500.6 HANDLING POLICE BICYCLES

The following section outlines the guidelines for Police Bicycles:

(a) Accountability.

(b) Care and Use.

(c) Repair and Maintenance.

(d) Storage Locations.

### 500.6.1 ACCOUNTABILITY

Each authorized unit that utilizes Bicycle Officers shall be allocated a specific number of bicycles.

(a) A supervisor shall be responsible for the assignment of allocated bicycles to unit personnel.

(b) Officers shall not use a bicycle that is assigned to another unit without approval of a supervisor.



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(c) Officers shall not remove, modify, or add components to a bicycle unless approved by a supervisor or there is an emergency.

(d) During prolonged periods of non-use, each unit assigned a bicycle shall periodically rotate the equipment batteries on unused bicycles in order to increase battery life.

### 500.6.2 CARE AND USE

(a) Officers shall conduct a preliminary inspection of the bicycle and equipment prior to each use to ensure proper working order of the equipment (e.g., tire pressure, brakes, chain lubrication).

(b) Officers should not expose the bicycle to unreasonable hazards or abuse.

(c) Bicycles shall be properly secured when not in the officer's immediate presence except in exigent circumstances.

(d) Bicycle racks are available on certain police vehicles should the officer need to transport the bicycle. Due to possible component damage, transportation of the bicycle in a trunk or on a police unit push-bumper is discouraged.

(e) Bicycle batteries shall be rotated on the assigned charger at the end of each tour of duty.

(f) Officers shall return the bicycle clean and ready for the next tour of duty at the end of their assignment.

### 500.6.3 REPAIR AND MAINTENANCE

Bicycles shall have scheduled maintenance conducted throughout the year as outlined in the Bicycle Maintenance Contract.

(a) Repair of flat tires shall be the responsibility of each individual Bicycle Officer.

(b) For all other repairs, Bicycle Officers should complete a repair work order and transport the bicycle to the designated Department bicycle repair location.

    1. Bicycle Officers may be issued a temporary spare bicycle, if one is available, until the primary bicycle is repaired.

### 500.6.4 STORAGE LOCATIONS

Every bicycle storage location must have at least two tire pumps, a first aid kit, repair tool kits, tire tubes, equipment information, and use manuals.

## 500.7 RECORDS MANAGEMENT AND REPORTING

Records will be kept on each bicycle and its associated Department issued equipment by Police Equipment and the Commander or designee of where bicycles are assigned.

(a) Each Command will utilize the Department Bicycle Sign-Out Form.

(b) All bicycles will be numbered with the first two initials of the bike make and last four of the serial number.

(c) Maintenance records shall be kept and filed according to bicycle number and shall consist of repair requests and all documented maintenance/repairs performed.

(d) An annual Department bicycle inventory and inspection shall be conducted by Police Equipment to determine the number of bikes in each chain-of-command. The inventory and inspection shall include all associated serial number(s), equipment, and personnel assignment(s).



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## 500.8 ANNUAL INSPECTION AND INVENTORY

All personnel shall assist and cooperate with the Inspections Unit when conducting staff inspections as well as the Police Equipment Unit when conducting an annual inventory. Discrepancies and or deficiencies noted during these inspections will be corrected in a timely manner by the appropriate responsible party.



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# Canine Unit

## 503.1 PURPOSE AND SCOPE

The purpose of this policy is to establish the guidelines and procedures for using the APD Canine Unit.

## 503.2 UTILIZATION OF THE CANINE UNIT

(a) The Canine Unit may be requested for the following situations:

1. To locate suspects that have fled on foot from officers, or from the scene of a crime, for Class B and above offenses, and suspects related to window peeping (Tex. Penal Code § 42.01(a)11);
2. Residence and building searches w/forced entry;
3. Article searches when evidence may be located (e.g., gun, knife);
4. High risk traffic stops; and
5. To locate Missing, lost, or injured persons when exigent circumstances exist. If no exigent circumstances exist, AFD Search and Rescue should be utilized.

(b) The Canine Unit shall not be utilized:

1. When a suspect cannot be identified or linked to a crime (e.g., insufficient physical description, no witness).
2. For crowd control (e.g., demonstrations, regular crowd control).
3. During questioning or interrogation of a suspect.
4. To transport prisoners.
5. For routine Patrol calls or arrests.

## 503.3 ON-SCENE PROCEDURES

(a) Officers at the scene of an incident where a Canine Team may be needed should do the following:

1. Set an **immediate** search perimeter;
2. Notify a supervisor and request approval to utilize the Canine Unit;
3. Request Communications to contact the available or on-call Canine Team; and
4. Stay at the location where the suspect was last seen until the Canine Team arrives.

(b) All officers on the perimeter shall stay in or next to their vehicle with all emergency lights activated.

(c) No officer shall enter the perimeter or building at any time during a canine call unless directed to do so by a Canine Officer.

1. If a suspect moves within the perimeter, officers shall remain on the perimeter and the ranking officer or Canine Officer on-scene will readjust the perimeter as needed.
2. This does not prohibit an officer from making an immediate arrest or preventing the escape of a suspect out of the perimeter.



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(d) Officers shall not place themselves between a working canine and a suspect at any time.

(e) The Canine Officer has the final decision on when and how the canine is utilized on any call.

## 503.4 USE OF OTHER AGENCY CANINE UNITS

Due to strict APD Canine Unit policy, training, and national certification, no outside agency's Canine Unit shall be called or allowed to be utilized on an APD initiated call without authorization from the APD Canine Unit supervisor.

This does not restrict an outside agency from using its own Canine Unit on any call that the agency initiates which then enters APD jurisdiction (e.g., vehicle pursuits).



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# Air Operations and Air Support

## 504.1 PURPOSE AND SCOPE

The use of the air support can be invaluable in certain situations. This policy specifies potential situations where use of air support may be requested and the responsibilities for making a request.

## 504.2 REQUEST FOR AIR SUPPORT ASSISTANCE

APD Air Operations shall be the primary responder for all aircraft assistance requests originating within the Department.

(a) If a supervisor or officer in charge of an incident determines that the use of air support would be beneficial, a request for APD Air Operations shall be made by contacting Communications.

(b) If APD Air Operations is unavailable or off-duty and an officer needs aircraft assistance to conduct law enforcement related activities, a request to another law enforcement agency or Starflight shall be made through an APD Air Operations supervisor or the Watch Lieutenant as follows:

1. When the situation involves imminent danger to officers or the public, the request for assistance must be approved by the Watch Lieutenant. The Watch Lieutenant will then immediately notify Air Operations supervisor.
2. For all other law enforcement related situations, a supervisor shall contact the on-duty or on-call Air Operations supervisor to determine the appropriate course of action.

(c) Upon arrival at an incident where the officer determines medical assistance is needed, the officer shall notify Communications of the victim's age, sex and injuries and request EMS. The decision to call Starflight for medical purposes is the responsibility of EMS ground units. Officers shall be responsible for setting up and maintaining a landing zone as outlined in this policy.

### 504.2.1 CIRCUMSTANCES UNDER WHICH AID MAY BE REQUESTED

While it is recognized that the availability of air support will generally provide valuable assistance to ground personnel, the presence of air support will rarely replace the need for officers on the ground.

Law enforcement air support may be requested under any of the following conditions:

(a) When the aircraft is activated under existing mutual aid agreements.

(b) Whenever the safety of law enforcement personnel is in jeopardy and the presence of the aircraft may reduce such hazard.

(c) When the use of aircraft will aid in the capture of a suspected fleeing felon whose continued freedom represents an ongoing threat to the community.

(d) When an aircraft is needed to locate a person who is missing and whose continued absence constitutes a serious health or safety hazard.

(e) Vehicle pursuits.



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## 504.3 ROTARY AIRCRAFT LANDING ZONE GUIDELINES

In the event a rotary aircraft needs to land, officers shall establish and maintain a landing zone.

(a) **Establishing a Landing Zone**

1. Preferably 60 ft. by 60 ft.; and
2. Hard road surface, if possible, otherwise grass or dirt areas if a paved road is not available; and
3. No obstructions such as telephone wires, power lines, poles, structures or vehicles; and
4. No debris on the ground (remove any objects that may be blown around). Officers are also reminded to remove hats or caps which may be blown away during landing and take-off.

(b) **Marking the Landing Zone**

1. All emergency lights, spotlights, and headlights shall be turned off during landing and take-off.
2. Vehicle parking lights may be left on for landing recognition purposes.

(c) **Securing the Landing Zone**

1. At least two (2) officers should be used to secure the landing zone.
2. All personnel and vehicles shall be kept out of the landing zone prior to landing, while the aircraft is on the ground, and during its take off.
3. The pilot has responsibility for, and final authority over, everyone and everything within the immediate area of the landing zone.
4. Officers shall not approach the aircraft from the rear or sides. Approaches to the aircraft shall be made only to the front, and only after the pilot has signaled approval for the approach.
5. No smoking or open flames are allowed within 100 feet of the aircraft.
6. When the aircraft is ready to depart, officers shall ensure the established landing zone area is clear of vehicles and pedestrians.



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# Chapter 6 - General Support Operations

# Victim Services

## 601.1 PURPOSE AND SCOPE

The Victim Services Division (VSD) was created in 1981 to respond to crime victims' psychological and emotional needs. This is achieved through crisis intervention, counseling, advocacy, education, information, and referral for victims of crime and trauma, individuals with mental illness, witnesses, families of crime and trauma victims, first responders, investigative units, and on a larger scale, the neighborhoods and communities in which they live.

VSD also provides assistance to criminal justice personnel, the community and others in non-crime situations. The overall mission is to positively impact the quality of life for Austin residents by assisting victims/survivors, and families/neighborhoods who have experienced crime and/or trauma.

## 601.2 VICTIM SERVICE DIVISION PERSONNEL RESPONSE

(a) VSD personnel shall respond immediately to any request for assistance.

(b) VSD personnel shall automatically be dispatched on the following incidents:

1. Partial or Citywide disasters (e.g., aviation, criminal, natural or man-made).
2. Any death of an APD officer or an officer's family member.
3. Unexpected death of any City employee or an employee's family member.

(c) VSD personnel shall be notified of the following call types if needed:

1. Homicides, suicides, child deaths, and fatality collisions.
2. Robberies & aggravated robberies (e.g., banks, restaurants, motels).
3. Aggravated assaults (child, family or adult).
4. Family violence.
5. Child/elderly abuse or neglect.
6. Hostage/barricade incident and SWAT/hostage negotiator call outs.
7. Adult and Child Sexual Assaults.
8. Attempted suicides.

(d) Officers on the scene of any incident may request VSD personnel when they determine assistance may be required.

(e) VSD personnel may respond to an incident without being requested, but only when a scene is determined to be safe.

## 601.3 ON-SCENE PROCEDURES

(a) When VSD personnel are dispatched or respond to an incident and the scene is deemed safe, counselors shall:

1. Immediately notify the officer in charge that they are present.
2. Stand by for an officer to complete their contact and release the subject(s) to the counselor.



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(b) VSD personnel may be left at the scene only if the officer and counselor agree the scene is safe.

1. If the officer deems the scene is unsafe and needs to return to duty, VSD personnel must:

(a) Take any subjects to a safe location (e.g., a Department facility, shelter, friend's/family's residence); or

(b) Leave the scene and advise the subjects of community resources and referrals.

(c) VSD personnel who respond to a scene are required to complete a supplement documenting their observations and actions.

## 601.4 SUPPORT SERVICES PROVIDED

(a) VSD personnel provide trauma-counseling, referrals and follow-up services to victims, witnesses, survivors, and community members. These services are provided through counselors working with the various Patrol, Support, and Investigative Units of the Department.

(b) VSD personnel provide death notification services in conjunction with the Travis County Medical Examiner's Office and the appropriate investigative unit.

(c) VSD personnel are responsible for notifying victims/survivors of violent crimes of thier:

1. Potential eligibility for compensation under State law and the assistance available in filing a claim; and

2. State constitutional rights.

(d) VSD personnel are also responsible for coordinating the Department's policies and procedures concerning Policy 607 (U-Visa Nonimmigrant Status Certifications).

### 601.4.1 CRIME VICTIM LIAISON

The Austin Police Department VSD is the designated crime victim liaison for the Department. As the liaison, the VSD is responsible for ensuring that crime victims are afforded the rights granted to them under 56.02 of the Texas Code of Criminal Procedures. VSD personnel will be the point of contact for individuals requiring further assistance or information from the Austin Police Department regarding benefits from crime victim resources. This includes notifying victims/survivors of violent crimes their potential eligibility for compensation under State law and the assistance available in filing a claim. VSD shall also be responsible for maintaining compliance with all legal mandates related to crime victims and/or witnesses.

## 601.5 INFORMATION FOR ALL VICTIMS OF CRIME AND TRAUMATIC EVENTS

All Department personnel, including officers, are responsible for providing all victims of person and property crimes and traumatic events, with victim assistance information. This information is contained in the English (pink) and Spanish (yellow) brochures entitled "*Victim Assistance Information.*" These brochures are provided to the Department by Victim Services personnel upon request.

(a) Information for victims include:

1. APD incident report number, when applicable.

2. Appropriate Investigative Unit, when applicable.



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3. Information on appropriate internal and external referrals.
4. Information on crime victims compensation.
5. Notice to adult victims of domestic violence.
6. Recognizing intimate partner abuse.
7. Information for parents on child exposure to family violence.
8. Safety planning.
9. Rights of crime victims.

## 601.6 COMMITMENT TO TRAINING

VSD personnel provide training on basic victimology, procedures, special services, types of victims, trauma impact and reactions. This training is provided to:

(a) APD Cadet classes.

(b) Department in-service training.

(c) Communications.

(d) Community groups.

(e) Other law enforcement agencies.

(f) State and federal agencies.



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# Chaplain Unit

## 602.1 PURPOSE AND SCOPE

The Austin Police Department Chaplain Unit is established for the purpose of providing spiritual and emotional support to all members of the Department, their families, and members of the public.

## 602.2 POLICY

The Chaplain Unit shall be an interdenominational, ecumenical ministry provided by volunteer clergy. With the exception of gratuities for wedding services, chaplains may not accept gratuities for services or follow-up contacts while functioning as a chaplain for the Austin Police Department.

The Department may, at its discretion, provide financial compensation for the supervision of the Chaplain Unit.

## 602.3 GOALS

(a) Members of the Chaplain Unit shall fulfill the program's purpose in the following manner:

1. By providing counseling, spiritual guidance and insight for Department personnel and their families.
2. By being alert to the spiritual and emotional needs of Department personnel and their families.
3. By familiarizing themselves with the role of law enforcement in the community.
4. By serving as a resource for departmental personnel when dealing with the public in such incidents as accidental deaths, suicides, suicidal subjects, serious crashes, drug and alcohol abuse, critical incidents, and other such situations that may arise.
5. By providing an additional link between the community, other chaplain programs, and the Department.

(b) The Chaplain Advisory Committee exists to continually oversee chaplains' qualifications and conduct while providing service to the Department.

## 602.4 DUTIES AND RESPONSIBILITIES

The duties of a chaplain may include, but are not limited to, the following:

(a) Assist in making notification to families of Department personnel who have been seriously injured or killed, where necessary.

(b) Visit sick or injured law enforcement personnel in the hospital or home.

(c) Attend and participate, when requested, in funerals and weddings of active or retired members of the Department and their families.

(d) Assist sworn personnel in the diffusion of a conflict or incident when requested by on-scene staff.

(e) Maintain an active presence of the Chaplain Unit by riding out with officers on a regular basis. Chaplains are exempt from completing the *Police Observer Information Form*.



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(f) Respond to critical incidents, natural and accidental deaths, suicides and attempted suicides, family disturbances and any other incident that in the judgment of the Watch Lieutenant or supervisor aids in accomplishing the Department's mission.

(g) Be on call and, if possible, on-duty for incidents as assigned by the Chaplain Unit supervisor.

(h) Counsel officers and other personnel with personal problems, when requested.

(i) Attend Department ceremonies, academy graduations and social events and offer invocations and benedictions, as requested.

(j) Be responsible for the organization and development of spiritual organizations and support groups within the Department.

(k) Respond to all major disasters such as earthquakes, bombings and similar critical incidents.

(l) Provide liaison with other religious leaders of the community.

(m) Assist public safety personnel and the community in any other function of the clergy profession, as requested.

(n) Participate in in-service training classes.

(o) Be willing to train to enhance effectiveness.

(p) Promptly facilitate requests for representatives of clergy of other denominations and religions.

(q) Make referrals in cases where specialized attention is needed or in cases that are beyond the chaplain's ability to assist.

## 602.5 CONFIDENTIALITY

Except as otherwise specified, matters of a personal nature that are discussed between chaplains and others shall remain private and confidential. Members of the clergy are not required to reveal penitential communications. However, clergy must report child, elder or dependent adult abuse discovered while acting in any of the following capacities:

(a) Marriage, family or child counselor.

(b) Religious practitioner who diagnoses, examines or treats children, elders or dependent adults.



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# Auxiliary and Support Services

## 605.1 PURPOSE AND SCOPE

The Department utilizes a variety of civilian personnel who assist in delivering day-to-day law enforcement services to the community. This policy serves to identify the various programs and support services these civilian personnel provide.

## 605.2 SERVICES AND PROGRAMS AVAILABLE

### 605.2.1 COMMUNICATION FACILITATOR PROGRAM

The APD Communication Facilitator (CF) Program is a branch of the Community Liaison Office that utilizes a volunteer work force to strengthen community relations and build strong partnerships.

(a) The goal and mission of the CF Program is to remove the Spanish language barrier between APD Officers and the Spanish speaking public. This allows Officers the opportunity to complete required law enforcement duties and affords the Spanish speaking public equal access to the justice system.

(b) In addition, the CF Program strives to remove other communication obstacles like behavior or attitude resulting from cultural differences between the Spanish speaking public and APD Officers not familiar with Spanish cultural issues.

(c) The CF Program is available during specific days and hours during which officers may request the assistance of the Communication Facilitators via APD Communications.

### 605.2.2 CRIME PREVENTION SPECIALIST

The primary function of the crime prevention specialist is the development, implementation, and evaluation of various citizen awareness programs offered to the Austin community. These programs promote public awareness and citizen involvement through a wide range of activities.

### 605.2.3 CRIME SCENE AND PROPERTY CRIME RESPONSE UNIT

The Crime Scene and Property Crime Response Unit is responsible for handling those property crimes not requiring the immediate attention of an officer, taking reports from citizens, and processing crime scenes for evidence. Personnel are also responsible for providing expert testimony in criminal cases regarding their areas of support.

### 605.2.4 DOWNTOWN RANGERS

The primary role of the Downtown Ranger Program is to be "goodwill ambassadors" for the Public Improvement District within downtown Austin. They provide information about points of interest and provide assistance to visitors and business owners while being a visible street presence in the downtown area. Downtown Rangers maintain direct communication with APD officers and dispatchers using police radio channels.

### 605.2.5 LAW ENFORCEMENT EXPLORERS

A program that gives young men and women between the ages of 14 and 20 an opportunity to:



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(a) Interact and work with police officers;

(b) Learn more about available career opportunities; and

(c) Act as youth ambassadors to the community for the Austin Police Department.

Explorers also assist various APD Units with community outreach programs and community service projects. Explorers may be allowed to participate in the Patrol Observer Program which gives them an opportunity to observe Patrol work firsthand.

### 605.2.6 VOLUNTEERS IN POLICING

Volunteers in Policing (VIPs) is designed to find quality volunteers who will enhance the work of the Austin Police Department by building partnerships and strengthening relationships between APD and the community. Volunteers work in various areas of the Department and may be trained to provide support during a catastrophic event.

## 605.3 TRAINING REQUIRED

Each program position has minimum training requirements; these are specified in a respective Unit standard operating procedures manual.

For some positions, training may include the use of OC spray and proper reporting procedures required by the Department after its use.



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# U-Visa Nonimmigrant Status Certifications

## 607.1 PURPOSE AND SCOPE

U-Visa Nonimmigrant Certification ("Certification") extends temporary legal status to foreign nationals who are victims of a qualifying crime or criminal activity. APD will consider issuing U-Visa Nonimmigrant Status Certification on a case-by-case basis.

### 607.1.1 DEFINITIONS

Qualifying Crime or Criminal Activity - As listed in 8 U.S.C. § 1101(a)(15)(U), one or more of the following or any similar activity in violation of Federal, State, or local criminal law: rape; torture; trafficking; incest; domestic violence; sexual assault; abusive sexual contact; prostitution; sexual exploitation; female genital mutilation; being held hostage; peonage; involuntary servitude; slave trade; kidnapping; abduction; unlawful criminal restraint; false imprisonment; blackmail; extortion; manslaughter; murder; felonious assault; witness tampering; obstruction of justice; perjury; or attempt, conspiracy, or solicitation to commit any of the above mentioned crimes.

## 607.2 STATEMENT OF CERTIFICATION INTENT

APD's intent is to consider issuance of Certification to those individuals who prove willing to assist in furtherance of the law enforcement purposes of detecting, investigating, and prosecuting crimes. APD's decision to provide an applicant with a Certification is entirely discretionary. A victim who receives a Certification has an ongoing responsibility to assist APD in the investigation or prosecution of crime(s) listed on their Form I-918, Supplement B.

## 607.3 ELIGIBILITY FOR U-VISA NONIMMIGRANT STATUS

To be eligible for Certification, a person must:

(a) Be a victim of a qualifying crime or criminal activity; and

(b) Cooperate with law enforcement and the criminal justice systems throughout the investigation and prosecution of the qualifying crime or criminal activity.

## 607.4 AUTHORITY TO ISSUE CERTIFICATIONS

Sergeants over Violent Crime Units and Area Investigative Units are designated by the Chief of Police to issue Certifications on behalf of APD.

## 607.5 CERTIFICATION PROCEDURES

(a) The I-918 Supplement B, U-Visa Nonimmigrant Status Certification, and associated instructions are available in the Approved APD Forms folder on the network drive

(b) Requests for Certification must be submitted in writing to an authorized sergeant.

(c) All requests for Certification should be routed by case type as follows:

1. Domestic Violence / Stalking / DVERT cases to a sergeant over the Family Violence or DVERT Unit.



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2. Victim Services will coordinate all other case types with the appropriate sergeant from the Violent Crimes units or Region Detectives units.

(d) Sergeants should approve or deny the Certification as soon as possible but under no circumstances no more than 90 days from the date of receipt of the request.

(e) The sergeant will notify Victim Services or the respective detective regarding the final status of the Certification request.

(f) All requests and their dispositions must be forwarded electronically to the Inspections Unit for appropriate record retention.

## 607.6 REFERRALS OF APPLICANT TO OTHER CERTIFYING AGENCIES

If APD determines it will not issue Certification in a particular case, it may refer the requester to:

(a) a Federal, State or Local Law Enforcement agency.

(b) a Prosecutor.

(c) a Federal or State Judge.

(d) the Department of Family and Protective Services.

(e) the EEOC.

(f) the Department of Labor.

## 607.7 NOTIFICATION OF REFUSAL TO ASSIST

If an individual unreasonably refuses to assist in the investigation or prosecution of the qualifying crime or criminal activity after certification has been granted and the I-918 Supplement B has been submitted to the U.S. Citizenship & Immigration Service (USCIS), the authorized Investigative Unit Sergeant shall notify the USCIS in writing of the refusal to assist.



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# Interpreter Services

## 609.1 PURPOSE AND SCOPE

Immediate language interpretation services are available 24 hours a day by phone. Qualified interpreters for the hearing impaired are available to respond to the scene upon request.

## 609.2 LANGUAGE INTERPRETER SERVICE

(a) The Language Interpreter Service should be used when interpretation is necessary to provide services to the public and to perform police duties.

(b) The Language Interpreter Service should not be used:

1. For interpretation for Spanish-speaking persons. Spanish-speaking employees are available on each shift and throughout the Department.
2. When other means are available, unless this would jeopardize the investigation.
3. For long interrogations, confessions, or statements.

(c) To obtain an interpreter, the employee should:

1. Request the APD Communications supervisor notify the interpreter service;
   (a) Communications will provide the employee with any applicable agency identification number/code needed when contacting the service.
2. Provide the interpreter service with the agency identification number/code if required, the requester's employee number, and the language required.
3. The employee should explain to the interpreter what is needed.

(d) All calls made from CTECC will be recorded. If a copy of the conversation and translation is needed for evidentiary purposes, a copy should be requested from APD Communications.

## 609.3 INTERPRETERS FOR THE HEARING IMPAIRED

Qualified interpreters for the hearing impaired are available at all hours. Instructions for obtaining their services are available through APD Communications, the Booking Desk, Centralized Investigations and Municipal Court.

### 609.3.1 INTERVIEWING A SUBJECT TO ESTABLISH PROBABLE CAUSE

If an officer needs to interview a subject with a hearing impairment to determine if there is probable cause to make an arrest, an interpreter must be provided if written communication is ineffective. When an officer cannot wait until an interpreter arrives, the following procedures apply:

(a) **Minor Offenses**

1. If possible, postpone the interview until an interpreter is available. If an interpreter is not available in a reasonable period of time, the officer must document the investigation as completely as possible for later follow-up by the appropriate investigative unit.



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(b) **Serious Offenses**

1. If an interpreter is not available in a reasonable period of time, a supervisor shall be contacted to decide if an investigator should be called in to wait for an interpreter. If the supervisor decides that an investigator should not respond, the officer must document the investigation as completely as possible for later follow-up by the appropriate investigative unit.

### 609.3.2 COMMUNICATING WITH A SUSPECT BEFORE ARREST

If probable cause exists for the arrest of a hearing impaired person and the same standard would apply to a suspect without a hearing impairment, then no interpreter would be required before arrest unless the officer is unable to convey the nature of the criminal charges.

If the arrestee does not decline the opportunity to communicate through an interpreter, the arrestee should be transported to the Central Booking facility. Either the arresting officer or the transporting officer can convey the information through the interpreter upon arrival.

### 609.3.3 INTERROGATING AN ARRESTEE

If an officer cannot inform the arrestee of the Miranda warnings without the use of an interpreter, then the officer must secure an interpreter before any interrogation.

(a) Hearing impaired suspects must be provided an interpreter before any interrogation whenever one is needed for effective communication. If exigent circumstances do not allow a delay in the interrogation of the arrestee and an interpreter cannot respond within a reasonable period, the officer may go on with the interrogation only if:

1. The arrestee can understand the Miranda warnings as given; and
2. The arrestee specifically declines the opportunity to have an interpreter present.

(b) If written communication becomes ineffective, the officer must stop the interrogation and wait until an interpreter is present.

### 609.3.4 COMMUNICATING WITH A TRAFFIC VIOLATOR

If a person without a hearing impairment would be issued a traffic citation without the need of being questioned, then a person with a hearing impairment in the same situation does not need to be provided an interpreter.

If an officer has stopped a subject for a traffic violation and is unable to convey the nature of the infraction, the officer should use discretion about whether to call an interpreter or to issue a warning rather than a citation.

### 609.3.5 INTERVIEWING A VICTIM OR CRITICAL WITNESS

If officers can communicate effectively in writing with a hearing impaired person, they may proceed with an interview using a notepad. However, if an investigating officer is unable to communicate effectively with a victim or a critical witness, the officer must utilize an interpreter. If the officer cannot wait until an interpreter arrives, the following procedures apply:

(a) **Minor Offenses**

1. Have an interpreter dispatched to the victim's or critical witness's location and request APD Communications re-contact the officer when the interpreter arrives; or



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2. The officer may ask the victim or critical witness to come voluntarily to the station when an interpreter is available. When the victim/witness arrives, the investigating officer may then return to the station to complete the investigation or make arrangements for follow-up by the appropriate investigative unit.

(b) **Serious Offenses**

1. When the victim or witness with a hearing impairment is critical to establishing probable cause for an arrest or for completing the investigation, the investigating officer must contact the appropriate supervisor before leaving the scene. The supervisor will decide if an investigator will be called in to wait for an interpreter. If the supervisor decides that an investigator should not respond, the officer must document the investigation as completely as possible for later follow-up by the appropriate investigative unit.



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# Crime Analysis

## 610.1 PURPOSE AND SCOPE

Crime Analysis can aid in disseminating appropriate information to authorize personnel both internally and externally. Crime Analysis should provide currently useful information to aid operational personnel in meeting their tactical crime control and prevention objectives by identifying and analyzing methods of operation of criminals, providing crime pattern recognition, and providing analysis of data from field interviews and arrests. Crime analysis can be useful to the Department's long range planning efforts by providing estimates of future crime trends and assisting in the identification of enforcement priorities.

## 610.2 DATA SOURCES

Crime analysis data is extracted from many sources including, but not limited to:

(a) Crime reports

(b) Field interviews

(c) Computer aided dispatch data

(d) Department of Public Safety - Crime Records Service

(e) Open Record / Public Information Sources

## 610.3 CRIME ANALYSIS FACTORS

The following minimum criteria should be used in collecting data for crime analysis:

- Frequency by type of crime
- Geographic factors
- Temporal factors
- Victim and target descriptors
- Suspect descriptors
- Suspect vehicle descriptors
- Modus operandi factors
- Physical evidence information

## 610.4 CRIME ANALYSIS DISSEMINATION

For a crime analysis system to function effectively, information should be disseminated to the appropriate units or persons on a timely basis. Information that is relevant to the operational and tactical plans of specific line units should be sent directly to that unit. Information relevant to the development of the Department's strategic plans should be provided to the appropriate staff units. When information pertains to tactical and strategic plans, it should be provided to all affected units.



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# Communication Operations

## 612.1 PURPOSE AND SCOPE

The basic function of the communications system is to satisfy the immediate information needs of the law enforcement agency in the course of its normal daily activities and during emergencies. The latter situation places the greatest demand upon the communications system and tests the capability of the system to fulfill its functions. Measures and standards of performance are necessary to assess the effectiveness with which any department, large or small, uses available information technology in fulfillment of its mission.

### 612.1.1 FCC COMPLIANCE

Austin Police Department radio operations shall be conducted in accordance with Federal Communications Commission (FCC) procedures and guidelines.

## 612.2 COMMUNICATION OPERATIONS

This department provides 24-hour telephone service to the public for information or assistance that may be needed in emergencies. The ability of citizens to telephone quickly and easily for emergency service is critical. This department provides access to the 9-1-1 system for a single emergency telephone number. This department has two-way radio capability providing continuous communication between CTECC and officers.

## 612.3 TELECOMMUNICATOR TRAINING

All personnel hired as telecommunicators shall be trained as necessary in the operation of the communications equipment and in Department operations. All telecommunicators are required to complete TCLEOSE Basic Telecommunicator Course and required NCIC/TCIC courses within one year of assignment.

### 612.3.1 TCLEOSE TELECOMMUNICATOR TRAINING

Any person hired as a telecommunicator shall complete at least 40 hours of training as determined by the TCLEOSE (Tex. Occ. Code § 1701.405 et seq.).



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# Central Records Procedures

## 614.1 PURPOSE AND SCOPE

The Central Records Manager shall maintain the Department Central Records Procedures Manual on a current basis to reflect the procedures being followed within the Central Records. Policies and procedures that apply to all employees of this department are contained in this chapter.

## 614.2 FILE ACCESS AND SECURITY

Austin 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.

All reports including, but not limited to, initial, supplemental, follow-up, evidence and all reports related to a case shall be maintained in a secure manner accessible only to authorized APD personnel.

## 614.3 REPORTS TO THE DEPARTMENT OF PUBLIC SAFETY

The Central Records Manager will ensure that all offenses listed under Tex. Penal Code § 22.011 and Tex. Penal Code § 22.021 are reported on a monthly basis to the Texas Department of Public Safety as mandated (Tex. Gov't Code § 411.042 and 37 Tex. Admin. Code § 27.121). The Central Records Manager should promptly advise the Chief of Police if this mandated reporting will be delayed for any reason.



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# Public Safety Camera System

## 616.1 PURPOSE AND SCOPE

The Public Safety Camera system assists the Department in the identification of criminal activity as it is occurring, the prevention and deterrence of criminal activity, and the capture of video evidence to support prosecutions in cases of criminal activity. This is accomplished through the use of overt cameras in public areas.

The primary use of the cameras will be to enhance public safety in areas where the safety and security of individuals are at increased risk. The cameras are installed at the direction of the Department and operated in such a manner that will protect individual privacy rights.

The decision to place cameras in specific locations will be made based on current crime data, large crowd events, or community requests. The Department acknowledges that real-time camera monitoring of the public safety cameras is ideal but that this may not always be feasible due to resource constraints.

## 616.2 PUBLIC SAFETY CAMERA SYSTEM OPERATION

(a) Information obtained through the public safety cameras shall only be used for lawful law enforcement purposes. Information shall not be sought, gathered, or retained if there is reason to believe such information was gathered or retained in violation of local, state or federal law, or Department policy.

(b) The Department will utilize reasonable means to ensure compliance with the law when a legal expectation of privacy exists.

(c) The following factors shall not be considered reasons to create suspicion except when used as part of a specific suspect description and information shall not be sought, gathered, or retained solely on the basis of:

1. Race, ethnicity, citizenship, age, disability, gender, or sexual orientation; or
2. Participation in a particular organization or event; or
3. Religious, political, or social views or activities.

### 616.2.1 PROGRAM MONITORING OFFICERS

Only personnel specifically trained in the operation of the public safety camera system will be allowed to use, monitor and manage the camera system. Trained officers will conduct safety camera monitoring only from the Public Safety Camera Command and Control Center, or other designated monitoring stations as recommended by the Public Safety Camera Advisory Board.

### 616.2.2 TRAINING

All designated Public Safety Camera operating officers and supervisors shall receive the following training prior to being authorized to use any camera equipment:

(a) How to properly operate the public safety camera equipment; and

(b) Department policies and procedures; and

(c) Privacy concerns covered by the First Amendment and Fourth Amendment.



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### 616.2.3 TEMPORARY MOBILE CAMERA GUIDELINES

(a) In the event the temporary use of a public safety camera is warranted, one or more mobile cameras may be utilized.

1. Approval for the mobile camera(s) must first be obtained from the affected assistant chief.
2. Mobile camera(s) shall contain the same or similar signage to the stationary public safety camera locations.
3. Use of these mobile camera(s) will be temporary, logged, and reported during regular Public Safety Camera Advisory Board meetings.

## 616.3 PUBLIC SAFETY CAMERA ADVISORY BOARD

The Public Safety Camera Advisory Board is comprised of the following personnel:

(a) Intelligence Division Commander.

(b) Austin Assistant City Attorney.

(c) All Patrol Commanders, or respective designee(s).

(d) Crime Data Advisor (APD Crime Analysis).

The Intelligence Division Commander will assume the role of Technical Advisor and Chairperson over the Board and conduct the business of the Public Safety Camera Advisory Board as outlined in this policy.

### 616.3.1 BOARD DUTIES AND RESPONSIBILITIES

The Public Safety Camera Advisory Board is responsible for making recommendations regarding APD's Public Safety Camera system to the Chief of Police. The Public Safety Camera Advisory Board shall:

(a) Review all requests for camera placement, relocation and removal.

(b) Analyze the effectiveness of camera placement/relocation.

(c) Forward a list of approved public safety camera locations to the Chief or designee for final approval.

(d) Ensure annual audits of the Public Safety Camera system are completed as outlined in this policy.

(e) Review current program training and make recommendations to the Chief regarding changes or improvements to training for the Public Safety Camera system.

(f) Prepare an annual report to the Chief of Police related to the overall system performance measures.

(g) Verify that rules of retention are being followed.

### 616.3.2 INTELLIGENCE DIVISION COMMANDER

The Intelligence Commander or designee provides a single point of contact for questions or concerns related to the program and shall ensure:

(a) A historical log is completed for each camera documenting dates, locations, placement and relocations.

(b) Placement/Relocation of a camera is monitored to maximize utilization of the system.



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(c) Meetings of the Public Safety Camera Advisory Board are held bi-annually or as necessary.

(d) A maintenance program designed to increase effectiveness and decrease down time is in place.

### 616.3.3 COMMANDER RESPONSIBILITIES

(a) Each Patrol Commander shall be responsible for providing appropriate time during Commander Forums for citizen input on any proposal to place a camera within the affected Commanders geographic area.

(b) Members of the Public Safety Camera Advisory Board should be invited to any Commanders Forum where citizen input is requested regarding camera placement. All input will be considered, along with those other criteria defined in this policy when making recommendations to the Chief of Police for final camera placement.

(c) The appropriate Patrol Commander shall be responsible for notification to the community if removal of a camera is deemed appropriate after recommendation by the Public Safety Camera Advisory Board to the Chief of Police.

## 616.4 PUBLIC SAFETY CAMERA PLACEMENT

Public safety cameras will be placed in locations pursuant to recommendation by the Public Safety Camera Advisory Board and contingent on final approval by the Chief or designee. Cameras will be overt and have markings that clearly indicate the camera as being part of the Public Safety Camera system.

Once a location has been recommended by the Board and approved by the Chief, the location shall be made known to the public at least 72 hours prior to installation.

## 616.5 RETENTION

Retention of images recorded by the safety cameras shall be done in accordance with City, State and Department policy. Such retention shall be no longer than 10 days.

## 616.6 REVIEW AND RELEASE OF CAMERA IMAGES AND INFORMATION

(a) All images and information obtained through the use of the public safety camera system shall be handled in accordance with:

1. Accepted Department procedures and legal rules governing the handling of evidence; and
2. The Texas Public Information Act; and
3. Applicable laws, statutes, record retention policies, and court orders.

(b) All images and information that would interfere with the detection, investigation, or prosecution of a crime shall be released to the public only to the extent required by law.

## 616.7 PERFORMANCE MEASURES

(a) Performance measures for the cameras are based on information and data indicating disruption of known patterns of crime, identification of criminals and criminal activity and confirmed cases of the video evidence obtained from the public safety cameras being used to assist in the prosecution of crimes.



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(b) The Intelligence Commander or designee will provide quarterly reports to the Public Safety Camera Advisory Board for camera locations which will include:

1. Identifying what each camera placement has accomplished as demonstrated through the stated performance measures.
2. Identify what actions will be taken to eliminate a future need for the camera at the current location.
3. When the camera may be removed from the location.

(c) The Intelligence Division Commander will present updates to Public Safety Commission as needed.

## 616.8 AUDIT REQUIREMENTS

The Public Safety Camera system will be audited separately by the Austin Police Department Inspections Unit and the Office of City Auditor for policy compliance. The results of the audits will be presented to the Chief of Police and may be public information as allowed by law. At minimum:

(a) The Inspections Unit will perform quarterly random audits of the system to insure compliance to policies and procedures.

(b) The Office of City Auditor will perform random audits based on a schedule known only to the City Auditor.



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# Critical Incident Support Systems and Procedures

## 617.1 PURPOSE AND SCOPE

This policy describes support systems for employees involved in on-duty or off-duty critical incidents and assistance provided to the employee's family.

### 617.1.1 DEFINITION

**Critical Incident** - For the purpose of this policy, a "critical incident" is defined as an event in which an employee:

(a) Is injured and hospitalized while performing a law enforcement function; or

(b) Causes the death or serious injury of another person; or

(c) Is traumatized due to feeling responsible for a tragedy while at the same time being helpless to prevent the tragedy; or

(d) Any police incident or interaction which results in an employee experiencing emotional or psychological distress, ranging from mild to severe.

## 617.2 CRITICAL INCIDENT SUPPORT SYSTEMS

The following critical incident support systems are available for employees involved in a critical incident:

(a) Critical incident support partner.

(b) Peer Support.

### 617.2.1 CRITICAL INCIDENT SUPPORT PARTNER

Employees involved in a critical incident will be able to have another employee function as a critical incident support partner. The critical incident support partner's work schedule may be adjusted to accomplish this role.

(a) The critical incident support partner will:

1. Remain available to the involved employee until the employee is escorted home.
2. Attempt to provide emotional support and needed assistance to the involved employee.

(b) The critical incident support partner will not be involved in the investigation, nor act as a spokesperson for the employee involved.

### 617.2.2 PEER SUPPORT

Peer Support is comprised of sworn and civilian employees who have been trained to support and assist employees during times of need, including, but not limited to, critical incidents.

(a) The Duty Commander, Watch Lieutenant, or an employee's supervisor may contact the Peer Support Coordinator anytime it is deemed necessary to support an employee or the employee's family.



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(b) Peer Support may act as a critical incident support partner for employees involved in a critical incident or serve as a secondary support system for an employee's designated critical incident support partner.

## 617.3 CRITICAL INCIDENT PROCEDURES

(a) The Peer Support Program Coordinator will be notified by the Watch Lieutenant anytime there is a critical incident involving an APD employee.

1. If requested by the on-scene supervisor or an involved employee, the Peer Support Coordinator may, as needed, respond to the scene or direct trained Peer Support employees to respond and assist.

(b) Supervisors in charge of a critical incident scene should determine the employee's Department Support Contact:

1. When employees are able to do so, they will be allowed to designate a specific employee to act as their Department Support Contact.
2. When employees are unable to designate a specific employee as their Department Support Contact, or their designated critical Department Support Contact is unavailable:
   (a) An on-scene supervisor may request a trained peer support employee as the Department Support Contact; or
   (b) The employee's on-duty lieutenant/manager or on-scene supervisor may designate another employee as the Department Support Contact.

(c) In the event sworn employees are incapacitated or injured to the point they are unable to notify their family of their injury, their Department Support Contact will be utilized to assist Victim Services and appropriate members from the chain-of-command with any necessary emergency/next-of-kin contact notifications.

1. Employees designate their Department Support Contact as outlined in Policy 900.6.1 (Employee Contact Information).
2. Supervisors may contact APD-HR or the Watch Lieutenant to access employees emergency contact information.
   (a) a. An emergency contact report is run every 24 hours and placed in a restricted folder located in the "G" drive called "Emergency Contact". Watch Lieutenants and APD HR personnel have access to this report.
   (b) Employees with access to the emergency contact report will safe guard the information. This report WILL NOT be copied, e-mailed, printed or saved to another location without the approval of an APD HR Manager.

## 617.4 HOSPITALIZED EMPLOYEES

When an employee is hospitalized for an on-duty injury, a supervisor may assign another employee to transport the injured employee's family members to the hospital.

### 617.4.1 HOSPITAL GUARD

The lieutenant of a hospitalized officer or the Duty Commander may assign an officer as a hospital guard if the employee requests one or there is reason to believe that reprisals might be planned against the injured employee.

(a) The work schedule of the officer performing guard duty may be adjusted to accomplish this service.



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(b) Shifts for officers serving as hospital guards will not exceed four (4) hours.

## 617.5 DEBRIEFING

This section covers the required debriefings of employees involved in a critical incident. The debriefings are conducted by the Department Psychologist and City Legal.

### 617.5.1 DEBRIEFING WITH THE DEPARTMENT PSYCHOLOGIST

The involved employee's commander/manager will ensure the Department psychologist is notified within 24 hours after a critical incident.

(a) The Department psychologist will conduct a debriefing session within 72 hours of the incident. The employee's immediate family may be included in the debriefing session.

(b) The purposes of the debriefing are:

1. To inform employees and their immediate families of the normal symptoms and reactions associated with critical incidents and allow everyone an opportunity to express their feelings; and
2. To provide support and guidance to employees and their immediate families in relation to dealing with the psychological after-effects of the incident.

(c) The debriefing is not related to any Department investigation and nothing discussed in the debriefing will be reported to the investigators. By state law (Article 5561h, Vernon's Civil Statutes) and Department policy, the contents of the debriefing session will remain confidential.

### 617.5.2 LEGAL DEBRIEFING

Should an employee be sued for civil liability resulting from a critical incident, a City attorney or other qualified attorney will brief the employee. The briefing will include an overview of the procedures in liability suits and a summary of the outcome of similar suits in Austin.

## 617.6 WORK ASSIGNMENTS WHILE ON ADMINISTRATIVE DUTY

When an employee is placed on Administrative Duty status pending an investigation of a critical incident, the employee's commander/manager will work with the appropriate assistant chief to assign the employee to duties which serve the Department's needs and best use the employee's skills and experience.



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# Chapter 7 - Property and Evidence Control

# Property and Evidence Collection Procedures

## 701.1 PURPOSE AND SCOPE

It is the duty and obligation of employees of the Department to properly seize, control, care for, store, process, and dispose of property and evidence that may come into their possession. Employees will adhere to the property handling procedures described in this document. For the purposes of this document, all items that come into police care and control will be considered property or evidence and will be handled equally.

## 701.2 GENERAL PROVISIONS

(a) Employees will not convert to their own use, manufacture, conceal, destroy, remove, tamper with, or withhold any property or evidence in connection with an investigation or other departmental action.

(b) Employees shall not purchase, convert to their own use, or have any claim to any found, impounded, abandoned, or recovered property, or any property held or released as evidence.

(c) Employees, or persons acting on their behalf, shall not bid in any auction of property seized, confiscated, or found by the Department.

## 701.3 EVIDENCE COLLECTION

Employees will assess a crime scene before seizing any item of physical evidence. Only items of physical evidence that relate to allegations of criminal conduct or the identity of a suspect will be seized. Employees will ensure that items identified as evidence are not tampered with in any way prior to being photographed and collected.

(a) Guidelines for crime scene and latent print processing are outlined in Policy 401 (Preliminary Field Investigations).

(b) Before seizing physical evidence, it should be photographed or videotaped in its original location and condition, with a scale marker when practical and necessary to the investigation.

1. Crime Scene personnel should be used to photograph or videotape all physical evidence found at major crime scenes.
2. Employees who are qualified in the use of Department issued cameras should photograph or videotape physical evidence at lesser crime scenes.

(c) Photographs or video taken pursuant to any investigation should be treated in the same manner as other evidence.

1. Digital images taken by Department personnel should be downloaded into the Department's Digital Crime Scene Management System. All required information will be entered to ensure proper identification and chain of custody of images. Images will not be stored in any other unauthorized locations.

(d) Seized evidence consisting of digital media will not be downloaded directly into the Department's Digital Crime Scene Management System. This form of evidence will be submitted through established evidence recovery guidelines to the Evidence Section.



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### 701.3.1 STOLEN PROPERTY

(a) Employees will only seize items considered as stolen property when reasonable grounds exist to believe it is stolen or when the items are readily identifiable and traceable.

(b) In theft offenses, if the owner of the property is known and the ownership of the property is uncontested, employees will take a digital image of the property and make a reasonable effort to return it to the owner.

1. Property recovered in shoplifting offenses will generally not be seized.
2. If a digital camera is not available at the scene, personnel may bring the property to the station to be photographed and then return the property to the rightful owner.

### 701.3.2 FOUND PROPERTY

(a) Employees will only seize items of abandoned or found property which:

1. Are readily identifiable and traceable; or
2. Are of value, such as money and jewelry; or
3. Appear to have been involved in a criminal offense; or
4. Constitute a hazard to the public safety; or
5. May be offensive to public morals or sensitivities.

(b) Employees will make a reasonable effort to return the property to the owner immediately when the owner of the property is known.

(c) Employees will treat the property as though it was stolen if the facts and circumstances suggest that is the case.

### 701.3.3 CONTRABAND

(a) Except during undercover operations, employees will seize all items in their presence that they have probable cause to believe is contraband, including narcotics, illegal weapons, and gambling equipment.

(b) Suspected controlled substances will be treated as known controlled substances. Employees will not taste or smell a suspected controlled substance but will instead field test it and submit it to the evidence room.

### 701.3.4 HAZARDOUS MATERIALS

(a) Unless assigned to the Bomb Squad or the Clandestine Lab Team, employees will not move or disturb any suspected:

1. Explosive device.
2. Hazardous chemicals.
3. Flammable substances.
4. Radioactive materials.

(b) Employees will immediately notify a supervisor and Communications, and adhere to procedures as outlined in Policy 413 (Clandestine Lab) and Policy 414 (Bomb Threats, Explosive Devices and Bombing/Explosion Incidents).



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### 701.3.5 FORGERY DOCUMENTS

Forgery documents will be placed in a plastic bag with an evidence tag, attached to the forgery incident report, and submitted to the evidence room. Employees will not process forgery documents for latent prints; forgery documents are only processed by the forensic lab when a request is made by the appropriate investigator.

## 701.4 EVIDENCE PROCESSING AND SUBMISSION

Employees will process and submit all property taken into their custody as expeditiously as possible while following established guidelines.

(a) Employees seizing property will be responsible for properly marking it to make it readily identifiable in court.
   1. When evidence is marked, the mark shall be distinctive, but as small as practical; property will not be marked in a way that impairs its evidentiary value or reduces its monetary value.
   2. Evidence will not be marked for later identification when:
      (a) It bears a serial number; or
      (b) It can be identified through distinctive markings and recorded information.

(b) Evidence that cannot be marked or identified by distinctive marking shall be packaged and sealed with a completed chain of custody label.

(c) Before submitting property, personnel will complete the following:
   1. Enter each item into Versadex; and
   2. Print a bar code for each item to be submitted; and
   3. Complete any necessary chain of custody label(s); and
   4. Package the item in a way that protects it from damage and ensures the item's integrity as evidence; and
   5. Attach the chain of custody label(s) to the item in an area that will reduce potential damage caused by the label. If the item can be placed in a bag, the chain of custody label should be placed on the outside of the bag.

(d) Employees receiving evidence or property from another employee or agency will sign and notate the date and time on the chain of custody form.

### 701.4.1 EVIDENCE SUBMISSION GUIDELINES

Employees will submit processed evidence or property to an assigned investigator, the Evidence Section, or a temporary drop box/locker (e.g., North Substation, South Substation) before completing their tour of duty, however:

(a) The following types of evidence or property will **only** be turned in at the East Substation Evidence Section:
   1. Fireworks/combustibles.
   2. Hazardous materials (e.g., gasoline, aerosols, volatile chemicals).
   3. Rape kits.
   4. Blood tubes.
   5. Perishables.

(b) Firearms will not be dropped off at the Main.



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### 701.4.2 SUBMITTING NARCOTICS AND NARCOTIC PARAPHERNALIA

(a) Narcotics and narcotic paraphernalia may be turned in as follows:

1. Identified narcotics and narcotic paraphernalia may be turned in at the Evidence Section located at the East Substation or any temporary evidence drop box/locker location when:
   - (a) Charges have been direct filed (affidavit turned in at the time of the arrest); or
   - (b) A Field Release citation has been issued; or
   - (c) Charges will not be filed.
2. In cases involving a custody arrest and narcotic charges are pending:
   - (a) narcotics that cannot be identified will only be turned in to the Evidence Section located at the East Substation.
3. The temporary evidence drop box at Arrest Review is designated only for narcotics and narcotic paraphernalia that can be identified or unidentified items where no charges are filed.

(b) Officers with supervisor approval may authorize disposal of evidence in certain cases. Officers will document the approving supervisor's name and employee number in the offense report. Officers submitting narcotics evidence for disposal will follow the below procedure:

1. This section only applies to the below cases where evidence is being submitted for destruction:
   - (a) Possession of Drug Paraphernalia, after being photographed;
   - (b) Found Controlled Substances
   - (c) No charges filed cases having no identifiable suspect(s) (Titled "Found Controlled Substance")
2. When submitting evidence, the officer should notate the item status of "D" for "Disposal" on the individual Versadex Property Description Form to reflect which item(s) is being submitted for disposal and check the Evidence indicator box.

(c) All narcotics and/or paraphernalia will be submitted in accordance with procedures established by the Evidence Section. This includes prescription medication.

### 701.4.3 SUBMITTING BIOHAZARD MATERIAL

Evidence with blood or body fluids should be packaged in accordance with methods outlined in evidence handling procedures available at evidence drop-off locations. Items with blood or body fluid must be packaged to prevent any cross contamination of other evidence/property and must be clearly marked as "Biohazard".

### 701.4.4 SUBMITTING CURRENCY

Foreign and domestic currency must be counted and verified by a second employee, sworn or non-sworn, before being submitted.

(a) After counting and verifying the amount of currency, both employees will place their initials, employee number, and the date on the seal.



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(b) The submitting officer and the person who verified the currency amount will document their verification in a supplement to the incident report.

## 701.5 INCORRECTLY PROCESSED EVIDENCE AND PROPERTY

Seized property and evidence not packaged properly will be collected but will not be processed by the Evidence Section. In the event this occurs, the following will take place:

(a) Evidence Section personnel will contact the submitting officer's supervisor and give direction on how to correct the error. All corrections will take place at the Evidence Section during the Evidence Section's normal business hours or as directed by personnel from the Evidence Section.

(b) The submitting officer's supervisor will ensure the necessary corrections are made within 5 days of being notified by personnel from the Evidence Section.

## 701.6 RELEASE OF EVIDENCE AND PROPERTY

(a) Temporary Releases

1. Employees will not remove property from the Evidence Section except to comply with a subpoena or for an official law enforcement function (e.g., laboratory or forensic testing).
2. Except for routine forensic testing, only the investigator assigned the case may temporarily check out the property without a subpoena or prior written approval from the manager of Forensic Division.

(b) Permanent Releases

1. Property may only be released to a law enforcement agency, the courts, the owner, or the owner's agent.
2. Only the investigator assigned to a case, the investigator's supervisor, or the Evidence Section manager may authorize the permanent release of property.
3. It will be the responsibility of the investigator assigned to the case to notify the owner, as expeditiously as possible, when property is ready for release.



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# Chapter 8 - Equipment Policies

# Property and Equipment Accountability

## 800.1 PURPOSE AND SCOPE

Department employees are expected to properly care for City property and equipment assigned or entrusted to them. Employees may also suffer occasional loss or damage to personal or City property while performing assigned duties. This policy outlines the procedures for the handling, accountability and replacement of City and personal property used for official duties.

## 800.2 GENERAL POLICY

For purposes of this policy, Department property is synonymous with City property.

(a) Willful damage to City property by an employee is prohibited.

(b) Negligent or incorrect use of City property is prohibited.

(c) Employees are responsible for the ordinary care and cleaning of City equipment in their custody and control, and will maintain it in the best possible condition.

(d) Each employee will, by practical means, secure all equipment from unauthorized access or use.

(e) Lockers, desks, computers, and other such items that have been assigned for the use of an individual employee remain the property of the City of Austin and are subject to inspection or examination by a supervisor at any time. Employees should not store personal information or belongings at these locations with an expectation of privacy.

## 800.3 CITY PROPERTY AND EQUIPMENT GUIDELINES

This section covers the guidelines for the handling of property and equipment checked out from a Property Control Office (PCO) or issued by the Department.

### 800.3.1 CHECKING OUT EQUIPMENT AND SUPPLIES FROM A PROPERTY CONTROL OFFICE (PCO)

Employees must acknowledge in writing receipt of all equipment and supplies received from a PCO.

(a) Expendable supplies are items which do not have to be returned to PCO (e.g., flares, pager batteries).

(b) Non-expendable equipment is any item that is reusable on a continual basis and must be returned to PCO at the end of each shift (e.g., radar, car keys, digital cameras).

1. Employees must acknowledge in writing the return of all non-expendable equipment and supplies to a PCO.

2. Any non-expendable item not returned at the end of the duty shift or on the expected return date will be flagged by PCO.

   (a) PCO will immediately notify the employee's commander/manager of the situation by email, phone, or in writing.

   (b) Commanders/managers are responsible for ensuring that the property is returned by the employee.



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### 800.3.2 ISSUANCE OF CITY PROPERTY AND EQUIPMENT

Employees must acknowledge receipt of all property, equipment, and clothing issued from the Equipment and Supply Section by signing a *Department Receipt Form*.

(a) The Equipment and Supply Section will assemble the initial issuance of equipment for cadets. Distribution of equipment to the cadets will be conducted by the Training Division.

(b) New non-sworn employees will process through the Equipment and Supply Section within five (5) workdays after beginning work to establish an equipment issue record. Non-sworn employees required to wear uniforms will be issued the appropriate items by the Equipment and Supply Section or will be furnished a clothing requisition form in order to draw clothing from the City Clothing Store.

(c) All employees who are transferred into or out of a position which requires the issuance of specialized equipment are required to process through the Police Equipment and Supply Section within five (5) work days after the effective date on the personnel directive.

(d) Employees will be furnished a clothing requisition form for all items issued from the City Clothing Store.

1. The employee will sign for all items and ensure that the sizes are correct at the time of issue by the Clothing Store.
2. An electronic copy of the form will be sent by the Clothing Store to the Equipment and Supply Section so that it can be filed in the employee's permanent equipment issue file.
3. Once issued, the care and maintenance of clothing is the employee's responsibility.
4. Subsequent alterations needed due to weight loss or gain will be the employee's responsibility.

### 800.3.3 DEPARTMENT ISSUED PERSONAL COMMUNICATION DEVICES

Depending on an employee's assignment and needs of the position, the Department may, at its discretion, issue a Personal Communication Device (PCD). Department issued PCDs should only be used by employees for Department business.

(a) For purposes of this policy, the term Personal Communication Device (PCD) is intended to include all mobile phones, Personal Digital Assistants (PDA) and other such wireless two-way communication and/or portable Internet access devices that are owned by the Department.

(b) Department owned PCDs shall remain the sole property of the Department and are subject to inspection and monitoring (including all related records and content) at any time without further notice.

(c) The use of any Department owned PCD shall occur only with the understanding that any and all messages transmitted or received are subject to disclosure to, and review by, the Department without further notice.

### 800.3.4 BODY ARMOR

The Department will issue body armor to authorized employees. Employees will be notified by Equipment and Supply Section 60 days prior to the date of expiration to be measured for new issued body armor. All body armor will be replaced prior to the expiration date of the manufacturer warranty.



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(a) Any issued body armor believed to be defective will be turned in immediately to Equipment and Supply Section:

1. Employees turning in issued body armor as defective will be temporarily issued an unexpired body armor.
2. Equipment and Supply Section will make arrangements with the vendor to have the reported defective body armor examined.
3. If the determination is made that the body armor is defective, Equipment and Supply Section will notify the employee that the issued body armor will be replaced.
4. Equipment and Supply Section will make arrangements to have the employee measured for new body armor.
5. The employee will turn in the temporarily issued body armor at the time the new body armor is issued.
6. If the determination is made that the body armor is not defective, Equipment and Supply Section will notify the employee to return the temporarily issued body armor and pick up the originally issued body armor.

### 800.3.5 PURCHASE OF ISSUED CITY PROPERTY AND EQUIPMENT

(a) Officers being promoted may purchase the prior rank badge (cap and/or breast badge) at the prevailing replacement cost. Officers will turn in or purchase the badge set at the time they are issued the new rank badge set.

(b) Officers resigning in good standing will be permitted to purchase their badge set at the prevailing replacement cost if they have:

1. Ten (10) years minimum service with the Department; or
2. Are hired by another law enforcement agency.

(c) Retiring officers in good standing will be presented with their current breast badge and may purchase their cap badge and Department-issued handgun.

1. These privileges will expire if not executed at the time of retirement.
2. Payment must be made prior to final clearance.

(d) For purposes of this section, "good standing" is defined as not being under investigation, suspension, or indefinite suspension at the time of resignation or retirement.

### 800.3.6 RETURNING ISSUED CITY PROPERTY AND EQUIPMENT

Upon resignation, termination, transfer to another City Department, or retirement, employees are required to process through the Equipment and Supply Section no later than the effective date of the action in order to turn in all APD issued equipment and uniforms.

(a) When an employee turns in any property, equipment, or clothing to the Equipment and Supply Section, he will sign a receipt form countersigned by the Equipment and Supply Section employee receiving the item(s).

(b) An inventory audit will be conducted and a clearance form will be completed. The employee and the Equipment and Supply Section employee will sign the form after accounting for all equipment.



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(c) Employees who fail to clear through the Police Equipment and Supply Section or who fail to adequately account for all APD issued equipment prior to the effective date of separation will be sent a letter demanding payment or the return of any outstanding equipment.

## 800.4 HANDLING LOST, STOLEN, AND DAMAGED PROPERTY

Employees shall be responsible for the safekeeping, serviceable condition, proper care, use, and replacement of City property assigned or entrusted to them.

(a) An employee's intentional or negligent abuse or misuse of City property may lead to discipline including, but not limited to, the full or partial cost of repair or replacement. For the purpose of this policy, negligence is the failure to use such care and prudence as would be expected of a reasonable person.

(b) The Equipment and Supply Section Manager will determine whether damaged City property is to be repaired or replaced. If the cost of repair is greater than the cost of replacement, the Equipment and Supply Section Manager will replace the property.

### 800.4.1 LOST, STOLEN, AND DAMAGED CITY PROPERTY

(a) If issued property is lost, stolen or damaged, the employee to whom the property is issued must:

1. Complete *Form PD-0021A*; and
2. Complete an incident report which fully describes the loss or damage; and
3. Route the form and a copy of the incident report through the chain-of-command to his commander/manager for disposition.

(b) Commanders/managers will review the circumstances surrounding the loss or damage and will:

1. Determine if the employee exercised reasonable care; and
2. Determine if re-issue of the equipment is necessary; and
3. Notify the employee and the Equipment and Supply Section manager of his decisions; and
4. Route the completed form to Equipment and Supply Section within 48 hours.

(c) If the commander/manager deems the employee was negligent, the employee may be required to reimburse the City for the lost or damaged property. The commander/manager will determine the amount to be reimbursed to the Department subject to the following limits:

1. The employee may be required to make full reparation of the depreciated value of a lost item to a maximum of $500 per item.
2. The employee may be required to make payment of repaired damaged property up to a maximum of $500 per item (excludes City vehicles damaged in a traffic crash).
3. When payment to the City is required for lost or damaged property, the employee may be allowed to reimburse the City through a payment schedule. Unless the employee agrees to a higher amount, the payments will not exceed $100 per pay period. The employee is responsible for setting up a payment schedule with APD-HR.

(d) Re-issuance of equipment will be handled as follows:



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1. Equipment that is not essential to the performance of duty will not be re-issued to the employee until final action is taken on *Form PD-0021A* by the commander/manager.
2. Equipment essential to the performance of duty such as badge, handcuffs, flashlight, etc. can be temporarily checked out from the Police Equipment and Supply Section.

### 800.4.2 LOST, STOLEN, AND DAMAGED PERSONAL PROPERTY

Employees may request restitution for lost or damaged personal equipment if the loss or damage was suffered while on duty and in performance of official business. Employees shall not be reimbursed if they contributed to the loss or damage through negligence.

(a) To request restitution, the employee shall complete *Form PD-0021* and route it through his chain-of-command. The employee's commander/manager shall determine whether or not the employee exhibited reasonable care and indicate the amount to be reimbursed, if any, within the established maximum amounts.

1. The maximum reimbursement amounts are as follows:
   (a) Prescription glasses is $150.
   (b) Contact lenses is $75 per lens.
   (c) Any other personal equipment (e.g. clip board, watch, sunglasses, telephone, personal firearm) is $100 per item.

(b) Commanders/managers will review the circumstances of the claim and complete *Form PD-0021* to indicate whether reimbursement is approved or denied.

1. One (1) copy will be filed in the employee's personnel file and one (1) copy will be provided to the employee.
2. If approved, a third copy will be routed to Finance for processing. Commanders/managers must also complete a PRF for the reimbursed item and submit it with the claim copy to Finance.

## 800.5 EQUIPMENT INVENTORY CONTROL

There are seven categories of departmental inventory with specific employees responsible for control of each. Commanders/managers may establish additional controls within their area of responsibility.

(a) **Fixed Assets or "Capital Equipment"**

1. This category includes items with a purchase price of $1,000 or more and having a life span of one year or longer. The Materials Manager is responsible for Department-wide control of these assets. Geographic "zone managers" (commanders/managers), are responsible for the care and control of the assets within their area.

(b) **APD Numbered Equipment**

1. This category includes items issued by Equipment and Supply with a purchase price of less than $1,000 and having a life span of one year or longer.

(c) **Vehicle and Radio Equipment**

1. This category includes vehicles, mobile radios, hand-held radios, radar, visibars and MDTs. The Fleet and Equipment Manager is responsible for the Department-wide management of these resources.



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(d) **Photography/Video/Surveillance Equipment**

1. This category includes items classified as fixed assets, but may also include lower cost items provided they have a life span of one year or longer. The Multi Media Laboratory supervisor is responsible for the Department-wide management of photography and video equipment. Certain specialized photography and video surveillance equipment is the responsibility of the Technical Unit of the Organized Crime Division.

(e) **Donated or Loaned Property**

1. This category may include items in any of the above categories, and will be included in the inventories of the division utilizing the property, but listed in a separate "donated or loaned property" section of the inventory list. Donated and loaned property is considered Department-owned property as per City purchasing policy. The employee taking receipt, having custody, or making use of these items will furnish a copy of the documentation regarding the donation or loan of the item(s) to the Equipment and Supply Section manager.

(f) **Converted Equipment**

1. This category includes equipment forfeited under applicable criminal laws which has a fair market value of $250 or more and a life span of one year or longer and is converted to ownership of the Police Department . The employee taking receipt, having custody, or making use of the item will furnish the commander/manager and the Materials Manager a copy of the court order and any other appropriate documentation so that the item may be added to the inventory.

(g) **Forfeited Funds Purchased Equipment**

1. This category includes equipment purchased with forfeited funds. Items included are valued at $250 or more and have a life span of one year or longer. The employee authorized to purchase these items will provide a copy of the receipt to the Materials Manager and will present the equipment to have an inventory number placed on it.

### 800.5.1 ZONE MANAGERS AND SPECIALIZED EQUIPMENT MANAGERS

Specific responsibility for fixed assets and certain other specifically identified items will be assigned to commanders/managers who will serve as geographic "zone managers" or "specialized equipment managers."

(a) Zone managers will assist in conducting the annual inventory and, upon request, reconciling any differences from prior inventories.

(b) Specialized equipment managers will conduct complete inventories and, upon request, provide updated database information for reconciliation with prior inventories.

## 800.6 ANNUAL INVENTORY

City of Austin policies require that each Department conduct a physical inventory of fixed assets and reconcile that inventory annually. APD will conduct its inventory in July of each year.

(a) A computerized listing of all equipment assigned to a unit will be provided to the supervisor when the inventory has been completed.



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(b) Each employee will be provided a copy of his issued clothing and equipment record in July.

1. The employee and immediate supervisor will account for all equipment shown as issued and sign and return the inventory form within 10 days after receipt.
2. The employee will attach a Lost/Stolen/Damaged Report on any items not found and comply with the requirements of this policy on handling lost, stolen and damaged property.



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# Equipment and Uniform Regulations

## 801.1 PURPOSE AND SCOPE

The equipment and uniform policy of the Austin Police Department is established to ensure that all employees of the Department exhibit a consistent and professional appearance to the community when representing the Department.

Unless otherwise stated, commanders/managers may approve an exemption to this policy for employees assigned to undercover operations, certain specialized activities, or due to special circumstances.

## 801.2 EQUIPMENT GUIDELINES

This section includes guidelines for Department approved identification and equipment to include:

(a) Department Issued Identification.

(b) Duty Belt and Accessories.

(c) Body Armor.

(d) Department Issued Pagers.

(e) Headgear.

(f) Footwear.

(g) Jackets.

(h) Reflective Vests.

(i) Scarves and Gloves.

### 801.2.1 DEPARTMENT ISSUED IDENTIFICATION

The Department issues each employee an official Department identification card (APD ID) bearing the employee's name, identifying information and photo likeness.

(a) Employees shall be in possession of the issued APD ID card at all times while on-duty.

(b) Employees shall conspicuously display the issued APD ID card when the employee is not in uniform and is on the premises of any APD facility.

(c) Employees shall be in possession of the issued APD ID card at all times while carrying a concealed weapon off-duty.

(d) Employees shall present their issued APD ID card in a courteous manner to any person upon request and as soon as practicable whenever on-duty, acting in an official capacity, or representing the Department.

(e) Employees shall not lend their APD ID to another person, or permit it to be photographed or otherwise reproduced without the prior approval of the Chief or designee.

(f) Sworn employees working specialized assignments may be excused from the possession and display requirements when directed by the employee's commander.



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### 801.2.2 DUTY BELT AND ACCESSORIES

(a) Employees may only wear an authorized duty belt and accessories. Basket weave designs are not allowed. When practical, the accessories must be made of the same material as the belt itself. Arrangement of the approved items is optional with each officer unless a specific location is designated.

(b) Employees assigned to office positions and who have limited direct contact with the public may be allowed to remove the duty belt while in the office during on-duty hours with the approval of the respective commander. Once removed, the duty belt will be placed in a secure location in the office.

(c) The following list contains the authorized duty belt and accessories:

1. Duty Belt - The duty belt will be worn with the center of the buckle in line with the center of the trouser zipper flap and secured with keepers. The Department issues four (4) keepers but additional keepers may be purchased at the officer's expense.
2. Trouser Belt - A black trouser belt made of either nylon web or leather will be worn with the uniform trousers.
3. Duty Weapon - Approved duty weapons are outlined in Policy 803 (Duty Firearms).
4. Holster - Holsters must be equipped with a Level 2 or above security retention device and will be worn on the side of the shooting hand with the butt of the pistol toward the rear. Information on approved holsters can be found at the Training Academy.
5. Ammunition Magazines and Holder(s).
6. Conductive Energy Device (CED) - CED's must be in an approved holster and worn on the side of the body opposite of the duty weapon. Extra CED cartridges are allowed.
7. OC Canister and Holder - Only approved chemical agents will be worn as outlined in Policy 206 (Control Devices and Techniques).
8. Baton and Holder - Only approved batons will be worn as outlined in Policy 206 (Control Devices and Techniques).
9. Folding Knife - Only folding knives are permissible; fixed blade knives (e.g., Bowie, dagger) are not approved.
   (a) The primary purpose of the folding knife is to act as a tool and not a weapon.
   (b) The folding knife must be secured in a case or pouch on the duty belt with at least one level of retention (e.g., snap, Velcro), or affixed to the body armor.
   (c) Officers working a plain clothes assignment who choose to carry a folding knife must carry it in a concealed fashion.
   (d) Officers assigned to specialized tactical units who want to carry a fixed blade knife or carry a folding knife in a manner other than described above must receive prior written permission from their assistant chief.
10. Handcuff Case - Minimum of one (1), maximum of two (2). Handcuff locking mechanisms will be operable with a universal size key.
11. Portable Radio and Holder.
12. Flashlight and Holder.



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13. Tape Recorder and Case.
14. Keys and Whistle - If using a key silencer it must be black in color.
15. Pager - A pager may be worn in case or clipped on belt. Pagers will not be worn attached to a uniform shirt/jacket epaulet.
16. Cell Phone - A cell phone may be used but should be secured in a case or pouch on the duty belt, or concealed within the uniform or pocket.
17. Glove Case - A glove case may be used to hold protective gloves (e.g., latex, nitrile).

### 801.2.3 BODY ARMOR

(a) Issued body armor must be worn at all times by uniformed officers engaged in:
   1. Field duty.
   2. Secondary Law Enforcement Related Employment (LERE).
   3. The pre-planned service of any arrest or search warrant.

(b) Officers assigned to office positions are exempt from wearing body armor during normal duty assignments.

(c) Officers seeking a medical waiver from wearing body armor while in uniform shall adhere to the following guidelines:
   1. Officers will request a waiver by submitting a memorandum through the chain-of-command to the Chief detailing the reasons for the waiver. The memorandum must be accompanied by:
      (a) Medical documentation clearly showing the condition caused by the wearing of the body armor.
      (b) A signed letter from the employee's physician confirming a medical condition and recommending that the employee be allowed to wear the body armor at the employee's discretion.
      (c) A liability release with all required information filled in and signed by the requesting employee. Refusal to sign the liability release will be grounds for denying the waiver.
   2. If the medical waiver is approved, the Chief or designee will ensure:
      (a) A copy of the memorandum, letter, documentation and liability release are forwarded to the person who requested the waiver; and
      (b) All originals will be forwarded to APD Health Services for placement in the employee's medical file.
   3. A waiver is a privilege granted by the Chief, not an entitlement or a right. As such, it can be revoked by the Chief or designee at any time for any reason.
   4. The waiver will be updated annually.

(d) Defective and expired body armor will be handled as outlined in Policy 800 (Property and Equipment Accountability).

### 801.2.4 DEPARTMENT ISSUED PAGERS

(a) Employees issued a Department pager will ensure the pager is operational and, when practicable, in their possession at all times.



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1. Employees will respond to any Departmental page as soon as practicable.
2. Employees paging another employee will include their employee number or other identifying designation in the page (e.g., their name or employee number).
3. Pages requiring an immediate response or are urgent in nature (e.g., SWAT call out) should be sent using a designated City of Austin paging system (e.g., Wireless Office, CAD). Systems such as outlook, the internet, and the telephone are not as reliable and/or may not work during large events where technology usage is high.

(b) Employees may request to receive individual pages as a text message or e-mail with the following considerations:

1. Employees are still required to have their pager in their possession as outlined above.
2. Requests must be submitted by email to the Help Desk and include the employee's name, employee number, email address, cell phone number, and cell phone provider.
3. Only individual pages sent by text message or email via Wireless Office will be received. Group or mail drop pages will not work with this system.
4. Employees are responsible for any costs incurred with their cell phone provider for using this optional service. The Department provides pagers at no cost to the employee and will not reimburse employees for any messages received.
5. Employees making the request must be an authorized person on cell phone provider account to make billing changes and accept charges.

### 801.2.5 HEADGEAR

The Department authorizes only the following types of headgear:

(a) **Military Style Hat**

1. Will be immediately accessible when wearing the Class A uniform, and will be worn when directed to do so.
2. May not be worn with Class B, C and D uniform.
3. Will be worn in a traditional manner with the bill facing forward.
4. Emblems, pins, or decorations other than the Department hat badge and authorized command braid will not be placed on the hat.

(b) **Baseball Style Cap**

1. Only the Department issued or approved baseball style cap with cloth hat badge may be worn.
2. May only be worn with a Class C or D uniform.
3. Will be worn in a traditional manner with the bill facing forward.
4. Emblems, pins, or decorations other than the cloth Department hat badge and authorized command braid will not be placed on the hat.

(c) **Fur Trooper Style Winter Cap**

1. Officers may purchase a black or dark navy blue fur trooper style cap to be worn during cold weather.
2. The hat badge will be affixed to the cap's front.



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(d) **Winter Style Knit Stocking Cap**

1. A black or a navy blue knit stocking cap may be worn with the Class B, C, and D uniform during cold weather.
2. May not be worn when attending a formal ceremony.

(e) **Helmet**

1. General duty helmets may be worn with a Class B, C or D uniform.
2. Tactical helmets may only be worn with the Class D uniform.
3. May be worn with or without a face shield, as appropriate.

### 801.2.6 FOOTWEAR

(a) Types of authorized footwear:

1. Black low quarter shoes, including dress, tactical or athletic style shoes.
2. Black tactical style boots (leather or leather and nylon construction), including combat or jump style boot, and "Rocky" styles.
3. Black walking boots, including Wellington or Roper styles.

(b) All footwear must:

1. Be made of smooth grained leather or a similar synthetic material having an acceptable likeness to leather; and
2. Be black in color; and
3. Be capable of being shined, polished, or cleaned; and
4. Have a round or medium-round toe style.

(c) The following footwear is prohibited:

1. Sharp pointed shoes or boots.
2. Footwear with decorative stitching, embossing, welts, and holes or other patterns, ornamental designs, buckles, stripes, or "wingtips".
3. Footwear with taps or metal plates.

(d) Socks worn with low-cut shoes will be black or dark navy blue.

### 801.2.7 JACKETS

(a) Authorized jackets include:

1. Jackets issued or authorized by the Department; or
2. Individually purchased black leather Bomber or patrol style, similar to the issued winter style jacket.

(b) Jackets will be worn with the sleeves rolled down and buttoned at all times.

(c) Jacket linings or other type vests will not be worn separately.

### 801.2.8 REFLECTIVE VESTS

A Department issued reflective vest will be worn whenever an officer is directing traffic, at a collision scene on a public road, or is directly exposed to vehicular traffic for an extended period of time.



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### 801.2.9 GLOVES AND SCARVES

(a) Black leather or cloth, full-fingered gloves may be worn only during cold weather conditions.

(b) Full-fingered Kevlar type gloves specifically designed to protect the hands from cuts and punctures may be worn only:

1. During the frisk or search of persons, vehicles, objects or premises.
2. While handling evidence or objects that are hazardous (e.g., hypodermic needles, edged weapons, broken glass).

(c) Dark navy or black winter weight neck scarves, ski-type neck warmers, or cowls may be worn with authorized jackets during cold weather conditions.

## 801.3 UNIFORM GUIDELINES

Sworn employees wear a uniform to be identified as the law enforcement authority in society. The uniform also serves to identify the wearer as a source of assistance in an emergency, crisis or other time of need. Some civilian employees also wear a uniform to be identified as part of a specific assignment (e.g., crime scene, victim services).

(a) All sworn employees shall possess and maintain a serviceable uniform and the necessary equipment to perform uniformed field duty at all times.

(b) Uniforms shall be neat, clean and appear professionally pressed.

(c) Undershirts worn beneath a uniform shall be white, black, or dark navy blue. No visible slogans, logos, or printing on the shirt are permitted.

(d) Officers shall not wear any garment under the uniform shirt whose sleeves extend beyond the uniform shirt's sleeves.

(e) Officers shall wear approved footwear with a clean, shined finish while in uniform.

(f) Civilian attire shall not be worn in combination with any distinguishable part of the uniform.

(g) Employees shall only wear a uniform while on-duty, while in transit to or from work, for court, or at other official Department functions or events.

(h) Employees under suspension shall not wear any part of the police uniform.

(i) Employees who normally wear a uniform as required by assignment shall not appear for duty in plainclothes without permission of a supervisor. Employees shall be considered out of uniform when not wearing the prescribed uniform.

(j) Employees are not to purchase or drink alcoholic beverages while wearing any part of the Department uniform.

(k) Mirrored sunglasses shall not be worn with any Department uniform.

(l) Supervisors shall perform a periodic inspection of personnel to ensure conformance to these regulations.

(m) Exemptions to the uniform guidelines may only be made by the appropriate assistant chief upon request from the commander.

1. Units requesting a permanent exemption will be referred to the Equipment Committee.
2. Uniform standards for units exempt from this policy will be outlined in the specified units' Standard Operating Procedures.



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### 801.3.1 CLASS A - DRESS/CEREMONIAL UNIFORM

The Class A uniform consists of:

(a) Long-sleeved uniform shirt.

(b) Uniform pants.

(c) Tie with authorized tie bar.

(d) Duty belt.

(e) Formal military style hat.

### 801.3.2 CLASS B - STANDARD UNIFORM

The Class B uniform consists of:

(a) Long-sleeved or short-sleeved uniform shirt.

(b) Uniform pants.

(c) Hats and ties are not authorized.

(d) Duty belt.

1. For office duty assignments, the full duty belt is not required; however, officers shall wear an authorized handgun in a holster on their black trouser belt.

(e) General duty helmet (if required).

### 801.3.3 CLASS C - STANDARD UNIFORM

The Class C uniform consists of:

(a) Long-sleeved or short-sleeved uniform shirt.

(b) Authorized tactical pants.

(c) Authorized baseball style cap (optional).

(d) Duty belt.

1. For office duty assignments, the full duty belt is not required however, officers shall wear an authorized handgun in a holster on their black trouser belt.

(e) General duty helmet (if required).

### 801.3.4 CLASS D - TACTICAL UNIFORM

The Class D uniform may only be worn with commander approval for special deployments such as Mobile Field Force, Alpha/Bravo deployments, or heavy field work (e.g., extended open field searches, neighborhood cleanups, commercial vehicle inspections). The Class D uniform will consist of:

(a) Tactical long-sleeve uniform shirt.

(b) Authorized tactical pants.

(c) Duty belt.

(d) General duty helmet or tactical helmet, and baton.



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### 801.3.5 EXECUTIVE UNIFORM

Commanders and above may wear the Executive Uniform year round. The Executive Uniform consists of a dress coat with epaulet rank insignia, badge, award ribbons and medals, and nameplate.

### 801.3.6 CIVILIAN EMPLOYEE UNIFORMS

Civilian employees assigned to positions requiring a uniform shall:

(a) Possess a serviceable uniform and equipment to perform their assignment.

(b) Wear footwear authorized in this policy.

(c) Not wear the uniform or any part of the uniform for off-duty activities unless authorized by the respective commander/manager.

## 801.4 REQUIRED AND AUTHORIZED UNIFORM RAIMENTS

This section covers the use of the required and authorized items employees may place on their uniforms, including:

(a) Badge (required).

(b) Name Tag (required).

(c) Rank Insignia (required).

(d) Service Stripes (authorized).

(e) Award Ribbons (authorized).

(f) Award Medals (authorized).

(g) Service/Unit Pin (authorized).

### 801.4.1 BADGE

(a) The breast badge will be worn at all times centered over the left breast pocket.

(b) The hat badge will be worn on the formal military style hat and the fur trooper style hat.

(c) Officers in plainclothes will wear his badge whenever a weapon is visible.

1. The badge will be worn in a clip-type holder, clearly visible from the front.
2. The badge will be worn on the gun side of the waistline and as close to the holster as possible without hindering access to the weapon.

(d) Uniformed employees will 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:

1. An officer of this Department - From the time of death until midnight on the 14th day after the death.
2. An officer from Texas - From the time of death until midnight on the day of the funeral.
3. Funeral attendee - While attending the funeral of a fallen officer.
4. National Peace Officers Memorial Day (May 15).
5. As directed by the Chief of Police or designee.



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(e) Employees will not lend their badge to another person, or permit it to be photographed or otherwise reproduced without the prior approval of the Chief or designee.

### 801.4.2 NAME TAG

(a) Name tags will be silver with only the employee's last name printed in black lettering.

(b) Cloth name tags worn on the Class D uniform will be dark blue with silver lettering.

(c) The name tag will be worn centered and one-quarter (1/4) inch above the right breast pocket when no award ribbons are worn.

(d) When award ribbons are worn, the name tag will be centered above the right breast pocket and one-quarter (1/4) inch above the award ribbons.

### 801.4.3 RANK INSIGNIA

Officers will wear such insignia of rank or recognition as issued or prescribed by the Department.

(a) **Corporal/Detective**

1. Two sleeve chevrons with a single star centered below them will be worn centered on each uniform shirt and jacket sleeve, five and one half inches (5 1/2) below the shoulder seam of each sleeve.

(b) **Sergeant**

1. Three sleeve chevrons will be worn centered on each uniform shirt and jacket sleeve, five and one half inches (5 1/2) below the shoulder seam of each sleeve.
2. Employees in the rank of sergeant for 10 cumulative years are issued a rocker with three sleeve chevrons to be worn on each uniform shirt and jacket sleeve, five and one half inches (5 1/2) below the shoulder seam of each sleeve.

(c) **Lieutenant, Commander, Assistant Chief, and Chief of Police**

1. Rank insignia will be worn in symmetrical pairs, centered between the top and bottom edge of the insignia one inch from the front of the collars of uniform shirts and on the epaulets of uniform jackets, including the Executive Uniform jacket.
   (a) Lieutenant bars will be worn with the long axis of the bars parallel to the front edge of the collar, with the outer edge of the insignia one inch from the bottom of the collar.
   (b) Commander, assistant chief, and Chief stars will be worn with one ray of each star pointing toward the top of the collar.

### 801.4.4 SERVICE STRIPES

Service stripes may be worn on the left sleeve of long sleeve shirts, four (4) inches from the end of the sleeve.

(a) One stripe is permitted for each completed four (4) years of commissioned police service.

(b) Service stripes are not worn on uniform jackets.

### 801.4.5 AWARD RIBBONS

(a) Award ribbons may be worn in a line centered and one-quarter (1/4) inch above the top of the right breast pocket of the Class A uniform shirt or Executive Uniform jacket.



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(b) The line of ribbons will not normally be broken, and will not extend past either edge of the pocket.

(c) Ribbons will be worn on an authorized ribbon bar. No part of the bar should be visible.

(d) Three award ribbons shall constitute a complete line. If necessary, additional lines will begin centered above the first.

1. Awards will be worn in a descending order with the highest award ribbon placed closest to the heart.
2. If more than one row is used, the higher precedence awards will be on the top.
3. In no case will more than five lines of award ribbons be worn.

(e) Only the initial ribbon received for any award type will be worn. Subsequent awards of the same type will be indicated by authorized stars placed on the first award ribbon as outlined in Policy 922 (Awards and Commendations).

### 801.4.6 AWARD MEDALS

Award medals may be worn but only on the Executive Uniform jacket.

(a) Award medals may be worn in a line, centered, and one-quarter (1/4) inch below the police badge on the jacket.

(b) Medals will be worn in a descending order with the highest award medal placed closest to the heart. Only one type of each awarded medal may be worn.

(c) "Ribbon only" awards may be worn centered on the right breast of the jacket.

### 801.4.7 SERVICE/UNIT PIN

Service/unit pins must be submitted to the Equipment Committee and approved by the Chief or designee.

(a) Upon approval, service/unit pins will be worn centered in a line one-quarter (1/4) inch above the name plate.

(b) Only personnel currently assigned to the unit for which a pin has been authorized shall be permitted to wear the unit pin.

### 801.4.8 ORDER OF PRECEDENCE AND WEAR CHART

The name tag, award ribbons, and authorized service/unit pins will be worn in the following manner:



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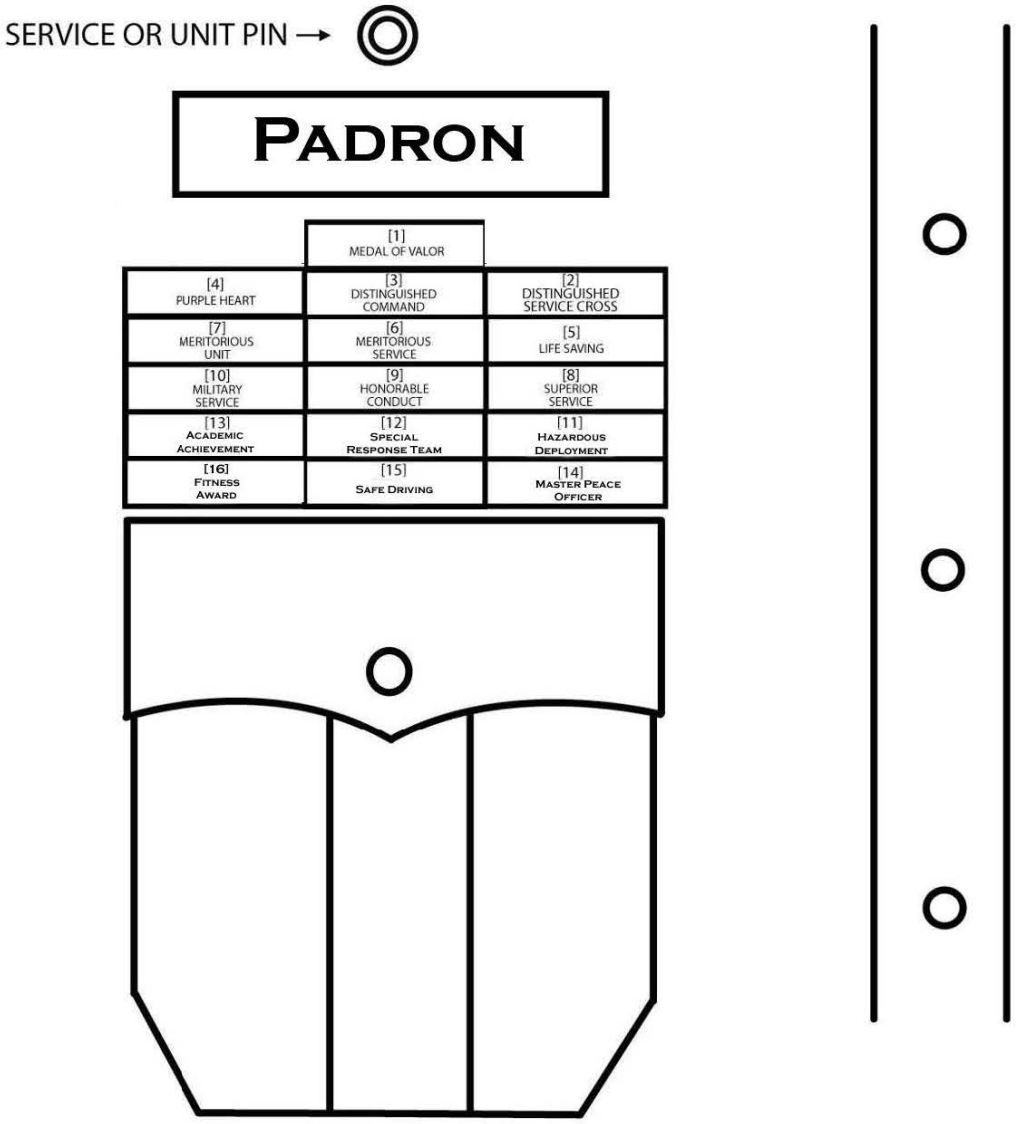


RIGHT SIDE



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## 801.5 PLAIN CLOTHES ATTIRE

This section applies to sworn and civilian employees that do not wear a uniform as part of their assignment. Variations from this order are allowed as required by assignment, approved due to a medical condition, or approved by an employee's commander/manager.

(a) Employees shall wear clothing that fits properly, is clean and free of stains and not damaged or excessively worn.

(b) Male employees who wear civilian clothing to work shall wear:

1. Button-style shirts with a collar, slacks or suits that are moderate in style.
2. Footwear that is appropriate for the assignment and does not present a safety hazard to the employee.
3. A tie is optional unless attending court or formal meetings with the Chief, media interviews, or when designated to be worn by a supervisor for a specific purpose.

(c) Female employees who wear civilian clothes to work shall wear:

1. Dresses, skirts, slacks, blouses, capri or crop pants, or suits that are moderate in style. Dress/skirt lengths shall be professional in appearance.
2. Supportive undergarments.

(d) Employees may wear casual attire (e.g., denim jeans, athletic shoes) on Friday, Saturday, and Sunday, unless the employees is attending court, has a formal



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meeting with the Chief, a media interview, or when it is not authorized to be worn by a supervisor for a specific purpose.

(e) Sworn employees wearing plain clothes while on-duty may also wear a duty firearm in a Level 1 or above retention holster. If the weapon is visible, the badge shall also be worn as outlined in this policy.

### 801.5.1 PROHIBITED ATTIRE

No item of civilian attire may be worn on-duty that would adversely affect the reputation of the Austin Police Department or the morale of the employees.

(a) Unless otherwise approved, the following items shall not be worn on-duty:

1. T-shirt or tank tops alone.
2. Slippers or flip-flops.
3. Swimsuit, tube tops or halter tops.
4. Form fitting stretch pants or stirrup-type pants.
5. Sweatpants, sweatshirts, sweat suits or wind/warm-up suits.
6. See-through clothing, unless proper undergarments are also worn.
7. Clothing that shows bare shoulders (e.g., strapless, spaghetti straps) unless a coordinating jacket or blouse is worn as a top garment at all times.
8. Attire which reveals midriffs or bosoms.
9. Denim clothing and athletic shoes unless otherwise authorized by this policy.
10. Any attire with offensive or inappropriate language.

## 801.6 POLITICAL ACTIVITIES, ENDORSEMENTS, AND ADVERTISEMENTS

Unless specifically authorized by the Chief of Police, Austin 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, a photograph as an employee of the Austin Police Department in order to:

(a) Endorse, support, oppose or contradict any political campaign or initiative.

(b) Endorse, support, oppose or contradict any social issue, cause or religion.

(c) Endorse, support, or oppose any product, service, company or other commercial entity.

(d) Appear in any commercial, social or non-profit publication, or any motion picture, film, video, public broadcast or on any website.

## 801.7 REQUESTS FOR CHANGE TO AUTHORIZED EQUIPMENT

Requests for new equipment or uniform exemptions shall be routed to the Equipment Committee. The Chief retains the right to add or remove equipment as needed.



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# Duty Firearms

## 803.1 PURPOSE AND SCOPE

This policy sets guidelines on the types of authorized weapons and ammunition, as well as procedures for registration, qualification and proficiency with authorized weapons.

### 803.1.1 AUTHORIZATION TO CARRY FIREARMS

Only sworn personnel who have met all state standards, required Department training, and have been authorized by the Chief of Police shall be able to carry a firearm both on- and off-duty.

(a) Nothing in this directive shall be construed to prevent:
  1. Officers from using any weapon at their disposal for protection from death or serious bodily injury in a bona fide emergency; or
  2. Any employee with a Concealed Handgun License (CHL) from carrying a firearm off-duty.

### 803.1.2 ALIAS HANDGUN LICENSE

On written approval of the DPS director, the Department may issue to an officer an alias license to carry a concealed handgun to be used in supervised activities involving criminal investigations (Tex. Gov't Code § 411.198(a)).

## 803.2 SAFE HANDLING OF FIREARMS

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

### 803.2.1 GENERAL GUIDELINES

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

(b) Officers shall be governed by all rules and regulations pertaining to the use of the range and shall obey all orders issued by range personnel.

(c) Officers will unload all weapons prior to entering the firearm range when going for firearm practice, training, qualification, or repair. Officers will use a clearing barrel to ensure weapons are unloaded.

(d) Range personnel will inspect all firearms for safety and maintenance needs during the training or qualification sessions or on schedules established by the range supervisor.
  1. If the weapon is in satisfactory condition, the officer will be allowed to go on with practice or qualification.
  2. If the weapon is not in satisfactory condition, the problem must be corrected before the officer may engage in practice or qualification. If there is a problem with a duty weapon that cannot be corrected:
    (a) Affected officer's supervisor and the Learned Skills Unit supervisor will be notified.
    (b) If the weapon is a city issued Smith and Wesson M&P 40 cal., range personnel will issue the officer a temporary M&P until the problem is corrected



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(e) Any unintentional firearm discharge by an employee will be reported as outlined in Policy 202 (Firearm Discharge Situations). If the unintentional firearm discharge is deemed negligent, the employee will be considered in violation of Department Policy.

### 803.2.2 STORAGE OF FIREARMS

Officers shall ensure that all firearms and ammunition are secured in a manner that will keep them inaccessible to children and irresponsible adults while in the officer's possession, home, vehicle, or any other area under the officer's control.

## 803.3 AUTHORIZED WEAPONS

Department approved weapons and ammunition are those authorized by the Training commander for use by the Department. Contact the APD Range for the most up-to-date Department Approved Weapons list.

(a) The Department Approved Weapons list will be reviewed at least annually by the Training Division.

(b) Officers who wish to add a weapon to the Department Approved Weapons list must utilize the following procedure.

1. Officers will forward a memorandum to the Training Division requesting a new weapon be added to the current List.
2. The memorandum will contain the following information:
   (a) Information on weapon specifications (e.g., make, model, caliber, location of safety, bullet capacity); and
   (b) Justification for adding the weapon to the list.
3. All test weapons will undergo a thorough inspection. It will be test fired and evaluated for reliability and examined to see if it conforms to existing safety standards (e.g., night sights, ambidextrous thumb safety [if required], functioning grip safety). The test weapon will be left at the Academy Range until all testing and evaluation are completed.
4. Consideration will only be given to weapons with improved design, function, or applicability to the job over those weapons currently on the list.
5. APD will not provide reimbursement for rejected weapons.
6. Final approval to add the weapon to the current list will be made by the Training commander.

### 803.3.1 REGISTRATION OF WEAPONS

Officers will not carry a weapon until all the requirements of this policy have been met. The Training Division will maintain a record of any weapon(s) an officer is authorized to carry.

(a) Personally owned firearms carried on-duty or for law enforcement purposes must be registered with the Department by the officer requesting to carry them.

1. Officers may have a maximum of three handguns and one rifle to include any city issued weapons.
2. Handguns/rifles can be registered (added or deleted) at any time during the calendar year; however, officers may only register (add or delete) two handguns/rifles per year from his registered weapons list. Exceptions may be considered by the Training commander.



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3. All handguns added to an officer's registered weapons list are required to be equipped with night sights.
4. Officers who desire to carry a personally-owned AR-15 while on-duty must meet the requirements listed in the personally-owned Long Rifles section of this policy and register the weapon with the Department.
5. All weapon registration forms must be approved by the Learned Skills Supervisor.

(b) Officers wishing to add a weapon to his registered list must complete the following steps:

1. Requesting officers shall complete an *Inspection and Registration of Non-Department Handgun* form which is kept at the firearms range.
2. Requesting officers shall deliver the completed form and handgun to the firearms range for inspection.
3. Firearms range personnel will ensure the weapon is on the current Department Approved Weapons list and that the weapon is in good working order.
4. Requesting officers must qualify with the weapon on the current course of fire.

### 803.3.2 MODIFICATION OF HANDGUNS

Officers shall not make any unapproved modifications to any firearm carried on duty. Approved modifications and additions will be made in compliance with the Approved Weapons and Ammunition List.

### 803.3.3 SHOTGUNS

Shotguns are assigned to most marked police units and to individual officers as needed.

(a) At the beginning of each shift, officers are responsible for ensuring there is no shell in the chamber, the hammer is not cocked, and the weapon is secure until it is being readied for imminent use.

(b) Department shotguns will be loaded to magazine capacity (four or six rounds) with authorized 00 buckshot.

1. One ounce rifled slugs may be used with supervisory approval when:
   (a) There is an immediate need or in situations that are deemed special circumstances; or
   (b) Distances to the threat are such that it is beyond the effective range of 20-25 yards for 00 buckshot.
2. The shotgun will be reloaded with 00 buckshot as soon as practicable after the incident.
3. When rifled slugs are discharged from a shotgun, officers will document in an incident report or memorandum to the chain of command why the rifled slug was used.

### 803.3.4 DEPARTMENT ISSUED RIFLES

Each Patrol shift will normally be authorized two (2) Department issued rifles (i.e., AR-15). Officers that have attended a Department approved Semi-Automatic Rifle Course will be eligible to be assigned a Department issued rifle.



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(a) Each Department issued rifle will be issued to an assigned officer and the rifle will be tracked by serial number.

(b) Officers must qualify with the rifle annually on a course designated by the Learned Skills unit.

(c) If a designated officer is transferred, fails to qualify, or otherwise ceases to be approved to carry a Department issued rifle, the assigned weapon will remain with the designated shift.

    1. It will be the responsibility of the shift supervisor to ensure the weapons are maintained and reassigned as needed.

    2. Shift supervisors reassigning a Department issued rifle must notify Training and Police Equipment of the reassignment within 10 work days.

(d) Shifts will not trade weapons unless there is a bona fide emergency.

(e) The weapon must be carried in either a hard protective case or secured in the patrol vehicle weapon rack.

### 803.3.5 PERSONALLY OWNED RIFLES

Officers that meet the following criteria may be authorized to carry personally owned rifles while on-duty. Personally owned rifles are for the exclusive use of the weapon owner and will not be loaned or distributed for use to any other officer unless there is a bona fide emergency.

(a) To carry a personally owned rifles, officers must:

    1. Receive approval through the chain-of-command up to the assistant chief or designee to carry the rifle; and

    2. Successfully complete a Department approved semiautomatic rifle course; and

    3. Meet requirements listed in the Department Approved Weapons and Ammunition List.

(b) Officers must qualify with the rifle annually on a course designated by the Learned Skills unit.

(c) Officers who fail a qualification or who have lost the approval of the chain-of-command will no longer be authorized to carry the rifle on-duty.

(d) Officers authorized to carry a rifle on-duty will be subject to monthly inspection by an immediate supervisor.

(e) The weapon must be carried in either a protective case or secured in the patrol vehicle weapon rack.

### 803.3.6 SPECIALIZED WEAPONS

Specialized weapons may be authorized by the Chief for use by specific Units or persons.

(a) Officers must meet the qualification standard for any specialized weapons before carrying the weapon on-duty and must qualify annually with these weapons.

(b) Qualifications for authorized specialized weapons will be on a course of fire designed and supervised by the Learned Skills Unit specifically for the weapon.



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### 803.3.7 AMMUNITION

Officers shall carry only Department authorized ammunition. Officers shall not modify or alter any approved ammunition. See the department Approved Weapons and Ammunition List for specific ammunition requirements.

## 803.4 FIREARMS PROFICIENCY

(a) Officers shall annually demonstrate proficiency to the proficiency officer for each authorized firearm carried (Tex. Occ. Code § 1701.355).

(b) The Learned Skills Unit shall keep accurate records of quarterly qualifications, repairs, maintenance and training as required by law. The course of fire shall meet or exceed the minimum standards required by law. Separate firearms proficiency tests must be demonstrated and conducted for each weapon used, such as a handgun, shotgun, patrol rifle or fully automatic weapon (37 Tex. Admin. Code § 217.21).

(c) At least annually, all personnel carrying a firearm will receive training on the Department Response to Resistance Policy and demonstrate working knowledge and understanding of the policy (Tex. Occ. Code § 1701.355).

(d) In the event that the above requirements present a hardship, the Department may request in writing that TCLEOSE waive an officer's annual demonstration of weapons proficiency requirement (Tex. Occ. Code § 1701.355(b) and 37 Tex. Admin. Code § 217.21(e)).

### 803.4.1 ANNUAL QUALIFICATION

Officers must qualify annually on a TCLEOSE approved course of fire with each firearm and type of ammunition he is authorized to carry. In addition, approved firearms and duty ammunition must be thoroughly inspected by firearms personnel as outlined in this policy.

(a) Immediate supervisors are responsible for ensuring officers qualify when required to do so.

(b) Scoring on APD qualification courses will be done on a pass/fail basis. No numerical score will be recorded for qualification purposes.

(c) **Nightfire Qualification Requirements**

1. Officers who routinely work all or part of a normal shift under low light or night low light conditions must qualify on the nightfire course.
2. Officers who routinely work Law Enforcement Related Secondary Employment (LERE) during low light or night conditions must qualify on the nightfire course.
3. Officers that qualify on the nightfire course do not have to qualify during the day.

(d) **Qualification Scheduling**

1. Annual qualification will normally be done during the first quarter of the calendar year. Scheduling and signup will be done through TRAIN.

### 803.4.2 FAILURE TO QUALIFY WITH DUTY WEAPONS

(a) Officers failing to appear at the firearm range to qualify during any mandatory qualification period will be subject to disciplinary action.

1. At the end of each qualification period, the Learned Skills Unit supervisor will prepare a list of officers who did not appear at the firearms range to qualify by the designated deadline. This list will be submitted to the Office of the Chief and the affected Commander.



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(b) Officers that fail to make a passing score on a qualification relay for a primary duty weapon shall be given the opportunity to fire a second qualification relay.

1. **Qualification While On-Duty**
   (a) If an on-duty officer fails the second qualification relay, the officer will be placed in a non-enforcement capacity by the Learned Skills Unit supervisor and scheduled for a remedial training class designed for the type of weapon the officer failed to qualify with.
   (b) The officer's immediate supervisor will be notified.

2. **Qualification While Off-Duty**
   (a) No overtime or compensation time will be given for a second qualification relay.
   (b) If an off-duty officer can not spend the extra time to qualify, or fails the second qualification relay, the Learned Skills Unit supervisor shall immediately notify the officer's supervisor
   (c) The officer's supervisor will be responsible for:
      1. Changing the officer's duty status to a non-enforcement capacity; and
      2. Assigning the officer to a remedial training class designed for the type of weapon the officer failed to qualify with; and
      3. Ensuring the officer's duty hours are changed, if needed, to attend the remedial class.

3. **Removal of Weapon from an Officer's Registered List**
   (a) Instead of being placed on remedial status for failure to attain a passing score, the following options are available:
      1. An officer failing to qualify with a Secondary/Backup weapon has the option of removing the weapon from his registered list of handguns provided he has qualified with another handgun that is approved as a primary duty weapon. This will be done before the officer leaves the firearms range.
      2. An officer failing to qualify with a City-issued handgun does not have this option.

(c) Officers failing to qualify with a personally owned or City-issued semiautomatic rifle will be prohibited from carrying the weapon until they successfully complete an additional Department approved semiautomatic rifle course.

### 803.4.3 REMEDIAL FIREARMS TRAINING

Remedial firearms training is specifically for APD personnel who have failed to qualify with an approved weapon.

(a) Classes will be designed by the firearms range staff and conducted as soon as practical after an officer is placed on remedial status.

(b) After completion of each remedial training class, the officer attending the class will fire in a qualification relay. If due to their assignment the officer is required to pass a low light qualification course, the officer must pass a low light qualification course prior to returning to duty.



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1. If the officer makes a passing score, the Learned Skills Unit supervisor will notify the officer's supervisor and recommend the officer be returned to an enforcement capacity.
2. If the officer fails to make a passing score after remedial training, the officer may be subject to indefinite suspension. The Learned Skills Unit supervisor will forward the documentation through the Training commander to the officer's commander.

(c) Firearms range personnel will ensure a training roster is completed and whether the officer passed the qualification relay.

## 803.5 USE OF RANGE FOR PRACTICE FIRE

The firearm range will be available for practice as shown on the most current range schedule.

(a) Only approved weapons and ammunition will be utilized on the firearms range.

(b) Officers practicing on the range may be issued 50 rounds (maximum) of practice ammunition per day.

(c) Firearm range personnel have the authority to decide which of the two forms of practice is fired.

1. **Free Form**: The shooter fires on his own under firearms range supervision; or
2. **Practice Course**: An organized course is run for all shooters practicing on the firearms range at that time.

## 803.6 CLEANING AND MAINTENANCE

(a) Officers are responsible for ensuring their weapons are clean, safe and functional.

(b) Handguns may only be repaired by an APD approved gunsmith or armorer. Repairs shall not exceed manufacturer specifications.

(c) When cleaning a Department shotgun, only the barrel may be removed by the officer.

(d) Cleaning a Department issued rifle is the responsibility of the officer to whom the weapon has been assigned. Cleaning will be done per current rifle training protocol.

(e) The supervisor in charge of a unit that uses specialized weapons is responsible for coordinating the cleaning of those weapons.

## 803.7 FLYING WHILE ARMED

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

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

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



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(c) Officers must submit a National Law Enforcement Telecommunications System (NLETS) message prior to travel. The NLETS message sent by the employing agency will replace the current original letter of authority, signed by the chief or agency head, required under 49 CFR 1544.219. Once the NLETS message is received by TSA, a return NLETS message will be sent to the employing agency with an eight character Unique Alphanumeric Identifier for verification at the airport on the day of travel.

1. Failure to use the NLETS message in lieu of the Original Letter of Authority (Commonly referred to as the "Chief's Letter") will result in denial to the sterile area for failure to comply with the "Letter of Authority" requirement delineated in 49 CFR 1544.219.

(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) Officers are responsible for notifying the air carrier in advance. This notification can be accomplished by early check-in at the carrier's check-in counter.

(f) Discretion must be used to avoid alarming passengers or crew by displaying a firearm. Officers must keep the firearm concealed on their person at all times. Firearms are not permitted in carry-on luggage and may not be stored in an overhead compartment.

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

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

## 803.8 CARRYING FIREARMS OUT OF STATE

(a) Qualified active full-time officers and previously approved retired officers of the Department are authorized to carry a concealed firearm in all other states subject to the following conditions (18 USC § 926B and C):

1. Officers or retired officers shall carry a valid, unexpired APD ID card whenever carrying a weapon.
2. Officers or retired officers is not the subject of any current disciplinary action or current criminal investigation.
3. Officers or retired officers may not be under the influence of alcohol or any other intoxicating or hallucinatory drug.
4. Officers and retired 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 or retired officer from arrest and prosecution in such locally restricted areas.

(b) Officers will remain subject to this and all other Department policies (including qualifying and training).

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



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# Department Vehicles

## 804.1 PURPOSE AND SCOPE

The Department utilizes motor vehicles operated by Department personnel in a variety of applications. In order to maintain a system of accountability and ensure vehicles are used appropriately, regulations relating to the use of these vehicles have been established.

For purposes of this policy, Department vehicles are considered to be any vehicle used by Department employees for official Department business, including privately owned vehicles or vehicles owned, rented, leased, or maintained by the City.

## 804.2 GENERAL OPERATION OF DEPARTMENT VEHICLES

(a) Employees will operate Department vehicles in a careful and prudent manner within the guidelines of the law and Department policy. Unsafe or negligent driving is prohibited.

1. Vehicles will be operated in such a manner and at a rate of speed that the driver, by use of ordinary care, can avoid colliding with another vehicle, object, or person.
2. Employees will wear a seatbelt in the front or back seat while operating or riding inside of a Department vehicle unless there is an operational, tactical, or medical need to be unsecured.

(b) Department vehicles will be kept clean by utilizing car washes that are under City contract.

(c) Employees will not use any type of Mobile Audio Video Recording system (MAV/DMAV) inside a Department vehicle unless the employee has been trained in its use.

(d) The use of a Personal Communication Device (PCD), such as a mobile phone, PDA, or wireless two-way communication device while driving can cause unnecessary distractions and presents a negative image to the public.

1. Employees operating emergency vehicles should restrict the use of these devices while driving to matters of an urgent nature and should, where practicable, stop the vehicle at an appropriate location to complete the call.
2. Except in the case of an emergency, employees who are operating non-emergency vehicles will not use PCDs while driving unless it is specifically designed and configured to allow hands-free listening and talking. Such use should be restricted to business-related calls or calls of an urgent nature.

(e) When a Department vehicle is unattended and out of sight of the operator:

1. The vehicle should be turned off and legally parked, when practical, and properly secured by locking the doors and ensuring the windows are rolled up; and
2. Any firearm inside the vehicle will be locked/secured unless being readied for use.

### 804.2.1 CHECK OUT AND RETURN OF DEPARTMENT VEHICLES

This section covers the guidelines for checking out and returning Department vehicles that are stored and maintained at Department facilities.



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(a) Employees will not use a vehicle assigned to another area or unit unless prior authorization has been given by a supervisor from the affected area or unit.

(b) Employees checking out a Department vehicle will:

1. Legibly sign the vehicle out on the appropriate roster.
2. Conduct an inspection before using the vehicle and contact their immediate supervisor or PCO if any issues are found; employees will :
   (a) Check for vehicle damage and cleanliness;
   (b) Check the condition of installed equipment; and
   (c) Perform standard maintenance checks including fluid levels.

(c) Employees returning a Department vehicle will:

1. Refuel the vehicle when it has one-half (1/2) a tank of gas or less.
2. Park in a designated area at Department facilities.
3. Turn off all equipment and electronics.
4. Remove any personal equipment and trash from the vehicle.
5. Ensure all firearms are locked or turned into PCO.
6. Secure the vehicle and return the keys to PCO.

### 804.2.2 ASSIGNMENT AND USE OF DEPARTMENT TAKE HOME VEHICLES

Take home vehicles are used to maintain the effectiveness and efficiency of the Department by allowing personnel to rapidly respond to situations involving the health, safety, or welfare of the community. Take home vehicle assignments may be on a permanent or on-call basis.

(a) Take home vehicle assignments will be determined by the Chief or designee. The Department will maintain a list of assignments authorized to have permanent and on-call take home vehicles.

(b) Employees will not be allowed to utilize a take home vehicle if their residence is more than 25 miles from the city limits of Austin.

(c) Take home vehicles should be safely secured when not in use and parked in secure areas when left overnight.

(d) Employees who have been assigned a take home vehicle will complete an initial *Take Home Vehicle Authorization (PD0003)* before the employee utilizes the take home vehicle and then complete an updated form in December of each subsequent year.

1. Employees will submit the form to their immediate supervisor for chain-of-command review and assessment.
2. The chain-of-command will forward the form to Fleet Management upon completion of the review.

### 804.2.3 DEPARTMENT VEHICLE USE FOR OUT-OF-CITY ASSIGNMENTS

(a) Employees who have obtained official authorization to utilize a Department vehicle for an out-of-city assignment may contact a substation PCO and obtain a City credit card prior to departing in the event the vehicle will need fuel or repairs.

(b) Employees will ensure the Department vehicle is mechanically sound prior to departure by taking the vehicle to Service Center #5 for out-of-city trips exceeding 100 miles each way.



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### 804.2.4 AUTOMATED FUEL SUPPORT PROGRAM

(a) The City has two types of fuel facilities:

1. Primary Fuel Site - A fuel facility with an automated fuel card reader. A fuel card must be used at these facilities.
2. Alternate Fuel Site - A non-automated fuel facility located primarily at City fire stations and Parks and Recreation facilities. Fuel issued at these sites is recorded on a Daily Fuel Issue form.

(b) A magnetically coded plastic fuel card is assigned to every Department owned and leased vehicle.

(c) Department vehicles without a fuel card can be denied fuel unless an emergency exists. Any lost, missing, or damaged fuel card will be reported in accordance with Department policy on Equipment Accountability.

(d) Unless authorized and specifically exempted in a Unit's SOP, whenever a Department vehicle is used for out-of-city trips and it is necessary to refuel at a site other than a City fuel facility, a current odometer reading must be reported prior to using a City fuel facility.

## 804.3 PARKING OF DEPARTMENT VEHICLES

This section outlines the guidelines for parking Department vehicles while conducting City business. City business does not include an employee parking a vehicle when merely showing up for work at his regular work location.

(a) Employees are not authorized to park a vehicle in any prohibited parking area.

1. Employees receiving a parking citation for parking in a prohibited area are responsible for paying the citation in a timely manner, regardless of whether or not the employee was on City business at the time the citation was issued.

(b) Employees on City business may park at a metered parking space without paying the meter.

1. Employees receiving a parking citation at a metered parking space while complying with a work related subpoena must adhere to the following guidelines in a timely manner to have the citation dismissed; employees will:
   (a) Legibly write their name, employee number and the court information (e.g., "County Court 3/Cause #123456") in the margin of the parking citation itself; and
   (b) Attach a copy of the subpoena to the citation, if available; and
   (c) Submit the citation to the Court Liaison over the court the employee was attending.
2. Employees receiving a parking citation at a metered parking space while on all other official City business will:
   (a) Legibly write their name, employee number, and the type of City business they were on in the margin of the parking citation itself; and
   (b) Submit the citation to their immediate supervisor or the Court Liaison Unit supervisor.
   (c) Supervisors receiving a citation from employees that fit the criteria for dismissal will legibly write their initials and employee number on the



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parking citation and the statement, "Recommend Dismissal - On City Business."

3. All citations requesting dismissal that have been reviewed by the employee's supervisor or a Court Liaison will be turned in to the Court Liaison Unit supervisor. The Court Liaison Unit supervisor is responsible for delivering citations requesting dismissal to the Municipal Court Hearings officer.

(c) Employees who routinely travel away from their normal work location as part of normal duties may be issued a City Parking Permit to be used while conducting City business.

1. Requests for issuance of a City Parking Permit must be forwarded through the chain-of-command for approval by the appropriate assistant chief.
2. Approved requests will be given to the Assistant Chief's administrative specialist for processing.

(d) Certain Department vehicles will not be issued a City Parking Permit but will have the vehicle license plate number entered into the City computer system as "exempt" when parking in metered parking spaces.

## 804.4 USE OF DEPARTMENT VEHICLES TO PUSH/PULL OTHER VEHICLES

Officers have the authority to remove personal property from a roadway or right-of-way if an officer determines that the property blocks the roadway or endangers public safety (Tex. Transp. Code § 545.3051).

(a) Some Department vehicles have push bars that are designed for and should be used to assist in moving disabled vehicles from the roadway when reasonable and practical.

1. Employees must use caution because improperly pushing another vehicle may cause the safety airbag to deploy in the Department vehicle.
2. Employees will not push any vehicle that is significantly larger or significantly outweighs the Department vehicle.

(b) Some Department vehicles are equipped with trailer hitches designed to pull or tow other vehicles.

1. Employees will not pull another motor vehicle or trailer unless the Department vehicle is equipped with a hitch capable of pulling the vehicle or trailer.

(c) Officers are not liable for any damage to personal property removed from the roadway or right-of-way unless the removal is carried out recklessly or in a grossly negligent manner (Tex. Transp. Code § 545.3051).

1. If there is a complaint of damage to any property, including the Department vehicle, as a result of pushing or pulling another vehicle from the roadway:
   (a) Officers will notify their supervisor.
   (b) Supervisors will inspect the alleged damage and make a determination if the damage is the result of pushing or pulling the vehicle.
2. If the damage is a result of pushing or pulling the vehicle:
   (a) Digital images will be taken and downloaded into the Digital Crime Scene Management System using the incident number.
   (b) The employee who pushed the vehicle will:



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1. Initiate an incident report titled Damage to City Property Other.
2. Describe the incident and apparent damage in detail in the incident narrative.

(c) Reviewing supervisors shall:

1. Send e-mail notifications with the incident report number prior to the end of the tour of duty to the:
    1. Involved employee's chain of command up to the commander, and
    2. APD Risk Management
2. Review the primary reporting employee's incident report and add a Versadex case note to the report to document they were notified, if they responded to the scene, and whether they have reviewed the incident.

(d) Each level of the chain-of-command, up to the commander, shall review the incident and complete a case note to document their review.

## 804.5 RED LIGHT CAMERA CITATIONS

The following guidelines cover how to handle citations generated by a red light camera issued to employees operating a Department vehicle. Employees may be held accountable for running a red light while operating a Department vehicle.

(a) The Red Light Camera Coordinator will send an administrative notice to the appropriate commander when an emergency vehicle activates a red light camera. The commander or designee will make a determination if a violation of policy occurred.

## 804.6 REPAIR OF DEPARTMENT VEHICLES

When an employee discovers a defect in a Department vehicle, the vehicle will not be used if the defect is such that the safety of the employee is in doubt or continued use would aggravate the defect. Before removing a Departmental vehicle from service the employee will remove and secure all weapons.

(a) Vehicle defects and malfunctioning emergency lights, sirens and radios shall be reported on the *Vehicle and Equipment Repair Form* and submitted to the on-duty PCO employee.

(b) Vehicles removed from service for maintenance or repair will not be operated by anyone other than a repair employee until the vehicle has been returned to normal duty status.

(c) Damage to police vehicles resulting from a prisoner's actions will be documented in the employee's incident report and the charge of "Criminal Mischief" will be added to any other charges against the person.

1. The employee will complete the repair form, include the incident number and the damage to the vehicle, and forward the repair request to the vehicle fleet manager.



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### 804.6.1 REPAIR OF DEPARTMENT VEHICLES DURING AN OUT-OF-CITY ASSIGNMENT

When a Department vehicle used in an authorized out-of-city assignment becomes disabled and is in need of immediate repair to return safely to Austin, the employee using the Department vehicle will obtain minor repairs locally or coordinate by phone with Fleet Services for major repairs.

(a) Minor repairs are considered repairs that can be made for less than $300. The employee should attempt to use a service that will honor the City fuel credit card.

(b) Major repairs are considered repairs that can be made for $300 or more.

1. The employee will contact Service Center #5 to coordinate major vehicle repairs. If Service Center #5 is closed, the employee will use the emergency number at (512) 974-3333.

## 804.7 TOLL ROAD USAGE

The Vehicle Coordinator assigned to fleet operations shall maintain a list of license plate numbers for City vehicles that are authorized to traverse toll roads and furnish this list to the Texas Toll Road Authority in Austin in order to prevent toll charges from accruing on these vehicles.



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# Chapter 9 - Personnel Policies

# General Conduct and Responsibilities

## 900.1 PURPOSE AND SCOPE

It is the policy of the Austin Police Department that employees conduct themselves at all times in a manner that reflects the ethical standards consistent with APD written directives. This policy shall apply to all sworn and civilian members, including volunteer, part-time, auxiliary, and non-paid civilians affiliated with the Department through a Department-sponsored program while under the direction of a Department employee.

This policy is intended to guide employees in conducting themselves and their affairs, both on-duty and off-duty, in a manner that reflects the professionalism required of Department personnel. Furthermore, this policy is intended for internal use only and shall not be construed to increase or establish an employee's civil or criminal liability, nor shall it be construed to create or establish a higher standard of safety or care.

### 900.1.1 RESPONSIBILITY TO KNOW AND COMPLY

The rules of conduct set forth in this policy do not serve as an all-inclusive list of requirements, limitations, or prohibitions on employee conduct and activities; employees are required to know and comply with all Department policies, procedures, and written directives.

(a) Employees will maintain a working knowledge and comply with the laws, ordinances, statutes, regulations, and APD written directives which pertain to their assigned duties.

(b) Employees who do not understand their assigned duties or responsibilities will read the relevant directives and guidelines, and will consult their immediate supervisor for clarification and explanation.

(c) A lack of knowledge of an APD written directive is not a defense to disciplinary action.

## 900.2 REQUIRED REPORTING OF VIOLATIONS

Employees have an obligation and responsibility to report all facts or credible information they know regarding any criminal activity by other employees or any breach of APD written directives.

(a) Suspected Criminal Activity

1. Employees will report any knowledge or credible information regarding criminal activity of another employee via memorandum to IA, SIU, or any supervisor in their chain-of-command.
    (a) When a memorandum is presented to a supervisor, the supervisor will notify his chain-of-command.
    (b) When a memorandum is presented to an assistant chief/director, it will be immediately forwarded to IA and SIU.

(b) Suspected Policy Violations

1. Employees will report any employee known or believed to be guilty of any violation of a rule, regulation, or order issued by the Department to their immediate supervisor.



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2. Supervisors will immediately take action as outlined in Policy 902 (Administrative Investigations) when a violation of a directive comes to their attention, regardless of the supervisor's or violator's assignment or rank within the Department.

### 900.2.1 CONFIDENTIALITY

All information relating to an employee's suspected criminal act or policy violation is confidential.

(a) Except as required in reporting the incident:

1. Employees will not disclose or discuss such information with anyone except investigators assigned to the case, the employee's attorney, employee's chain-of-command or other persons specifically designated by the Chief.
2. Investigators of such cases will not disclose or discuss information about any such investigation with anyone except other investigators assigned to assist with the investigation, the investigator's chain-of-command, officers of the court, or other persons specifically designated by the Chief.

### 900.2.2 RETALIATION PROHIBITED

Employees will not, in any way, cause or conspire to cause retaliatory action against any individual who has been involved in any such investigation or subsequent proceeding as a defendant, complainant, witness, victim, investigator, or any other capacity. While the Department wishes to avoid reassigning an employee while a complaint or grievance is being investigated, this policy does not prohibit the Department from doing so, including the complainant/victim, while the complaint or grievance is under investigation should an assistant chief determine that a reassignment is in the best interest of the Department and/or the employee.

## 900.3 GENERAL CONDUCT

This section contains the expectations and requirements of employee conduct, both on-duty and off-duty, and causes for disciplinary action due to employee misconduct. This is not intended to cover every possible type of misconduct and does not preclude the recommendation of disciplinary action for specific action or inaction that is detrimental to efficient Department service.

### 900.3.1 HONESTY

Honesty is of the utmost importance in the police profession. Employees are expected to be truthful at all times in the performance of their duties.

(a) Employees will speak the truth at all times and reflect the truth in all reports and written communications. Any statement or omission of pertinent or material information which intentionally misrepresents facts or misleads others through an official statement will be considered a false official statement. The following are examples of an "official statement":

1. Documents prepared by an officer in connection with their official duties, including but not limited to incident reports or supplements, sworn affidavits, and citations.
2. Verbal or written statements made by an officer in connection with their official duties to:



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(a) An investigator conducting an administrative or criminal investigation of the officer or another person's conduct.

(b) A supervisor conducting an inquiry into the officer's use of force.

(c) A fact finder in an administrative, civil, or criminal proceeding in which the officer testifies.

(b) Employees who obtain their employment by willful misrepresentation or false statements may be dismissed from the Department.

(c) Employees will not attempt to conceal, divert, or mitigate their true culpability in a situation, nor will they engage in efforts to thwart, influence, or interfere with an internal or criminal investigation.

(d) Employees will not use any improper or dishonest means to affect the outcome of any official test, process, or procedure.

(e) Employees will not falsely report themselves ill or injured, or otherwise deceive or attempt to deceive the Department as to the condition of their health.

### 900.3.2 ACTS BRINGING DISCREDIT UPON THE DEPARTMENT

Since the conduct of personnel both on-duty or off-duty may reflect directly upon the Department, employees must conduct themselves at all times in a manner which does not bring reproach, discredit, or embarrassment to the Department or to the City.

(a) Employees will not commit any act which tends to destroy public confidence in, and respect for, the Department or which is prejudicial to the good order, efficiency, or discipline of the Department.

(b) Employees will refrain from being a party to any malicious gossip, rumor, report or activity, whether written or oral, that would tend to bring discredit to the Department or any member thereof.

1. "Malicious gossip, rumor, report or activity" includes statements made with knowledge of their falsity or made without regard to whether the statements are true or false.

(c) Employees will not engage in any activity in which there is a potential for conflict of interest or the appearance of a conflict of interest with the lawful duties of the employee.

1. "Conflict of interest" includes any activity which would tend to influence a decision, create a bias or prejudice, or create a gain or loss for any person or agency which would favor one side or the other in conflict with the employee's official duties, or which conflicts with the accomplishment of the Department's mission or goals.

(d) Employees will not congregate or loiter in any place or in any manner as to bring discredit to the Department.

1. No more than four (4) officers, uniformed or plainclothes, who are identifiable as officers by the display of badges, police radios, insignias, or any articles of clothing identifying them as police officers, will congregate in a public place except when required by official police duties or as authorized by a supervisor.

2. Except as necessary to perform assigned tasks or as authorized by a supervisor, the following restrictions apply to the number of marked APD police units parked in a parking lot or near a public place at any one time:



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(a) No more than two (2) between the hours of 6:00 am and 10:00 pm, daily; or

(b) No more than four (4) between the hours of 10:00 pm and 6:00 am, daily.

### 900.3.3 PROHIBITED ASSOCIATIONS

(a) Employess will not establish an external social relationship with a known victim, a known witness, or a known suspect of a crime while such case is being investigated by this Department or prosecuted as a result of such an investigation.

(b) Employess will not establish social and/or business dealings with persons they know, or should know, are likely to adversely affect the employee's or Department's credibility. Employees will not associate with convicted felons. Provisions of this section do not apply to association based on kinship or the discharge of official duties.

(c) Employees will not knowingly loan money, accept as pawn any item, or enter into any type of business arrangement with a suspect of a criminal violation, a person under arrest or detention, a person known to have a criminal record or unsavory reputation, or a person known to be engaged in, or planning to engage in, criminal activity.

(d) Employees will not affiliate with any organization or body, the constitution or regulations of which would in any way prevent or hinder performing departmental duties.

(e) Employees will not knowingly associate with any person or organization which advocates hatred, prejudice, or oppression of any person or group or which disseminates such material.

(f) Employees will not become a member of any organization, association, movement, or group which advocates the commission of acts of force or violence to deny others their rights under the Constitution of the United States or which seeks to alter the form of government of the United States by unconstitutional means.

### 900.3.4 PERSONAL CONDUCT

(a) Employees will not knowingly enter a location engaged in prostitution, illegal gambling, or any establishment wherein laws are being violated.

(b) Supervisors will not place themselves under financial obligation to a subordinate.

(c) While on-duty or on the premises of City facilities, employees will not:

1. Use loud, indecent, profane, harsh, derogatory language, or use belittling term in any communications.
2. Ridicule, mock, taunt, embarrass, humiliate, or shame any person, nor do anything that might incite that person to violence.
3. Indulge in "horseplay."
4. Produce or display graffiti of any nature.
5. Post or display derogatory, offensive or lewd pictures which degrade or lower the self esteem of fellow employees and would undermine the goal of professionalism within APD.
6. Engage in any sexual conduct including lewd acts or solicitation for sex.

(d) While on-duty or wearing any item which makes one identifiable to the public as an APD employee, employees will not:

1. Sleep.
2. Engage in gambling, including lottery games.



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3. Play games, including cards, dominoes, billiards, video or computer games, watch television or movies, or otherwise engage in entertainment, unless it is job related and has been approved by their commander/manager.
4. Read newspapers, magazines, books, or other material, except during approved breaks.
5. Study for promotional examinations.
6. Take an authorized break in a sexually oriented business.
7. Ride a personally owned motorcycle without a DOT approved motorcycle helmet.

### 900.3.5 USE OF BADGE OF OFFICE OR AFFILIATION WITH THE DEPARTMENT

(a) Employees will not intentionally use their affiliation with the Department to influence another into offering a gift, gratuity, free or discounted service, reward, or special consideration. This includes:

1. For the personal benefit of self, family, friends, or associates.
2. For the financial gain of self, family, friends, or associates.
3. Obtaining privileges not otherwise available to them, except where necessary in the performance of their duty.
4. Avoiding the consequences of illegal acts.

(b) Employees will not permit the use of the name of the Austin Police Department for advertising purposes without the approval of the Chief.

(c) Employees will not permit or authorize the use of their names, photographs, or official titles in connection with testimonials or advertisements of any commodity or commercial enterprise if such use identifies the employee as a member of the Department.

(d) Employees will not have or use business cards pertaining to a private business showing the employee's connection with APD.

(e) Employees will not present themselves as representing the Department in any matter except as authorized as a function of their position or as authorized by a supervisor.

1. Employees will not prepare any articles or write for publication concerning the affairs of the Department without the consent of the Chief.
2. Employees will not release confidential information.

### 900.3.6 POLITICAL ACTIVITY AND LEGISLATIVE TESTIMONY

(a) Employees who desire to represent the City or Department in any testimony before any legislative committee must first obtain approval from the Chief or designee.

(b) Employees who desire to represent themselves or a special interest group may do so on their own time or on approved leave, and at their own expense or at the expense of the special interest group, but not on City time nor at City expense.

(c) Employees will remain neutral in all situations, never rendering an opinion as to the qualifications of any candidate, potential candidate or issue while in uniform or on-duty.

(d) Employees are prohibited from:

1. Knowingly becoming a candidate for nomination or election to any public office, unless in compliance with City Policy.



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2. Using their official capacity to influence, interfere with or affect the results of an election.
3. Directly or indirectly using, promising, threatening or attempting to use an official influence in aid of any partisan political activity, or to affect the result of any election to partisan or political office by any other corrupt condition or consideration.
4. Promoting, demoting, or in any way favoring or discriminating against any employee with respect to employment because of political opinions or affiliations.
5. Seeking any advantage in employment for any person based on political action.
6. Coercing any employee to provide anything of value to any individual or organization for political purposes.
7. Using any authority of the position to gain support for, or to oppose, any candidate, party, or issue in a partisan election.
8. Taking an active part in another person's political campaign, including attending fund-raising events, making speeches, writing letters, signing petitions, or actively soliciting votes while in uniform or on-duty.
9. Displaying political campaign literature in work areas.

### 900.3.7 RECOMMENDATION OF ATTORNEY OR AGENT

Employees will not suggest or recommend the services of an attorney, bail bondsman, towing agency, physician, or other business service to any person with whom they have had contact as a result of departmental business, except in the transaction of personal business with family and friends.

## 900.4 REQUIREMENTS OF DUTY

Employee conduct will always be consistent with the Department's values, vision, mission, and any supervisor's instructions.

(a) Employees will maintain themselves in such a physical condition as to be able to handle the requirements of their assignment.

(b) Employees will not exhibit cowardice or shirk their duty in case of danger.

(c) Employees will consider themselves available for duty in any emergency situation.

(d) Employees will report for all duty assignments, including assigned court appearances, at the time and place required by assignment or orders and be properly prepared and equipped to immediately assume their duties.

(e) Employees will remain at their assignment and on-duty until properly relieved by another employee or until dismissed by proper authority.

(f) Employees are considered on-duty while on authorized breaks.

(g) Employees will remain alert and observant while on-duty and devote their time and attention to the business of the Department. Any exceptions require supervisor approval.

(h) Employees will not engage in any strike, work slowdown or stoppage, concerted failure to report for duty, or any other action which interferes with the efficiency or integrity of the administration of criminal justice or departmental discipline, nor will any employee encourage, coerce or conspire with any other individual to do so.



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(i) Employees assigned to investigate an incident where the complainant and/or suspect is considered a friend or relative will contact their supervisor; supervisors will reassign the incident to another employee.

(j) Unless otherwise authorized by law, City policy, or Department directive, employees will not go outside of the Department in an attempt to resolve police-related matters until appropriate Department procedures have been followed.

(k) Employees will write a memorandum to the Chief through their chain-of-command before filing claims for damages or entering into legal compromises or settlements regarding events connected with the performance of duty.

(l) Employees will not serve civil process or render assistance in civil cases except when:

1. The City is a party; or
2. There is a statutory duty to do so; or
3. A court order requires assistance; or
4. Authorized by a supervisor.

### 900.4.1 DISCRETION AND REQUIREMENT TO TAKE ACTION

Sworn employees are charged with the responsibility to enforce the law, preserve the peace, and to protect lives and property.

(a) By itself, the mere fact that a minor violation of the law has occurred may not be sufficient reason to justify arrest. Laws generally serve as the tools officers use to protect residents' rights and to maintain peace in the community.

(b) Officers will take immediate action, if reasonably possible, to prevent any obvious felony offense, arrest any known wanted felon they encounter, and protect all persons and property from imminent harm.

(c) Officers assigned to Specialized Units or other special duty assignments are not relieved from taking enforcement action outside the scope of their specialized assignment when necessary.

(d) Whether or not an officer should take immediate action to enforce any law depends on a number of things including, but not limited to, whether another more serious situation exists at the same time and needs to be addressed first.

(e) When a law or policy does not provide clear guidance regarding a particular situation, employees will consult with their immediate supervisor for direction, when practicable.

### 900.4.2 MAINTAINING REQUIRED LICENSES AND CERTIFICATIONS

Employees will maintain all required licenses and certifications in good standing including, but not limited to, a Texas driver's license and required licenses and certifications issued by TCLEOSE.

(a) It is the responsibility of the employee to notify his immediate supervisor in the event of any suspension, revocation or cancellation of a license or certification necessary to the performance of job assignments.

(b) TCLEOSE Rules, Section 217.88 Reporting Responsibilities of Individuals, Subsection (b) requires an officer to report to TCLEOSE in writing within 30 days if the officer is arrested, charged, or indicted for a criminal offense above the level of Class C misdemeanor or for any Class C misdemeanor involving the duties and responsibilities of office.



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1. The written notice must include the name of the arresting agency, the style, court, and cause number of the charge or indictment, if any, and the address to which notice of any TCLEOSE action will be mailed.
2. The required TCLEOSE forms for reporting under this section are available through IA. IA will assist the officer in completing and submitting the forms; however, it remains the responsibility of the officer to ensure that written notification is completed within the designated time periods.

(c) Suspension, revocation, or cancellation of a license or certification necessary to the performance of job assignments will result in termination of that assignment or of employment with the Department.

(d) Sworn employees will not be permitted to be a deputy or hold a commission from any other law enforcement agency, whether local, state or federal, except when authorized as part of a multi-agency task force.

### 900.4.3 NEGLECT OF DUTY

Employees will satisfactorily perform their duties. Examples of unsatisfactory performance include, but are not limited to:

(a) Lack of knowledge of the application of laws required to be enforced.

(b) Unwillingness or inability to perform assigned tasks.

(c) Failure to take appropriate action on the occasion of a crime, disorder, investigation or other condition deserving police attention.

(d) Failure to respond to any call or to perform any police duties assigned to them by appropriate authorities.

(e) Absence without approved leave.

(f) Repeated poor evaluations.

(g) Written record of repeated infractions of rules, regulations, directives or orders of the Department.

(h) Failure to follow department standardized training and tactics when it was objectively reasonable to do so.

### 900.4.4 DUTY TO IDENTIFY

(a) Unless doing so would jeopardize an undercover officer or a covert operation, employees will furnish the name and identification number of any employee, including themselves, to any person requesting such information regarding matters in which the employee was acting in an official capacity. Names of employees will be given in sufficient form to fully identify the employee.

(b) Sworn employees taking police action while not in uniform will, as soon as possible, display their police badge or APD ID and state the purpose for taking police action.

(c) Employees will provide the name and business telephone number of their immediate supervisor upon request by any person.

### 900.4.5 NEGOTIATIONS ON BEHALF OF SUSPECT

Prohibitions in this section do not relieve supervisors from their obligations to review enforcement contacts of subordinates and take appropriate action, if necessary, to prevent the filing or adjudication of improper charges.



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(a) Employees will not participate in any arrangement between a suspect and victim that would result in the suspect escaping the penalty of the law nor will any employee seek the continuance or dismissal of any case on behalf of the suspect in court for any reason.

(b) Employees will not promise informants any immunity from or leniency in any criminal prosecution without approval of the prosecuting attorney.

(c) Employees will not obstruct an investigation or legal process by interfering or attempting to interfere with any legal process.

(d) Employees will consult with the investigator assigned to a suspect's original charge(s) before attempting to negotiate with that suspect to secure a more serious charge against another suspect.

## 900.5 RESPONSIBILITY TO CO-WORKERS

Cooperation among employees of the Department is essential to effective law enforcement.

(a) Employees are expected to treat each other with respect.

1. Employees will be courteous and civil at all times in their relationships, perform their duties in a cooperative and supportive manner, and not threaten, display physical aggression toward, or use insolent or abusive language with one another.
2. Employees will address one another by proper use of rank or title when on-duty and in the presence of the public.

(b) Employees will not discuss the identity or assignment of any employee serving in a confidential or covert assignment unless required to do so as a direct result of their official duties.

(c) Employees will not covertly record the conversations of other employees unless all persons being recorded are aware that they are being recorded and agree to be recorded. This does not apply to Department authorized criminal or administrative investigations, training modules, or MAV recordings from equipped APD vehicles.

(d) Employees must be cautious about speaking to plainclothes officers when in public so as not to inadvertently compromise their anonymity and place them in potential danger; therefore, employees will not address undercover/plainclothes officers, or call attention to their presence, unless first addressed by them.

(e) Employees will not reply to an outside request for a professional work reference for an active or past member of the Department; all work reference requests must be forwarded to APD-HR.

### 900.5.1 SUPPORTING FELLOW EMPLOYEES

(a) Employees will not knowingly aid, abet, or assist another Department member in violating any Department directive or order.

(b) Employees will cooperate, support, and assist each other at every opportunity.

(c) Employees will not publicly criticize the work or the manner of performance of duty of any other employee.

(d) Officers are required to take appropriate police action to aid, assist, and protect fellow employees in times of danger or under circumstances where danger might reasonably be impending.



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### 900.5.2 SYMBOLISM IN THE WORK AREA

(a) Work areas are not to be so adorned that it is difficult to conduct business.

(b) Symbols which are of an insulting, profane, and demeaning nature are not permitted.

(c) Wall area decor which is perceived to be offensive to any employee will be explained by the person displaying the symbolism. If the explanation does not satisfy the offended person, the Chief or designee will make the final decision as to whether or not the symbolism remains in the work area.

### 900.5.3 SEXUAL RELATIONSHIPS BETWEEN EMPLOYEES

Supervisors are not to engage in any sexual conduct with a subordinate in their direct chain-of-command. If a supervisor and a subordinate begin developing a relationship that is likely to involve sexual conduct, they are both responsible for arranging a transfer before engaging in any sexual conduct.

## 900.6 REQUIRED EMPLOYEE CONTACT AND EMERGENCY CONTACT INFORMATION

It is imperative the Department be able to immediately contact any employee for mobilization in the event of an emergency situation. The Department must also be able to identify an employee's next of kin or other designated emergency contact person in the event of a critical incident. Employees will not disclose the physical or mailing addresses, phone numbers, or pager number of another APD employee unless permitted by law.

### 900.6.1 EMPLOYEE CONTACT INFORMATION

The e-PIF (electronic personnel information on-line form) contains the employee's address, phone number, emergency contact, support contact, and religious affiliation. Employees are required to keep all information on their e-PIF current.

(a) Employees will update their e-PIF within 10 days of any change.

(b) If an employee has no physical address they will email a map with clear and detailed directions to the residence to APDHR@austintexas.gov. HR personnel will then attach this map to the employees record in the Master Work Schedule.

(c) Employees will list their telephone numbers to include home, pager, work, and cell (if receiving stipend).

1. Employees will maintain an operational phone capable of receiving and placing calls from their residence.
2. Employees receiving a cell phone stipend will ensure the phone is operational and available for use at all times.
3. Employees assigned a direct office phone number will use that number as their work number.
4. Employees who are not assigned a direct office phone number may use a generic phone number (e.g., 974-5000), or, with the permission of their supervisor, the supervisor's phone number.

(d) Sworn employees will list two APD employees to serve as their *Support Contact*. The *Support Contact* will represent the department when working with the employee's emergency contacts in the event the employee is involved in an emergency or critical incident.

(e) Employees will identify at least one emergency contact.



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(f) The e-PIF does not contain beneficiary information; beneficiary information is maintained by the City of Austin's Human Resources and Benefits Section.

### 900.6.2 SUPERVISOR RESPONSIBILITIES

The Department must have accurate information to facilitate the issuing of subpoenas and to locate personnel and their Chain of Command in a timely manner. Supervisors have been granted the access to make changes in the new Master Work Schedule System and should notify the Help Desk if they do not have this access. Supervisors will have 10 working days from the time an employee transfers into their unit or assignment to update the following information:

(a) Assigned and Working Division/Unit

(b) Assigned Supervisor

(c) Roster Variable Information (e.g. Call Sign, Radio Emergency ID, Beat/District, Vehicle) if applicable

(d) Skills and Capabilities (i.e., FTO, MHO, Bike, etc.)

Supervisors do not have the ability to create or update employee's schedules however they will review their employees schedule upon a transfer into their unit and will notify a scheduler if the information is not accurate. Schedulers are designated by the Department Managers. Schedulers will be responsible for the following:

(a) Creating New schedules

(b) Editing existing schedules

(c) Applying schedules to employee records

(d) Updating/Editing schedules applied to employee records

Additional Unit assignments (usually referred to as a Specialty Unit (i.e., SRT, CAST etc.) are maintained on the employee's record under Skills. Specialty Unit Supervisors are responsible for ensuring those assignments are accurate in the new Master Work Schedule.



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# Special Investigations

## 901.1 PURPOSE AND SCOPE

The mission of the Special Investigations Unit (SIU) is to investigate allegations of criminal misconduct that involve APD employees, public integrity cases involving other City employees, all Level 1 response to resistance incidents, certain in-custody deaths of APD prisoners, shootings by law enforcement officers from other agencies operating within the city of Austin, and any other criminal cases as directed by the Chief of Police or designee.

## 901.2 SCOPE OF INVESTIGATIONS

(a) SIU may conduct investigations on the following:

1. Allegations of criminal misconduct involving law enforcement officers and APD civilian employees.
2. Allegations of criminal misconduct by other City employees when the alleged offense falls into the category of public integrity.
   (a) The appropriate Investigative Unit (e.g., decentralized detectives, OCD) will investigate all criminal incidents by other City employees when the allegation has no bearing on public integrity.
3. Level 1 response to resistance incidents as described in Policy 211 (Response to Resistance Inquiry, Reporting, and Review) when an APD employee is involved. SIU will be the lead Investigative Unit in these incidents.
4. Death of an in-custody prisoner arrested by an APD officer.
   (a) Investigation of an in-custody death that occurs in a jail within 24 hours of booking by an APD officer will generally be lead by SIU.
   (b) Investigation of in-custody death that occurs in a jail more than 24 hours after booking by an APD officer will be investigated by the agency operating the jail; SIU will assist if requested.
5. Officer-involved shootings involving law enforcement officers from other agencies that occur within the jurisdiction of the Austin Police Department, in partnership with the involved law enforcement agency as directed by the Chief of Police or designee.
6. SIU may conduct proactive investigations when approved by the Chief of Police.

(b) Allegations of criminal offenses involving APD employees that would normally be investigated by SIU but occur outside of APD jurisdiction shall be referred to the law enforcement agency that has jurisdiction.

(c) Any APD unit may be utilized as an investigative resource to assist SIU in conducting major investigations involving any City employee. Operational confidentiality of such investigations is a priority and shall be maintained.

(d) When any APD unit initiates an operation or investigation and an APD employee becomes a suspect, SIU will be notified immediately. SIU will retain operational decision making authority during such investigations.



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## 901.3 CONCURRENT INVESTIGATIONS

### 901.3.1 ROLE OF INTERNAL AFFAIRS

(a) While the SIU is conducting an investigation involving APD employees, Internal Affairs (IA) will conduct a concurrent investigation into related policy violations as outlined in Policy 902 (Administrative Investigations).

(b) The SIU supervisor will coordinate the investigation with the IA supervisor to ensure the integrity of all investigations. Information and documents related to the criminal investigation will be made available to IA unless directed otherwise by the proper prosecutorial agency; however, to protect the integrity of both the criminal and administrative investigations certain documents and/or information may not be shared.

1. Grand Jury documents and testimony will not be made available to IA.
2. "Garrity" protected documents and information will not be made available to SIU.
3. Matters that clearly do not fall under the protection afforded by "Garrity" and the secrecy of the Grand Jury may be used in the criminal and administrative investigation in accordance with State and Federal Laws, Rules of Evidence, and Department policy.

### 901.3.2 ROLE OF THE CITY AUDITOR'S OFFICE AND HUMAN RESOURCE DEPARTMENT

When the SIU conducts a criminal investigation involving a city employee from another city department, the City Auditor's Office and the Human Resources Department may conduct an internal investigation into related policy violations. Information and documents related to the criminal investigation will not be made available to the City Auditor's Office or the Human Resources Department, except as authorized by the assistant chief of Investigations.

## 901.4 SPECIAL INVESTIGATIONS PROCESS

This section outlines the following:

(a) Notification of investigations.

(b) Investigation of offenses.

(c) Completed investigations.

(d) Misdemeanor charges and felony indictments.

### 901.4.1 NOTIFICATION OF INVESTIGATIONS

(a) When the SIU supervisor becomes aware of an incident within SIU's scope of investigation, he will electronically notify the assistant chief of Investigations through the chain-of-command. The following additional notifications may be made, as appropriate:

1. When an allegation of criminal misconduct involves an APD employee, the IA supervisor will be electronically notified. Involved employees' commanders/managers will be verbally notified as long as it will not compromise the investigation.
2. When an allegation of criminal misconduct involves a law enforcement officer from another agency, IA and/or the Chief of Police of the accused officer's agency will be notified unless the notification will compromise the investigation.



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(b) When IA initiates an allegation of criminal misconduct, the IA commander will electronically notify the assistant chief of Investigations.

1. After the preliminary facts have been gathered, the assistant chief of Investigations will brief the Chief of Staff to determine if a criminal investigation will take place. If the decision is made to open a criminal case, the assistant chief of Investigations will route the IA electronic notification to SIU through the Violent Crimes commander.

(c) When SIU intends to proactively initiate an investigation, the SIU supervisor will electronically notify the assistant chief of Investigations through the chain-of-command and outline the purpose of the investigation.

1. The electronic notification will request a review of the preliminary facts to determine if a criminal and/or IA investigation should be opened.
2. After the preliminary facts have been gathered, the assistant chief of Investigations will make a decision that reflects one of the following.
   (a) A criminal investigation is warranted and will be opened by the SIU.
   (b) No criminal investigation is warranted, however an IA investigation should be opened due to a possible policy violation.
   (c) No criminal or IA investigation is warranted based on the facts known.
3. A copy of the electronic notification will be retained in the case file by the SIU supervisor.
4. A copy of the electronic notification will be forwarded to IA if deemed appropriate by the assistant chief of Investigations or designee.

### 901.4.2 INVESTIGATION OF OFFENSES

(a) Class B misdemeanor and higher offense cases will be thoroughly investigated and routinely discussed with the Violent Crimes chain-of-command, and the District or County Attorney's Office as needed.

(b) Class C misdemeanors will be documented in a secured incident report and reviewed by the assistant chief of Investigations to determine if it will be further investigated.

1. If approved for criminal investigation the case will be assigned to an SIU Investigator and handled the same as a Class B or higher offense; however, the victim will be directed to the appropriate court to file a complaint.

(c) The involved officer, victim, or witnesses may be asked to conduct a re-enactment of the incident.

1. If the involved officer is participating in the re-enactment, he will be informed that the re-enactment is voluntary and will constitute a waiver of the officer's Fifth Amendment rights against self-incrimination. When possible, the re-enactment may be done prior to the conclusion of the on scene investigation.
2. Re-enactments can be videotaped by CSU personnel. The original tape will be marked as evidence and the SIU will maintain custody of the tape. The original, or copies, may be distributed to other department or law enforcement personnel only with the approval of the appropriate prosecutorial agency.

### 901.4.3 COMPLETED INVESTIGATIONS

The SIU supervisor will maintain a database of all cases investigated for tracking and statistical purposes.



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(a) Completed investigations on APD employees or officers from another agency will normally be routed up the Violent Crimes chain-of-command for review prior to case closure.

1. If the investigation clearly reveals that no criminal offense occurred, the report will be unfounded in accordance with Department policy.

2. SIU will present completed investigations that are not unfounded to the appropriate prosecutor.

(a) Misdemeanor charges that do not involve an abuse of official capacity or official oppression will be presented to the County Attorney's Office. The County Attorney's Office will determine if the facts of a case are sufficient for charges to be brought against the suspect or if prosecution will be declined.

(b) Felony charges and misdemeanor investigations involving an abuse of official capacity or official oppression will be presented to the District Attorney's Office. The District Attorney's Office will determine if the facts of a case will be presented to a Grand Jury or if prosecution will be declined.

(b) Notification of unfounded investigations and cases where prosecution is declined will be handled as follows:

1. The assistant chief of Investigations or designee will send written notification to the APD employee who was under investigation if the final status of a case is unfounded or prosecution is declined. This notification will be copied to the employee's chain-of-command.

2. The SIU supervisor will send written notification of the final status of a case if it is unfounded or prosecution is declined to:

(a) The appropriate Department director of a city employee who was under investigation; or

(b) The Chief of Police of a sworn officer from another agency who was under investigation.

### 901.4.4 MISDEMEANOR CHARGES AND FELONY INDICTMENTS

Notification of cases resulting in misdemeanor charges and felony indictments will be handled as follows:

(a) The SIU supervisor will immediately notify the Violent Crimes chain-of-command when it is learned that a case is to be presented to the Grand Jury by the District Attorney's Office or when misdemeanor charges are being brought by the County Attorney's Office.

(b) The SIU supervisor will immediately notify the SIU chain-of-command when an APD employee is charged with a misdemeanor or indicted on felony charges.

1. The assigned Investigative Unit detective and/or supervisor will make arrangements for the suspect to be arrested.

2. The Investigative Unit supervisor will coordinate with the SIU chain-of-command and APD PIO to have a press release ready should there be media inquiries.



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## 901.5 ARREST AND RELEASE OF APD EMPLOYEES AND OTHER AGENCY SWORN OFFICERS

### 901.5.1 ARRESTS OF APD EMPLOYEES AND SWORN OFFICERS FROM OUTSIDE AGENCIES

(a) The SIU supervisor will be immediately notified of any criminal incident involving an APD employee or sworn officer from another law enforcement agency.

1. The role of the SIU supervisor is to initiate an immediate investigation into the facts of the case, not to determine whether an arrest should be made.
2. The SIU supervisor will normally respond to the scene of the incident unless the incident is of a nature that would not warrant the response.

(b) Officers making custody arrests will follow the guidelines set out in Department policy for arrest and booking. SIU investigators will be assigned the case and follow the guidelines set out in Department policy for follow-up investigations.

### 901.5.2 RELEASING WITHOUT FILING CHARGES OR FILING LESSER CHARGES

Approval by the commander of Violent Crimes or Duty Commander is required to release an APD employee or officer from another agency without filing charges or to charge the employee or officer with a lesser offense. The name of the commander authorizing a change in the filing of charges will be noted in a supplement to the incident report.

(a) When authorized by a commander, an arrested person will be released without being charged or will be charged with a lesser offense when:

1. A magistrate declines to accept the probable cause affidavit.
2. An Assistant District or County Attorney advises prosecution will be declined.
3. The complainant or victim refuses to file charges or assist with prosecution. However, the District or County Attorney may proceed with prosecution without the cooperation of the victim, such as in family violence cases.
4. The written report by the arresting officer does not include sufficient probable cause for the arrest, or fails to establish that a crime occurred.
   (a) The assigned detective will attempt to contact the arresting officer prior to releasing the prisoner to obtain additional probable cause or information.
   (b) If the detective is unable to contact the arresting officer, the prisoner may be released pending further investigation.
5. After investigation by the assigned detective, there is insufficient probable cause to support charging the arrested person.
6. Filing charges may jeopardize prosecution of a more serious offense.
7. The arrested person is willing to assist detectives and can provide specific information that will solve a more serious offense or numerous equal offenses.
8. Considering all available information, the facts will not support the original offense, but do support the filing of lesser charges.

## 901.6 CONFIDENTIALITY

(a) All investigations conducted by the SIU are of a confidential nature. No member of SIU will disclose information gained from their official duties as Department employees to



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persons not connected with SIU, Internal Affairs, or to persons who have no legitimate need to know.

(b) Reports investigated by the SIU are secured in the computer reporting system to prevent viewing by unauthorized individuals. These reports can be unsecured by a SIU supervisor when there is no longer a need to secure them from viewing.

## 901.7 RELEASE OF INFORMATION

The Chief of Police and designees are the only personnel authorized to release information to the news media. No information will be released that will interfere with or prevent the apprehension and prosecution of the suspect(s) during an on-going investigation.

(a) The name of the suspect will not be released until the charges have been filed.

(b) A photograph of an employee charged with a criminal offense will not be released to the news media without the approval of the assistant chief of Investigations.



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# Administrative Investigations

## 902.1 PURPOSE AND SCOPE

This document establishes the required process for the administrative investigation of alleged employee misconduct by Internal Affairs and the employee's chain-of-command. It also outlines the imposition of fair and equitable disciplinary action when misconduct is identified. Investigations conducted by APD Human Resources is governed by City Personnel Policies.

This document does not supersede any rights or privileges afforded civilian employees through City Personnel Policies or sworn employees through the Meet and Confer Agreement, nor does it alter or supersede the powers vested in the Civilian Oversight Process of the Austin Police Department (APD) through that Agreement. In addition, nothing in this document limits or restricts the powers vested in the Chief of Police as the final decision maker in all disciplinary matters.

### 902.1.1 ADMINISTRATIVE INVESTIGATIONS OVERVIEW

The following is a broad outline of the internal administrative investigation process from start to finish. Each section of this policy will go into more detail of the process associated with investigating administrative complaints.

(a) *Complaint Acceptance* - Complaints are accepted as outlined in this policy and forwarded to Internal Affairs (IA). Once IA receives a complaint it will be entered into the electronic case tracking system.

(b) *Complaint Assessment and Classification* - IA will give the complaint an initial classification level. This classification shall determine whether the complaint requires investigation and, if so, who shall conduct the investigation.

(c) *Complaint Investigation* - Complaints that require further investigation may be handled as follows:

1. Allegations of criminal conduct require concurrent investigations by both IA and the Special Investigations Unit (SIU) or outside agency holding jurisdiction over the incident.
2. Allegations of administrative policy violations may be investigated by IA, the employee's chain-of-command and/or APD-HR.

(d) *Complaint Disposition* - Once the complaint has been investigated by the appropriate investigative Unit or Command, the involved employee's commander shall recommend a disposition for the case. If the case receives a disposition of "sustained" it shall go through the discipline process. For all other dispositions the case shall be closed and filed.

(e) *Discipline Process* - If the disposition of a complaint is "sustained" then the commander of the employee shall recommend the level of discipline based on the guidelines set forth in this policy and the Discipline Matrix. Depending on the amount of discipline to be imposed, this may lead to a Discipline Meeting (DM) or a Dismissal Review Hearing (DRH). The Chief of Police is the final decision maker on all levels of discipline.



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### 902.1.2 DEFINITIONS

**Administrative Investigation** - An investigation of alleged misconduct by an APD employee that could result in disciplinary action. These may be conducted by:

(a) APD Internal Affairs (IA).

(b) Employee's chain-of-command.

(c) APD-Human Resources (APD-HR) or City-Human Resources (City-HR).

(d) The City Auditor's Office.

(e) An independent investigator appointed by the Chief or their designee and/or the City Manager.

**Classification** - Level of designation for a complaint to determine how it is investigated (e.g. "Class A", "Class B", "Supervisor Referral").

**Commander in Charge** - Generally, the commander over the employee who is the subject of an investigation. In Class B complaints, the commander in charge shall designate the investigative supervisor, determine the final disposition of a complaint and recommend discipline for "Sustained" complaints.

**Complainant** - A person claiming to be the victim or witness of misconduct by an officer (generally, Tex. Local Gov't Code § 143.123 and 143.312).

**Complaint** - Any affidavit, administrative referral, or other document setting forth allegations or facts that may form the basis of future allegations of misconduct against an officer and which serves as the basis for initiating an investigation.

**Criminal Investigation** - An investigation of alleged criminal conduct by an APD employee. These investigations are generally conducted internally by SIU. When there is an allegation of criminal conduct, a concurrent administrative investigation shall also be conducted by IA.

**Critical Incident** - For purposes of administrative investigations, the term "critical incident" shall have the meaning as agreed upon in the Meet and Confer Agreement:

(a) An alleged use of force or other action by an Austin Police Officer that directly results in serious bodily injury or death (The definition of "serious bodily injury" found in the Texas Penal Code, Section 1.07(a)(46) will apply); or

(b) A death in custody; or

(c) An officer involved shooting.

**Disciplinary Action** - A temporary suspension, indefinite suspension, demotion in rank, reprimand, or any combination of those actions.

**Discipline Meeting (DM)** - A meeting generally conducted by an employee's chain-of-command on "Sustained" complaints to determine the level of discipline an employee is going to receive. A Discipline Meeting is only held for discipline not to exceed a 15 day suspension.

**Dismissal Review Hearing (DRH)** - A meeting generally conducted by the Chief of Police or designee on allegations that have been recommended to be "sustained" to determine the amount of discipline, if any, the employee is going to receive. A Dismissal Review Hearing is only held when discipline may exceed 15 days, up to and including indefinite suspension, and/or demotion in rank.



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**Disposition** - The final determination of how a complaint is closed (e.g. "Sustained", "Unfounded", "Administratively Closed").

**Evidence** - Any statements, reports, records, recordings, documents, computer data, text, graphics, videotape, photographs, or other tangible forms of information, including a complaint.

***IA External Complainant Contact Form* (PD0084)** - A form used to document an external complaint on an employee. This is generally used by supervisors who are attempting to handle minor complaints prior to notifying Internal Affairs.

***IA Internal Complaint Memo* (PD0081)** - A form used to initiate an internal complaint on an employee.

**Internal Affairs Case Management System (ICMS)** - The electronic system used to enter and track all complaints received by Internal Affairs and the Office of the Police Monitor.

**Investigator** - An agent or employee of the Department or an Independent Investigator who participates in conducting an investigation.

**Statement -** Any oral or written communication setting forth particulars or facts regarding the alleged misconduct under investigation.

**Supervisor** - References made to a supervisor in this policy do not include the rank of corporal unless they are the acting sergeant.

## 902.2 COMPLAINT ACCEPTANCE PROCESS

Complaints may be initiated internally or externally. This process outlines how each type of complaint is properly documented and handled.

### 902.2.1 AVAILABILITY OF COMPLAINT FORMS

The most current versions of the *IA External Complainant Contact Form* (PD0084) and *IA Internal Complaint Memo* (PD0081) shall be maintained on the "Public Drive" in the "Approved Forms" folder.

### 902.2.2 INTERNALLY INITIATED COMPLAINTS

This process does not prevent an employee from directly notifying a supervisor of an issue they feel needs to be addressed. Supervisors who receive information of an internal complaint shall follow the guidelines set forth in the initial supervisor responsibility section of this policy.

(a) The following is a list of the most common avenues for initiation of internal complaints:

1. Possible misconduct of an employee learned of or observed by any department employee.
2. A complaint initiated by an employee's chain-of-command.
3. Administrative inquiry at the direction of the Chief of Police.

(b) All internal complaints must meet the following documentation requirements and be processed accordingly:

1. Civilian Employees: Complaint affidavits that are received in IA from a civilian employee must be in writing, signed by the person making the complaint, sworn to and notarized.



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2. Sworn Employees: Complaints filed by an officer shall be on an *IA Internal Complaint Memo*. They may be emailed, faxed or personally delivered to IA.
3. Any commander may initiate an internal investigation of any officer under his or her command provided the information indicating the complaint meets the criteria for a Class B complaint. The commander initiating the investigation shall provide IA with a completed *IA Internal Complaint Memo* describing the basic facts of the case, providing enough information for the case to be entered into the electronic case tracking system. Complaints that do not meet the Class B qualifications shall be handled by the normal complaint assessment, classification and investigation process.

### 902.2.3 EXTERNALLY INITIATED COMPLAINTS

Under the Meet and Confer Agreement, the Office of the Police Monitor (OPM) is the primary, but not exclusive, location for accepting administrative complaints of alleged officer misconduct from the public.

(a) The following is a list of the most common avenues for initiation of written and verbal external complaints:
   1. Complaint made directly to any department employee or supervisor, either in person, by mail or via phone.
   2. Complaint made through the OPM.
   3. Complaint made directly to IA.

(b) All external complaints must meet the following documentation requirements and be processed accordingly:
   1. **Written complaints**
      (a) Complaint affidavits received from citizens outside the Department must be in writing, signed by the person making the complaint, notarized, and sworn.
      (b) Complaint letters received by any member of the department (other than IA) shall be faxed or personally delivered to IA.
   2. **Verbal complaints (in person or by telephone)**
      (a) Civilian employees receiving an alleged minor nature complaint against an officer should refer the citizen directly to the OPM.
      (b) Sworn employees receiving an alleged minor nature complaint against an officer should request a supervisor to respond to the scene. If a supervisor is not available, or if the complainant is not able to wait for a supervisor, the officer shall obtain the citizens contact information and forward it to a supervisor. The supervisor may handle the complaint as outlined in the Initial Supervisor Responsibility section.
   3. **Complaints of a serious nature require the immediate notification of an available supervisor. Serious complaints must be initially investigated by the rank of Sergeant or above.**

### 902.2.4 ANONYMOUS COMPLAINTS

Employees may be investigated based on an anonymous complaint if the employee receiving the anonymous complaint certifies in writing, under oath, that the complainant



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wishes to be anonymous. Anonymous complaints shall be treated as an internal complaint for documentation purposes.

### 902.2.5 INITIAL SUPERVISOR RESPONSIBILITY

Unless a complaint is submitted directly to the OPM or IA, the initial response to an internal or external complaint shall generally rest with the employee's immediate supervisor.

(a) Supervisors investigating a complaint shall adhere to the following guidelines:

1. If the incident is force related, follow the guidelines set forth Policy 211 (Response to Resistance Inquiry, Reporting, and Review).
2. Supervisors shall ensure the procedural rights of the accused employee are followed pursuant to state and federal law as well as the Meet and Confer Agreement.
3. During the preliminary investigation of any complaint, supervisors should make every reasonable effort to obtain names, addresses, and telephone numbers of additional witnesses.

(b) **Allegations of a Minor Nature:**

1. Supervisors notified of a minor complaint are required to contact the complainant within one (1) calendar week of the time the complaint was received and attempt to resolve the issue.
2. After attempting to resolve any minor complaint, supervisors shall ensure that an *IA External Complainant Contact Form* has been completed as fully as possible and should indicate whether the complainant was satisfied. Forms will be emailed to Internal.Affairs@austintexas.gov.
   (a) Minor complaints that are marked as "satisfied" on the form shall be entered into the IA Tracking Database as information and marked as closed.
   (b) Minor complaints that are marked as "not satisfied" on the form shall be entered into the IA Tracking Database and will follow the normal complaint assessment, classification and investigation process as outlined in this policy. If a complainant is not satisfied, supervisors shall refer the complainant to the OPM.

(c) **Allegations of a Serious or Criminal Nature:**

1. **Allegations of a serious or criminal nature shall be initially investigated by a supervisor the rank of sergeant or above.**
2. Supervisors receiving a complaint involving allegations of a potentially serious administrative nature shall notify an IA investigator as soon as possible. Serious administrative allegations include, but are not limited to:
   (a) Serious violations of a policy, rule, or regulation.
   (b) Conduct that challenges the integrity, good order, or discipline of the Department.
3. A supervisor receiving a complaint involving allegations of a criminal nature shall notify the following personnel as soon as possible:
   (a) The Watch Lieutenant.
   (b) The Duty Commander.



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(c) An SIU supervisor.

(d) An IA investigator.

(e) The involved employee's chain-of-command.

## 902.3 COMPLAINT CLASSIFICATION AND INVESTIGATIVE ASSIGNMENT PROCESS

When a complaint is received by IA it will undergo an initial assessment. Based upon this initial assessment, IA shall determine whether further investigation is warranted and designate a classification level for the complaint. IA shall enter the complaint into the IA electronic case tracking system and the complaint information will be forwarded to the OPM. All initial classifications are subject to approval by the IA commander or designee.

If facts uncovered during an investigation indicate that a more serious offense than originally alleged may have occurred, the case may be reclassified and reassigned to the appropriate unit or command with investigative responsibility. Conversely, any case may also be reclassified as a lower classification and reassigned if the facts warrant. All case reclassifications shall be mutually agreed upon between the IA commander and the commander in charge. If agreement cannot be reached the final decision shall be made by the Chief of Staff or designee. Nothing precludes any case being initially assigned to the Internal Affairs unit for investigation, regardless of the potential discipline involved.

### 902.3.1 COMPLAINT CLASSIFICATION AND INVESTIGATIVE ASSIGNMENT TABLE

The following table outlines who has investigative responsibility for each classification level.

| CLASSIFICATION | ASSESSMENT | INVESTIGATIVE RESPONSIBILITY |
|---|---|---|
| Administrative Inquiry | An inquiry into a critical incident, or other incident, ordered by the Chief or designee. Inquiries are generally for issues that could destroy public confidence in, and respect for, the Department or which is prejudicial to the good order of the Department. | Administrative inquiries will be assigned to the appropriate Unit or Division based on the circumstances surrounding the inquiry. |
| Class A Complaint | Cases in which the potential discipline is more than a 15-day suspension, indefinite suspension and/or demotion according to the Discipline Matrix. Generally, Class A complaints are allegations of a serious nature, which include, but are not limited to:<br>*Criminal conduct.*<br>*Serious violations of a policy, rule, or regulation.* | Class A complaints are investigated by IA. Complaints that involve allegations of criminal conduct are also concurrently investigated by SIU as outlined in Policy 901. |



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| | | |
|---|---|---|
| | *Conduct that challenges the integrity, good order, or discipline of the Department.* | |
| Class B Complaint | Cases in which the potential discipline is a 15-day suspension or less. Generally, Class B complaints are allegations of a less serious nature, which include, but are not limited to:<br>*Less serious violations of a Department policy, rule or regulation (e.g., profanity, belittling language, inadequate police service, minor traffic violations).*<br>*Negligent damage or loss of property.*<br>*Negligent crashes as outlined in the Department's Collision Policy.* | Class B Complaints will be referred to the involved employee's chain-of-command for investigation and follow the guidelines set in this policy. The OPM has full access rights to Class B investigations that are conducted by an employee's chain-of-command. There are also two alternative ways to handle Class B investigations:<br>*Officer Final Classification Agreement (OFCA)*: For qualified Class B Complaints, an eligible employee may elect this process to speed up the investigation and discipline process.<br>*Mediation*: For qualified External Class B Complaints only, an eligible employee and complainant may elect to mediate in lieu of a formal investigation. |
| Class C Complaint | Generally, allegations that:<br>*Do not fit into the Class A or Class B category,*<br>*The complaint does not rise to the level of a policy violation, and*<br>*The complaint would best be handled through other departmental processes (e.g., grievance, performance improvement plan (PIP), training).* | Class C complaints will be reviewed by the IA commander and the employee's chain-of-command. If all of the parties agree with the initial Class C classification, the complaint will be "administratively closed". If it is determined that additional investigative followup is needed, the complaint may be reclassified and investigated according to its new classification. |



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| | | |
|---|---|---|
| Class D Complaint | Allegations that do not rise to the level of a policy violation and meet one or more of the following criteria:<br>*A preliminary review of the allegation shows it is not true (e.g., video or audio recording shows allegation is false), and/or the complaint is about the probable cause for an arrest or citation that appears to be unsubstantiated.* | Class D complaints will be reviewed by the IA commander and the employee's chain-of-command. If all of the parties agree with the initial Class D classification, the complaint will be "administratively closed". If it is determined that additional investigative followup is needed, the complaint may be reclassified and investigated according to its new classification. |
| Supervisor Referral | An incident where no formal complaint affidavit has been received by IA, however the complainant requests that the issue be brought to the attention of a supervisor. These informal complaints are made directly to IA and/or the OPM. | If IA/OPM receives this informal complaint from a citizen, it will be forwarded to the appropriate supervisor and chain-of-command for its followup and response.<br>Supervisor referrals are entered into the IA tracking system for documentation purposes only and not for disciplinary purposes. |
| Information Incident | An incident where no apparent policy violation has been committed and a signed affidavit has not been received.<br>Information incidents may also be from complaints that are brought to the direct attention of a supervisor, handled satisfactorily and documented on an *IA External Complainant Contact Form.* | Complaints documented using the *IA External Complainant Contact Form* will be forwarded to IA with a notation that the complaint either was/was not handled satisfactorily. Satisfactorily handled complaints will be marked as "Information."<br>Information incidents are entered into the IA tracking system for documentation purposes only and not for disciplinary purposes. |

## 902.4 COMPLAINT INVESTIGATION

After IA has received, classified and entered a complaint into ICMS, the complaint will be assigned to the unit or command with appropriate investigative responsibility based on the classification level. Minor nature complaints that have been satisfactorily handled by a supervisor will be entered into ICMS and closed as "information."

### 902.4.1 COOPERATING WITH ASSIGNED INVESTIGATORS

(a) Employees will cooperate with any assigned investigator as if they were addressing the Chief. Employees who fail or refuse to cooperate with an assigned investigator will be subject to disciplinary action, up to and including indefinite suspension.



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(b) Honesty is of the utmost importance in the police profession. Employees are expected to be truthful at all times during interviews with investigators as outlined in Policy 900 (General Conduct).

1. Employees who are found to have given a false official statement are subject to indefinite suspension as outlined in the Discipline Matrix ("Dishonesty - False Official Statements").
2. There may be cases where officers have not been truthful but the dishonesty does not constitute a false official statement. In those situations, the Chief shall consider each case on a fact specific basis and may decide that corrective action other than indefinite suspension is warranted as outlined in the Discipline Matrix ("Neglect of Duty - Misleading Statements").

### 902.4.2 WITHDRAWN COMPLAINTS

(a) If the complainant withdraws their complaint or refuses to further cooperate with the administrative investigation, the investigation may be closed as incomplete.

(b) If the nature of the allegations can be sufficiently determined without the assistance of the complainant, the investigation shall proceed and be completed as normal.

## 902.5 ALLEGATIONS OF CRIMINAL CONDUCT

When employees are accused of potential criminal conduct, SIU shall be assigned to investigate the criminal allegations as outlined in Policy 901 (Special Investigations) apart from any administrative investigation. This section explains how IA and SIU work together in concurrent investigations.

### 902.5.1 CONCURRENT CRIMINAL AND ADMINISTRATIVE INVESTIGATIONS

The Chief will normally allow the administrative investigation and/or disciplinary action to proceed prior to the final (legal) disposition of any criminal investigation of an employee.

Internal Affairs will proceed with a concurrent investigation in cases involving a policy violation. SIU and IA shall coordinate their investigations and make a joint determination concerning whether involved officer(s) and witnesses should be initially interviewed by SIU or IA. Supervisors and assigned investigators from SIU and IA will regularly communicate on the joint progress of their investigation and share information expeditiously as allowed by law.

A supervisor from SIU shall be the Department's liaison with the prosecutor's office concerning any criminal investigation. The IA investigator or supervisor will not contact the prosecutor unless authorized to do so by the Chief or designee.

### 902.5.2 INFORMATION AND EVIDENCE SHARING BETWEEN IA AND SIU

The following criteria shall dictate the sharing of information/evidence between the administrative and criminal investigations:

(a) Representative(s) from IA will not normally be present during any criminal interview of an APD employee conducted by the SIU.

(b) All evidence obtained during the criminal investigation shall be shared with the administrative investigator, to the extent allowed by law. The SIU investigator shall consult with the prosecutor concerning the appropriate time to release this information to the administrative investigator.



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1. Investigative information received though a Grand Jury subpoena or testimony shall not be released or shared with Internal Affairs.

(c) All evidence obtained during the administrative investigation, except for Garrity related materials, may be shared with the criminal investigator and/or prosecutor, to the extent allowed by law. The IA legal advisor shall review all potential Garrity related material prior to authorizing its release.

1. **Garrity Related Materials -** Garrity related materials are the result of an administrative order requiring an employee to give evidence or statements as a condition of continued employment. This includes, but is not limited to:
   (a) Sworn statements provided by the accused employee.
   (b) The results of a Department ordered polygraph.
   (c) The results of a Department ordered blood and/or breath test.
   (d) Cellular telephone records.
   (e) Credit card receipts.
   (f) Medical records.

2. Except as provided herein, Garrity related materials obtained during the administrative investigation shall not be provided to a criminal investigator and/or prosecutor unless:
   (a) The employee who is the subject of the administrative investigation authorizes its release.
   (b) The evidence relates to a false statement, given under oath by the employee, which may constitute perjury or aggravated perjury.
   (c) In response to a lawful subpoena.

(d) Investigative information shall be shared with IA in a timely manner. When a criminal investigation has been completed, the assigned SIU investigator will notify the IA investigator conducting the administrative investigation of the final status of the criminal case.

(e) When a criminal investigation is released to IA by SIU, an inventory sheet of the received items shall be completed by the SIU investigator and signed by the IA detective accepting the documents. SIU shall maintain a copy of the inventory sheet for their case files.

### 902.5.3 180 DAY INVESTIGATION TIME FRAME

Generally, in order for a sworn employee to be temporarily suspended, demoted, or indefinitely suspended for allegations based on a criminal nature, an investigation must be completed and discipline imposed within 180 days from **the date the Department discovers the allegation**, provided that the officer is still subject to prosecution under the applicable criminal statute of limitations.

(a) If a prosecutor notifies the SIU supervisor that taking disciplinary action will jeopardize the criminal investigation, the Chief or designee shall decide whether to notify the Attorney General of his or her intent to take disciplinary action outside of the 180 day statutory period. Notification to the Attorney General is authorized only when the following criteria have been met:

1. The Chief or designee, at the time of the filing of the notice with the Attorney General, intends to indefinitely suspend the officer; and



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2. The prosecutor has notified the Chief or designee that a delay in imposing an indefinite suspension is necessary to protect a criminal investigation; and
3. The Chief or designee consults with the IA legal advisor concerning the propriety of filing the notice to the Attorney General.

## 902.6 ADMINISTRATIVE INVESTIGATION GUIDELINES

Generally, in order for a sworn employee to be temporarily suspended, demoted, or indefinitely suspended for allegations of an administrative nature, an investigation must be completed and discipline imposed within 180 days from **the date the incident occurred**.

The assigned investigator shall follow the rules established by Civil Service Law (generally, Tex. Local Gov't Code § 143.312) and the Meet and Confer Agreement between the City and the Austin Police Association (APA). This includes:

(a) Investigators shall prepare and furnish a written *Notice of Allegations* which explains the nature of the complaint to the accused officer not less than 48 hours before beginning the initial interview of an accused officer.

(b) Regardless of who is responsible for investigating the complaint, investigators:

1. Shall be one rank higher than the officer subject to the investigation unless otherwise authorized by the Chief or designee.
2. Shall not be a person who is the complainant, the ultimate decision maker regarding disciplinary action, or a person who has any personal involvement regarding the alleged misconduct.

(c) Interviews of accused employees shall be conducted during business hours. If the employee is normally off-duty during that time the employee shall be compensated.

1. Off-duty interviews should only be conducted based on the seriousness of the investigation and other factors where time is of the essence.

(d) Investigators may not interview employees at their home without the employees' prior permission.

(e) Employees who are the subject of an investigation have the right to be informed of the identity of every person who will be participating in any interview of the employee. No more than two interviewers should ask questions to prevent any confusion or misunderstanding.

1. If a representative from the OPM is present at the interview they may not directly ask questions to employees. OPM representatives may consult with an investigator outside of the interview room if they want something asked or clarified. It is at the discretion of the investigator as to the appropriateness of the question.

(f) All interviews shall be for a reasonable period and the employee's personal needs shall be accommodated.

(g) Employees shall not be subjected to offensive or threatening language, nor shall any promises, rewards or other inducements be used to obtain answers. Employees refusing to answer questions directly related to the investigation may be ordered to answer questions administratively or be subject to discipline for insubordination. However, nothing administratively ordered may be provided to a criminal investigator.

(h) Employees subject to a "do not discuss" order may only discuss details of an investigation with the people designated in the order.



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1. In order to maintain the integrity of each individual employee's statement, multiple employees subject to the same investigation may not discuss the details with each other. Multiple involved employees may not collectively meet with a representative or attorney to discuss details of an incident prior to being interviewed.

(i) Absent circumstances preventing it, interviewers should record all interviews of employees and witnesses. Employees may also record the interview if they notify the investigator of their intent to record.

(j) Employees who have been previously interviewed shall have a copy of the recorded interview made available to listen to prior to any subsequent interview and/or when they are reviewing their transcribed statement.

1. Employees who are reviewing their statement may only make grammatical changes. Changes in content must be done through a follow-up interview or memorandum.
2. Employees shall be required to sign their transcribed statement as it reflects the actual interview.

(k) Sworn employees subjected to interviews that could result in disciplinary action shall have the right to have an attorney present during the interview to observe only. Civilian employees may have either an attorney or union representative (not both) present during the interview to observe only. Any failure to adhere to this observation rule may result in removal of the attorney or union representative from the interview room. Witness or complainant employees are not permitted to bring a representative into the interview.

### 902.6.1 ADMINISTRATIVE INVESTIGATION TOOLS

The results of any compelled technique shall be restricted to the administrative investigation. When civilian employees are the subject of an investigation, the IA Legal Advisor must be consulted prior to utilizing any of the following investigative tools.

(a) Sworn employees of this department may be administratively ordered by the Chief or designee to submit to:

1. A blood, breath or urine test for alcohol and drugs.
2. A polygraph examination under the conditions set forth in Tex. Gov't Code § 614.063.
3. A psychological evaluation.
4. Other medical or laboratory tests as deemed necessary.
5. Conduct a video re-enactment.
6. Be photographed.
7. Participate in a physical lineup.
8. Produce documents reasonably related to an investigation (e.g. financial documents, credit reports, phone records).
9. Other administrative orders, as necessary.

(b) Employees may be compelled to disclose personal financial information pursuant to proper legal process if such information tends to indicate a conflict of interest with official duties or if the employee is assigned to or being considered for a special assignment with a potential for bribes.



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(c) Employees shall have no expectation of privacy when using telephones, computers, radios, desks, filing cabinets, lockers, or any other type of equipment or storage space provided by the Department. An investigative search of departmentally assigned areas (e.g., desks, lockers, office space, assigned vehicles) may be conducted upon a suspicion that official misconduct is involved.

### 902.6.2 INVESTIGATIONS HANDLED BY INTERNAL AFFAIRS

Investigations handled by IA shall adhere to the investigative guidelines set forth in this policy and the Internal Affairs SOP.

(a) Once IA has completed their investigation they shall give the involved employee's commander access to the case file. The commander shall recommend a disposition for the allegation based upon a preponderance of the evidence. Disposition guidelines are outlined in Section 902.7.

1. If the recommended disposition is "sustained," commanders shall follow the guidelines for administration of discipline as described in Section 902.9 and inform IA of the recommended discipline based on the Discipline Matrix.
2. If the disposition of all allegations is something other than "sustained", commanders shall notify IA who will then close the case.

(b) IA shall notify the employee of the results of the investigation on Department memorandum.

### 902.6.3 INVESTIGATIONS HANDLED BY EMPLOYEE'S CHAIN-OF-COMMAND

(a) Assignment to Command

1. For investigations conducted by an employee's chain-of-command, the commander of the employee shall be designated as the commander in charge of the investigation. The command that the subject officer is currently assigned to will normally conduct the investigation, even if the allegation of misconduct occurred in a prior command. The commander in charge shall receive an investigative packet from IA containing all evidence relating to the complaint, all required forms and an investigative template.

(b) Appointment of Investigative Supervisor

1. The commander in charge shall appoint a sworn supervisor to be the investigator. The investigator must be the rank of sergeant or above and at least one rank higher than the employee being investigated. The investigating supervisor may not be the complainant or have personal involvement in the alleged misconduct under investigation.

(c) Investigation Guidelines

1. These investigation guidelines shall be followed in addition to the items in Section 902.6:

   (a) Investigations handled by an employee's chain-of-command shall be conducted in as timely a fashion as possible, but not more than 60 calendar days from the receipt of the case by the commander in charge from IA. Commanders shall be mindful of the 180-Day limitation period for the administration of final discipline. IA shall track the progress of investigations and will regularly inquire into the status of the investigation.



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(b) The investigative supervisor shall coordinate the scheduling of witness, complainant, and officer interviews with the OPM so that OPM personnel are afforded the opportunity to be present for the interview. The investigator shall make every reasonable effort to provide the OPM with at least 48 hours advance notice of all scheduled interviews. Interviews shall be conducted between the hours of 7:00 a.m. and 7:00 p.m., Monday - Friday, at the Office of the Police Monitor unless otherwise directed by the Chief of Police.

1. All interviews of the witness, complainant and/or officer (both in person and telephonic) conducted in relation to the investigation shall be audio recorded electronically. These electronic files shall become part of the investigation. The investigative supervisor shall notify IA if the recordings require transcription.

2. Employees may also audio record the interview if they notify the investigative supervisor of their intent to record.

(d) Completion of Investigation

1. Upon completion of an investigation, the commander in charge shall recommend a disposition for the allegation based upon a preponderance of the evidence. Disposition guidelines are outlined in Section 902.7.

2. If the recommended disposition is sustained, the commander in charge shall follow the guidelines for administration of discipline as described in Section 902.9 and inform IA of the recommended discipline based on the Discipline Matrix.

3. The commander in charge shall forward the completed case file, and recommended disposition and discipline (if applicable) to IA. IA shall review the case file for:

(a) Completeness.

(b) Adherence to established policies and procedures for the conduct of internal investigations as outlined in this policy.

(c) Appropriateness of the scope of the investigation (e.g., policy, procedure).

(d) If discipline is recommended, IA shall ensure that it fits within the parameters specified in the Discipline Matrix. If discipline is not specified in the Matrix, or is fact specific, IA shall ensure it is consistent with past discipline for similar violations imparted under the Discipline Matrix.

4. If IA believes that more investigative work is needed after reviewing the packet, the case shall be returned to the commander in charge with recommendations for follow-up. If the commander in charge does not agree with IA, the final decision shall be made by the Chief of Staff or designee.

5. Once the completed investigation has been reviewed and approved by IA, it shall be routed as follows:

(a) A copy of the case shall be electronically forwarded to the OPM.

(b) If any allegations are given a disposition of sustained, the commander in charge shall be responsible for providing the subject officer with a written *Notice of Sustained Allegations* and administer the recommended discipline as described in Section 902.9.



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(c) If the disposition of all allegations is something other than sustained, the commander shall be notified that the case is closed. IA shall notify the employee of the results of the investigation on Department memorandum.

(d) All original documents shall be maintained in IA per the record retention guidelines.

### 902.6.4 INVESTIGATIONS HANDLED THROUGH THE OFFICER FINAL CLASSIFICATION AGREEMENT

The Officer Final Classification Agreement (OFCA) is an option available to officers who wish to shorten the investigative and discipline process time for minor complaints meeting the criteria specified below.

(a) Minor nature complaints shall be reviewed by an IA lieutenant and/or commander to determine if the complaint falls into an eligible category for OFCA. If the complaint falls within an eligible category, an IA lieutenant shall review the officer's complaint history to determine if there are any patterns of behavior or serious allegations which would eliminate them from eligibility.

(b) The following guidelines shall be used to determine which complaints may be eligible:

1. **Class B INTERNAL complaints** that involve less serious violations of Department policies or procedures where the Matrix guidelines allow for discipline not greater than three (3) days may be eligible. Examples include, but are not limited to:

   (a) Failure to Qualify.

   (b) Accidental Discharge.

   (c) Pursuits.

   (d) Officer Involved Collisions.

2. **Class B EXTERNAL complaints** that involve less serious violations of Department policies, or procedures where the Matrix guidelines allow for discipline not greater than a written reprimand may be eligible. Examples include but are not limited to:

   (a) Allegations of profanity and/or inappropriate language.

   (b) Allegations of inadequate police service.

   (c) Allegations of rudeness.

3. Class A, C and D complaints are not eligible.

4. An officer with 2 or more complaints of a similar nature within the previous 12 months is not eligible for the OFCA for similar subsequent violations.

(c) If the officer is found to be eligible for OFCA, IA shall simultaneously notify the officer's chain-of-command and the OPM of said determination. If the officer's Commander agrees that the officer is eligible then the officer shall be offered this option when they are served with their *Notice of Allegations*. Officers agreeing with the complaint and wanting to invoke their OFCA option may do so by submitting a memorandum along with a signed OFCA form to IA within 48 hours of receiving the *Notice of Allegations*.

(d) By accepting the OFCA, the officer is accepting responsibility for their actions and the complaint shall receive a final disposition of sustained. The officer will not receive discipline exceeding a three (3) day suspension for internal complaints or a written reprimand for external complaints. These cases are not subject to additional



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investigation unless new information is received that indicates a more serious policy violation may have occurred. OFCA's should be completed within 20 days of the date the investigation is assigned to the chain-of-command. If an OFCA is invoked, the **10 business days** time frame for the administration of discipline does not apply.

### 902.6.5 INVESTIGATIONS HANDLED THROUGH MEDIATION

As an alternative to the normal IA process utilized in investigating complaints, the complainant and involved officer(s) may be invited to voluntarily participate in mediation. Mediation shall be an option discussed by the Office of the Police Monitor (OPM) intake staff after the external complaint affidavit has been submitted by the complainant. Complaints recommended for mediation will be noted on the OPM Interoffice Delivery Sheet. The OPM Interoffice Delivery Sheet and the original external complaint affidavit will be delivered to IA by OPM staff. Once mediation has occurred, the matter cannot be returned to the Department to be handled as a disciplinary matter unless the officer fails to complete the mediation session. Complaints resolved via mediation will not be counted as an incident in the Guidance Advisory Program.

(a) The OPM intake staff shall not offer mediation to the complainant at the conclusion of the external complaint affidavit intake or as a complaint resolution option. Approval from the chain of command and willingness on the part of the officer to mediate a complaint shall be obtained prior to offering mediation to the complainant. To do otherwise may yield an unintended consequence of mistrust or dissatisfaction on the part of the complainant.

(b) Complaints shall be reviewed by the IA lieutenant or commander within two (2) business days of receipt to determine whether they would be appropriate for mediation. Only Class B external complaints that involve less serious violations of Department policies and procedures may be eligible for mediation. Examples may include, but are not necessarily limited to:

1. Allegations of profanity, belittling or rudeness.
2. Allegations of inadequate police service.

(c) If mediation is deemed appropriate for the allegation, the IA Lieutenant shall review the officer's complaint history and confer with the officer's chain of command to determine if the officer meets the qualifications for the mediation process. The chain of command shall report back to the IA lieutenant within five (5) calendar days indicating whether the officer has accepted or declined mediation as a complaint resolution. The option to utilize mediation may be withdrawn by the Chief or designee if withdrawal is deemed to be in the best interest of the Department.

1. Officers will be eligible to choose mediation as an option to resolve complaints of a substantially similar nature no more than once every 6 months or twice per calendar year.
2. IA will consult with the officer's chain of command to determine if subsequent complaints are of a substantially similar nature to previous complaints.

(d) The officer's chain of command must obtain and review any audio/video related to the officer/complainant interaction. If the parties agree to mediate the complaint, the audio/video will be submitted to IA, copied to a designated flash drive or other portable media and supplied to the Dispute Resolution Center for the mediation session.

(e) If the allegations are appropriate and the officer meets the qualifications for mediation, the offer to mediate shall be extended to the officer. If the officer agrees to mediate, the OPM shall extend the offer to mediate to the complainant.



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1. If either the complainant or the officer declines to participate in mediation, the OPM Mediation Coordinator will notify the IA lieutenant. IA will utilize its usual investigative process to handle the complaint and notify both parties that mediation will not occur.
2. If the officer and the complainant accept the offer to mediate, the OPM Mediation Coordinator will notify the Dispute Resolution Center of the referral via facsimile. The OPM Mediation Coordinator will furnish a summary of the incident and allegations to the Dispute Resolution Center as background information about the dispute. The assigned mediator may request additional information, if necessary, while contacting the complainant and the officer to schedule the session.

(f) A neutral third party mediator from the Dispute Resolution Center will contact the complainant and the officer to complete an intake/assessment, answer questions specific to mediation and schedule a date/time for the mediation session. Mediations will be scheduled on the earliest possible date; generally within thirty (30) days from the date of receipt of the formal complaint affidavit, if possible.

(g) A formal confirmation letter stating the date, time and location of the mediation will be sent to the officer and the complainant by the Dispute Resolution Center. A mediation brochure will also be provided to both parties prior to the mediation session. A mediation session will be scheduled for a two (2) hour time slot.

(h) Officers must schedule mediation sessions during their normal duty hours if those hours coincide with the normal business hours set forth by the Dispute Resolution Center. Officers working outside of the normal business hours set forth by the Dispute Resolution Center shall submit an overtime request form to the IA lieutenant.

(i) An officer attending a mediation session is considered to be on-duty, shall behave in a professional manner during the session, and is bound by policy. The officer is expected to fully participate in the mediation session. The officer shall wear a uniform or clothing suitable for court, as outlined in policy. Officers will not be prohibited from carrying their duty weapon while participating in a mediation session, but must comply with department policy regarding weapons.

(j) Mediation sessions are confidential. Unless all parties agree, only complainants, officers, and the mediators will be allowed into the session. A qualified, neutral interpreter will also be present if the complainant or a third party mediator deems such action necessary. All parties will be required to sign a Dispute Resolution Center Agreement to Mediate Waiver and Consent form. Once the form is signed by both parties and the mediation session has commenced, there is no provision for a complaint to be returned to IAD for investigation if the complainant is dissatisfied with the mediation process or the outcome of the mediation session. The mediation session will not result in a written agreement between the parties.

(k) At the conclusion of a mediation session, the mediator will provide the OPM Mediation Coordinator a written response stating whether both parties appeared and whether the session resulted in a completed mediation. This written response will be submitted to the OPM Mediation Coordinator and entered into ICMS. The written documentation will be maintained by IA. Although the mediation session is confidential, the nature of the complaint and the officer's identifying information shall be recorded in the ICMS database as a 'mediated' complaint. Mediated complaints will NOT be included as an incident in the Guidance Advisory Program (GAP).

(l) The Dispute Resolution Center will provide each party with a satisfaction survey at the conclusion of the mediation session. The complainant and the officer will complete the survey prior to leaving the Dispute Resolution Center. The survey will be submitted to



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the OPM Mediation Coordinator and entered into ICMS. The written documentation will be maintained by IA.

### 902.6.6 MEDIATION SCHEDULING CONFLICTS

(a) If the officer or complainant is going to be late for the scheduled mediation, they should contact the Dispute Resolution Center to inform them what time they will arrive:

1. If the officer or complainant will be delayed **less** than 20 minutes, the session shall commence upon the party's arrival.
2. If the officer or complainant will be delayed **more** than 20 minutes, the Dispute Resolution Center shall consult with the other party to determine whether the delay is acceptable or whether that party would prefer to reschedule.

(b) If the officer or complainant is unable to attend the mediation due to an unforeseen emergency, they should make every effort to immediately notify the Dispute Resolution Center to have the session rescheduled. The officer shall also contact the IA lieutenant regarding any cancellation and/or rescheduling. If the officer or complainant fails to appear and does not call the mediator, the mediation session shall be canceled for that day and the mediator will notify the OPM Mediation Coordinator and IA.

1. The OPM Mediation Coordinator shall attempt to make contact with the complainant to determine if there was a legitimate reason for the complainant's failure to attend the mediation session. If it is determined by the OPM Mediation Coordinator that a reasonable explanation did exist, the mediation session shall be rescheduled. If the OPM Mediation Coordinator determines the complainant did not have a reasonable explanation for missing the mediation session, the complaint shall be closed as a contact by IA.
2. The IA lieutenant shall contact the officer to determine if there was a legitimate reason for the officer's failure to attend the mediation session. If it is determined that an explanation did exist, the mediation session shall be rescheduled. If IA determines the officer did not have a reasonable explanation for missing the mediation session, the option for the officer to engage in mediation may be withdrawn by IA and the allegation(s) made by the complainant will be fully investigated.
3. Regardless of the circumstances, the officer and complainant may only reschedule a mediation session one time each.
4. Failure to attend a rescheduled mediation session will result in the following action:
   (a) If the officer fails to attend, the allegation will be fully investigated by IA.
   (b) If the complainant fails to attend, the complaint shall be closed as a contact by IA.

## 902.7 DISPOSITION PROCESS

Regardless of which unit or command conducts an investigation, the involved employee's chain-of-command is responsible for recommending a disposition for each allegation based on the guidelines below. The final disposition for any allegation is ultimately determined by the Chief of Police or designee. Pursuant to a Department of Justice recommendation and a study of industry-wide best practices, IA does **not** recommend a disposition for any complaints.



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### 902.7.1 DISPOSITIONS

Each allegation shall be designated with one of the following dispositions based on a finding of fact and considering the totality of circumstances. The standard of proof used to arrive at a final disposition is a "preponderance of the evidence."

**Sustained** - When the investigation discloses sufficient evidence to establish that the act occurred and that it constituted misconduct.

**Exonerated** - When the investigation discloses that the alleged act occurred but that the act was justified, lawful and/or proper according to Departmental policy.

**Unfounded** - When the investigation discloses that the alleged act(s) did not occur.

**Inconclusive** - When the investigation discloses that there is insufficient evidence to sustain the complaint or fully exonerate the employee.

**Administratively Closed** - Complaints will be administratively closed under the following circumstances:

(a) An administrative inquiry has been completed and no allegations were made or misconduct discovered.

(b) The case was classified as a Class C or Class D complaint.

(c) At the discretion of the Chief or designee.

**Mediated** - Completed the mediation process as detailed in this policy.

**Retired or resigned under investigation**.

**Information** - An incident maintained for documentation purposes only.

**Supervisor Referral** - An informal complaint referred to a supervisor for their attention.

If an investigation discloses misconduct or improper job performance which was not alleged in the original complaint, the investigator shall take appropriate action with regard to any possible additional allegations. Any additional allegations shall go through the assessment, classification, and investigation process.

## 902.8 POST INVESTIGATIVE REVIEW

Any complaining party who is not satisfied with the findings of the Department concerning their complaint may contact the OPM to discuss the matter further.

### 902.8.1 CITIZEN REVIEW PANEL

Internal investigations may be brought before the Citizen Review Panel (CRP) by the OPM as detailed in the Meet and Confer Agreement.

(a) The commander in charge of the investigation shall be responsible for appearing before the CRP and presenting the case under review. The commander in charge shall answer questions concerning an investigation subject to the CRP's review.

(b) The Police Monitor and the CRP may make recommendations to the Chief of Police on disciplinary matters involving critical incidents.

(c) The commander in charge of the investigation shall be responsible for responding, in writing, to any recommendations issued by the Police Monitor or CRP concerning an investigation conducted under their command.



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## 902.9 DISCIPLINE PROCESS

The Discipline Process is a guide to be used by all levels of management in determining the appropriate discipline based upon the type of violation committed. This process does not create a binding procedural or substantive due process right for any officer.

The guidelines recommended do not diminish the authority of the Chief of Police in determining whatever disciplinary action is necessary to maintain the integrity of the Department. The Chief of Police retains the full authority to make all disciplinary decisions. Deviation from this process, whether by the Chief or any other manager, does not violate any procedural or substantive rights of any officer unless the deviation violates a specific right guaranteed by law or the Meet and Confer Agreement. The Chief retains the right to dissolve this process at anytime, without consulting with, or obtaining the approval of any employee. Further, the Chief maintains the option to revise or modify the process at any time without consulting with, or obtaining the approval of any employee. In the event the Chief modifies or dissolves this process, any disciplinary hearing already scheduled will be handled under the provision(s) in place at the time it was scheduled. In the event the Chief exercises discretionary authority to modify or dissolve this process, that decision is final.

### 902.9.1 PHILOSOPHY AND GUIDING PRINCIPLES OF PROGRESSIVE DISCIPLINE

Progressive discipline is a process for responding to on-duty and off-duty job related behavior that does not meet expected and communicated performance standards. The primary purpose for progressive discipline is to assist the employee to understand that a performance problem or opportunity for improvement exists. The process features increasingly formal efforts to provide feedback to the employee so they can correct the problem.

The goal of progressive discipline is to improve employee performance. Progressive discipline is most successful when it assists an individual in becoming an effectively performing member of the organization. Failing that, progressive discipline enables the organization to fairly, and when appropriate, terminate employment.

Development of the Discipline Process was based upon several guiding principles:

(a) To provide motivation to employees to respect Departmental values and adhere to Department policies, procedures, rules, and regulations.

(b) To encourage and maintain expected levels of performance through self discipline and acceptance of responsibility.

(c) To give employees a clear understanding of what is expected of them.

(d) To ensure that consequences for inappropriate behavior are clearly explained.

(e) To ensure that a consistent, fair, impartial, objective, timely, and unbiased disciplinary process exists.

(f) To support effective law enforcement and the protection of civil rights as complementary pillars for policing in partnership with the community we serve.

(g) To encourage and reinforce positive behavior by identifying and correcting poor employee performance through counseling, training, and/or discipline.

(h) To use discipline as a corrective action.

### 902.9.2 DISCIPLINE LEVELS

Additional training and counseling or evaluation may be coupled with any of the below options when in the best interest of the Department and/or the employee. Changes in



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assignment are at the discretion of the Chief or designee. Any change in assignment may be warranted when in the best interest of the Department and/or employee. All types of progressive discipline will be classified as informal or formal discipline and will be documented in IA.

(a) **Oral Reprimand** - A formal document of counseling notifying the employee that a department policy has been violated. It may be issued for any misconduct that the supervisor determines is necessary and appropriate to correct the problem. The original is sent to IA and a copy is given to the employee.

(b) **Written Reprimand** - A formal letter of reprimand notifying the employee that a department policy has been violated. It is issued for any misconduct or performance in which the supervisor determines this level of discipline is necessary to correct the problem. Generally, written reprimands will be issued when there is a continuation of problems or a supervisor determines a onetime event is serious enough to warrant a written record being placed in the employee's file. The original is sent to IA and a copy is given to employee.

(c) **Temporary Suspension** - These may range from a 1-3 day, 4-15 day or an agreed upon 16-90 day suspension. When an employee receives a temporary suspension, the original suspension letter is sent to the Civil Service Commission; a copy shall go to the employee, be placed in the employee's IA file, and provided to APD-HR. A suspension may be given for any misconduct or performance problems as provided below:

1. Progressive disciplinary measures such as counseling, oral reprimands, and/or written reprimands have not been successful in correcting performance or conduct problems, or would not be appropriate given the circumstances. A suspension in this case would be part of the progressive discipline process and shall range from 1-15 days. Previous actions need not have been for the same violation in order to use suspension as a corrective measure. A compilation of different issues will enable a supervisor to apply a disciplinary suspension.
2. Progressive disciplinary measures, including lower level suspensions, have not corrected performance or conduct problems.
3. The involved officer must agree to suspensions of 16-90 days in lieu of indefinite suspension.

(d) **Demotion Recommendation** - A recommendation to the Civil Service Commission of a permanent reduction in one or more steps in rank. The same guidelines provided in "Temporary Suspension" shall apply. This form of discipline may be used when a reduction is appropriate and will not transfer an irreconcilable problem to a different rank or grade. The demotion recommendation is sent to the Civil Service Commission; a copy shall go to the employee, placed in the employee's IA file, and provided to APD-HR.

(e) **Indefinite Suspension** - Equivalent to dismissal or termination from the Department. When an indefinite suspension occurs the original suspension letter is sent to the Civil Service Commission; a copy shall go to the employee, be placed in the employee's IA file, provided to APD-HR, and sent to the APD Training Academy. A termination may only occur with the approval and direction of the Chief as provided below:

1. The occurrence of a onetime violation is listed in the attached Discipline Matrix as an Indefinite Suspension (IS) offense.
2. Progressive disciplinary measures, including suspension, have not been successful in correcting performance or conduct problems, or retention of the



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employee would tend to bring discredit to the Department, or any conduct deemed to warrant dismissal by the Chief.

(f) **Alternative Discipline and Last Chance Agreements** - As authorized by the Meet and Confer Agreement and the Chief or designee.

### 902.9.3 FACTORS TO CONSIDER IN DETERMINING DISCIPLINE

In determining proper discipline, it is recognized that similar discipline should normally be imposed for similar violations; however, equal treatment does not necessitate identical discipline. The following noninclusive factors, if applicable to the particular case, should be considered, especially in those instances where more severe discipline is likely:

(a) The nature and seriousness of the violation and its relationship to the employee's duties and responsibilities.

(b) Multiple violations.

(c) The employee's motive (e.g., intentional act, technical mistake, inadvertent, or personal gain).

(d) Whether the employee's actions or speech involved bias or discrimination (the treatment or consideration based on class or category rather than individual merit, driven by partiality or prejudice).

(e) Whether the employee is in a supervisory or management role (it is the Department's intent that individuals in a supervisory or management role will be held to a higher standard with regards to their conduct).

(f) The employee's past disciplinary and work record.

(g) The effect of the violation upon the Department's confidence in the employee's future job performance.

(h) Whether the officer's conduct has brought discredit to the Department.

(i) Whether the employee accepted responsibility for their actions.

(j) The consistency of the discipline with those imposed upon other employees for a similar offense and within the discipline matrix.

(k) The progressive nature of discipline.

### 902.9.4 SUBSEQUENT CORRECTIVE ACTION

The Discipline Matrix reflects increased levels of discipline for subsequent violations of the same or similar policies. A violation is considered "subsequent" if it occurs within 36 months of the occurrence date of the last violation. Exceptions are those more serious policy violations that result in suspensions of more than three days, or those involving dangerous conduct, such as accidental discharge. In those instances any past violation will be considered a previous occurrence. Additionally, an officer with a history of multiple unrelated violations within the previous 36 month period may be subject to discipline outside the prescribed Matrix range.

### 902.9.5 ADMINISTRATION OF DISCIPLINE

After an investigation has been completed and IA has issued final approval on any sustained allegations, the commander in charge shall recommend a discipline level and, if applicable, the length of suspension. The commander in charge shall notify the employee of the specified discipline and provide them with any relevant paperwork, including a *Notice of Sustained Allegations*. All paperwork related to the discipline and the original case file shall be forwarded to IA for retention.



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(a) **Temporary and/or Indefinite Suspension**

1. For discipline resulting in a suspension, the commander in charge shall supply the employee with a written *Notice of Sustained Allegations*, specifying the following:

   (a) The disposition for all allegation(s) listed.

   (b) The length of the suspension recommended for sustained allegations.

   (c) The date/time of a Discipline Meeting (for 15 days or less) or Dismissal Review Hearing (for more than 15 days, demotion or indefinite suspensions) at which the final disciplinary decision made by the Chief will be administered by the commander in charge.

      1. Generally, the DM or DRH will not be conducted any earlier than 10 business days after the *Notice of Sustained Allegations* has been presented to the subject officer unless the Chief or designee determines this requirement will jeopardize the ability to impose disciplinary action within the 180-day statutory period or is in the best interest of the Department.

   (d) Informing the subject officer that they and/or their attorney have the right to review the investigative file for a total of five (5) hours prior to the scheduled DM or DRH, pursuant to the Meet and Confer Agreement. Reviews shall be conducted at the IA offices.

   (e) Informing the subject officer that they have the right to be represented by:

      1. An attorney of the employee's choosing pursuant to the Meet and Confer Agreement; or

      2. An APA representative of the employee's choosing provided that the representative was not in their chain-of-command at the time of the incident, is not in his chain-of-command at the time of the DM or DRH, and has no personal involvement in the investigation as a complainant or witness; or

      3. An attorney and an APA representative, in which case the APA representative is present as an observer only.

(b) Additional guidelines for the DM and DRH are provided in the sections below.

(c) After all external investigations are completed, the discipline level has been decided and the investigation packet is received in IA, a letter shall be mailed to the complainant explaining the outcome of the investigation. All files shall be retained per the guidelines set forth below.

### 902.9.6 DISCIPLINE MEETING

Discipline Meetings (DM) are conducted for temporary suspensions of 1-15 days.

(a) If an employee has received a *Notice of Sustained Allegations* to attend a DM they, and/or their attorney or APA representative, has the right to provide a written response to the investigation directly to the commander in charge:

1. The written response must be in the form of a Departmental memorandum or, if submitted by the attorney/APA representative, in an appropriate letter and may contain any facts or evidence the subject officer, the attorney/APA representative deems pertinent to the investigation and discipline process. The memorandum/letter must be presented to the commander in charge no more



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than 5 calendar days after the *Notice of Sustained Allegations* is received by the subject officer.

2. The commander in charge shall forward a copy of any written response memorandum received to IA immediately upon receipt.

3. The commander in charge shall review the memorandum and may consider this information when deciding whether further investigation is warranted or when determining the appropriate disciplinary recommendation.

4. After the commander in charge has reviewed the subject officer's memorandum, the commander shall notify the officer of the outcome. If, based on the review, the commander in charge determines changes should be made to the *Notice of Sustained Allegations*, they shall advise the subject officer that disciplinary action shall be imposed at the scheduled DM. The commander in charge shall make note of any changes on the original *Notice of Allegations* kept in the case file for documentation purposes.

(b) **Independent Discipline Review Process**

1. Officers may request an Independent Discipline Review of the proposed disciplinary action after being notified by the commander in charge of the DM.

2. If the officer does not request an Independent Discipline Review the DM shall be conducted as scheduled. The commander in charge shall notify the officer of the Chief's disciplinary decision. The commander in charge is responsible for ensuring that all relevant paperwork is completed.

3. If an Independent Discipline Review is requested, the scheduled DM shall not take place until after the Review has occurred, unless this Review will prohibit the Department from imposing disciplinary action within the 180-day statutory deadline. The following procedures shall be followed when an Independent Discipline Review is requested:

   (a) An Independent Reviewer shall be an assistant chief not in the subject officer's direct chain-of-command.

   (b) The Independent Reviewer shall review the case file, including any response memorandum submitted by the subject officer and/or his attorney/APA representative.

   (c) The Independent Reviewer shall have no personal contact with the subject officer.

   (d) After reviewing the case file, the Independent Reviewer shall make a recommendation to the commander in charge concerning the length of the suspension.

      1. The Independent Reviewer's recommendation will pertain only to the length of the suspension.

      2. The Independent Reviewer will not make a recommendation concerning whether the allegations should be sustained.

      3. The Independent Reviewer cannot recommend a suspension longer than that recommended by the commander in charge but may recommend a shorter period of suspension.

      4. The suspension recommended by the Independent Reviewer must fit within the parameters defined by the Discipline Matrix.



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(e) The Independent Reviewer shall note their recommendation and justification on the original *Notice of Allegations* kept in the original case file.

(f) Upon receipt of the Independent Reviewer's recommendation, the commander in charge shall conduct the scheduled DM and administer the disciplinary action imposed by the Chief of Police.

(g) The commander in charge must notify the OPM and afford the OPM representative the opportunity to attend the DM.

(h) The commander in charge must coordinate with the IA Legal Advisor to ensure that the appropriate suspension letter is drafted and signed by the Chief of Police.

### 902.9.7 DISMISSAL REVIEW HEARING

Dismissal Review Hearings (DRH) are conducted for possible temporary suspensions of 16 or more days, indefinite suspensions, and/or demotions.

(a) Employees shall appear before the DRH wearing one of the following:

1. A Class A uniform with a long sleeve shirt and tie.
2. For male employees, a full suit or sports coat, slacks and dress shirt with tie.
3. For female employees, a dress, suit or blouse with dress slacks or skirt.

(b) The Police Monitor has the right to attend the DRH. Other attendees at the hearing shall be at the discretion of the Chief or designee.

(c) Employees who are scheduled for a DRH may present facts or evidence for consideration by the Chief of Police or designee. Following the completion of the DRH, the Chief of Police shall normally, within 2 business days, render the final disciplinary decision. The subject officer shall be contacted and will meet with their chain-of-command so that they can be advised of the Chief's disciplinary decision.

### 902.9.8 DISCIPLINARY APPEALS

Guidelines for disciplinary appeals are described in Chapter 143 of the Texas Local Government Code, the Rules and Regulations of the City's Civil Service Commission, and the current Meet and Confer Agreement.

## 902.10 CONFIDENTIALITY AND RETENTION OF INVESTIGATIVE FILES

### 902.10.1 CONFIDENTIALITY OF INFORMATION

(a) For purposes of this section:

1. "Formal Discipline" means a discipline action at or above the level of a written reprimand, including temporary suspension, reduction in rank and/or termination.
2. "Informal Discipline" means a discipline action at or below the level of an oral reprimand, including training recommendations and/or a performance improvement plan (PIP).

(b) All information relating to an open IA investigation, or a closed IA investigation which did not result in formal discipline, is considered confidential. Employees shall not disclose or discuss details of any open IA case, or closed IA case which did not result in formal discipline, with anyone except:



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1. Investigator(s) assigned to the case.
2. The employee's attorney.
3. The employee's chain-of-command.
4. Other persons specifically designated by the Chief or designee.

(c) IA employees, including administrative staff, shall not disclose or discuss information about any investigation with anyone who does not have a legitimate need to know without first obtaining approval from the IA commander and IA Legal Advisor.

### 902.10.2 RECORDS RETENTION SCHEDULE

The Chief of Staff or designee shall be the records management officer for Internal Affairs.

(a) All records of investigations shall be securely maintained for the minimum periods defined by the Texas Government Code § 441.158 and Public Safety Records Retention Schedule § 4075-01:

1. No local government office may dispose of records listed in the schedule prior to the expiration of its retention period.

(b) Local Government Code § 202.002 states the following:

1. Records involved in litigation or records subject to a request pursuant to the Texas Public Information Act may not be destroyed until either the litigation is finalized or the request is resolved.

(c) Retention periods are from the final disposition date of the investigation. Once the retention period has passed the file shall be destroyed. The following is the established retention periods for records as adopted by the Department:

| **Records Retention Schedule** | |
|---|---|
| **Record** | **Retention Period** |
| Law enforcement shooting incidents which result in death or injury to any person, including the officer and/or any critical incident as defined in Policy 902 (Administrative Investigations) | Permanently retained |
| Investigations that result in sustained "formal discipline" as defined by this section, or cases where the employee retires or resigns while under investigation | 15 Years |
| Investigations that result in sustained "informal discipline" as defined by this section, or whose findings are inconclusive | 5 Years |
| Investigations whose findings are not sustained (e.g., Unfounded, Exonerated or Administratively Closed) | 3 Years |
| Complaints that do not lead to a formal IA investigation(e.g., Mediation, Class C, Class D, Information incidents and Supervisory Referrals) | 2 Years from the date that determination is made not to initiate an IA investigation |



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### 902.10.3 OPEN RECORDS REQUESTS

Open records requests shall be handled as outlined in Policy 116 (Security and Release of Records and Information).



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# Discipline Matrix

## 903.1 PURPOSE AND SCOPE

The Discipline Matrix is designed as a guide to be used in conjunction with Policy 902 (Administrative Investigations). This matrix is not an all-encompassing document but should provide some guidance for the vast majority of investigations involving discipline. As a general rule, those violations below that are listed as IS (Indefinite Suspension), Fact Specific, or those that may include discipline greater than a 15-day suspension will be investigated by Internal Affairs.

| Violation General Category/Sub Category (APD POLICY MANUAL) | 1st Occurrence | 2nd Occurrence | 3rd Occurrence |
|---|---|---|---|
| **900 – GENERAL CONDUCT AND RESPONSIBILITIES** | | | |
| ❖ Required reporting of violations<br>❖ Requirements of duty<br>❖ Time and attention to duty<br>❖ Unprofessional or abusive behavior to co-workers<br>❖ Duty to identify | Oral Reprimand to 1-3 days | Increased one level | Increased one level |
| ❖ Improper use of City resources not involving personal gain | Written Reprimand to 1-3 days | Increased one level | Increased one level |
| ❖ Improper use of City resources involving personal gain. | 4-15 days | IS | |
| ❖ Confidentiality | 4-15 days | IS | |
| ❖ Criminal violation while on duty or related to job duties | IS | | |
| ❖ Other criminal violations | Fact Specific | | |
| ❖ Dishonesty – False official statements | IS | | |
| ❖ Neglect of duty – Misleading Statements | Fact Specific | | |
| ❖ Duty to take action | Fact Specific | | |
| ❖ Dereliction of duty | 4-15 days to Demotion | Demotion to IS | |
| ❖ Neglect of duty | Fact Specific | | |
| ❖ Associating with those of ill repute | Fact Specific | | |
| **301 – RESPONSIBILITY TO COMMUNITY** | | | |
| ❖ Courtesy (Rudeness Complaints) | Oral Reprimand to 1-3 days | Increased one level | Increased one level |
| ❖ Impartial Attitude | Fact Specific | | |
| **110 – ORGANIZATIONAL STRUCTURE AND RESPONSIBILITY** | | | |
| ❖ Insubordination | 4-15 days | IS | |
| **902 - ADMINISTRATIVE INVESTIGATIONS** | | | |
| ❖ Refusing to cooperate with Internal Affairs | IS | | |



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*Discipline Matrix*

| Violation General Category/Sub Category (APD POLICY MANUAL) | 1st Occurrence | 2nd Occurrence | 3rd Occurrence |
|---|---|---|---|
| **914 – DISCRIMINATION AND HARASSMENT** | | | |
| ❖ Quid pro quo sexual harassment | IS | | |
| **916 – DRUG AND ALCOHOL FREE WORKPLACE** | | | |
| ❖ Failure of random drug test or test resulting from reasonable suspicion | IS | | |
| **934 – COURT APPEARANCES** | | | |
| ❖ Missed court appearance | Oral Reprimand to 1-3 days | Increased one level | Increased one level |
| **949 – SECONDARY EMPLOYMENT** | | | |
| ❖ Secondary employment violations | Written Reprimand to 1-3 days | Increased one level | Increased one level |
| **955 – ATTENDENCE AND LEAVE POLICY** | | | |
| ❖ Abuse of sick leave | Oral Reprimand to 1-3 days | Increased one level | Increased one level |

| Violation General Category/Sub Category (APD POLICY MANUAL) | 1st Occurrence | 2nd Occurrence | 3rd Occurrence |
|---|---|---|---|
| **401 – PRELIMINARY FIELD INVESTIGATIONS** | | | |
| **403 – FOLLOW-UP INVESTIGATIONS** | | | |
| ❖ Failure to propery investigate | Oral Reprimand to 1-3 days | Increased one level | Increased one level |
| **701 – PROPERTY AND EVIDENCE** | | | |
| ❖ Improper handling of evidence (not related to criminal conduct) | Oral Reprimand to 1-3 days | Increased one level | Increased one level |
| ❖ Improper destruction of evidence | Written Reprimand to 4-15 days | Increased one level | Increased one level |
| **328 – BIASED BASED PROFILING** | | | |
| ❖ Biased based profiling | Fact Specific | | |

| Violation General Category/Sub Category (APD POLICY MANUAL) | 1st Occurrence | 2nd Occurrence | 3rd Occurrence |
|---|---|---|---|
| **303 & 304 – MOBILE AUDIO VIDEO RECORDING OPERATION** | | | |
| ❖ Mobile Audio Video recording violations | Written Reprimand to 1-3 days | Increased one level | Increased one level |
| ❖ Intentional Mobile Audio Video recording violations | 4-15 days | IS | |
| ❖ Intentional Mobile Audio Video recording violation in a critical incident | IS | | |
| **305 – RADIO AND MOBILE DATA COMPUTER USE** | | | |
| ❖ Inappropriate Electronic Messages *1 | Written Reprimand | 1-3 days | 4-15 days |
| **1000 & 1002 – DEPARTMENT TECHNOLOGY USE** | | | |
| ❖ Internet/Computer Violations | Written Reprimand to 1-3 days | Increased one level | Increased one level |



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*Discipline Matrix*

| Violation General Category/Sub Category (APD POLICY MANUAL) | 1st Occurrence | 2nd Occurrence | 3rd Occurrence |
|---|---|---|---|
| **CHAPTER 2 – RESPONSE TO RESISTANCE** | | | |
| ❖ Objectively unreasonable use of deadly force | IS | | |
| ❖ Objectively unreasonable use of force | Fact Specific | | |
| ❖ Negligent discharge involving serious bodily injury or death | Fact Specific | | |
| ❖ Accidental discharge not involving serious bodily injury or death | 1-3 days | 4-15 days | 4-15 days up to IS |
| **803 – DUTY WEAPONS** | | | |
| ❖ Violations of duty weapons policy | Written Reprimand to 1-3 days | Increased one level | Increased one level |
| **214 – VEHICLE PURSUIT POLICY** | | | |
| **400 – OFFICER RESPONSE TO CALLS** | | | |
| **804 – DEPARTMENT VEHICLES** | | | |
| ❖ Violations of pursuit policy | Written Reprimand to 1-3 days | Increased one level | Increased one level |
| ❖ Pursuit policy, Aggravated | 1-15 days | 4-15 days | 4-15 days to IS |
| ❖ Operation of Police Vehicles (non-collision) | Oral Reprimand to 1-3 days | Increased one level | Increased one level |
| ❖ At-Fault collision (Not involving serious bodily injury or death) *2 | Oral Reprimand to 1-3 days | Increased one level | Increased one level |
| **OTHER** | | | |
| ❖ Negligent/Reckless conduct resulting in SBI or death | IS | | |
| ❖ Violation of tactics, other than above "A". | Fact Specific | | |

**Notes:**

*1 If inappropriate Electronic Messages bring discredit to the Department, increase one level.

*2 A written reprimand will normally be administered for violations under this heading as a first occurrence. Supervisors will take into account the employees previous driving history, the severity of the collision and other contributing factors involve in the negligent collision.



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# Grievance Procedures

## 904.1 PURPOSE AND SCOPE

It is the policy of this department that all grievances be handled quickly and fairly without discrimination against employees who file a grievance. The Department's philosophy is to promote open and honest communication between employees and supervisors.

This policy applies to both sworn and civilian employees; however, changes to City of Austin Personnel Policies will take precedence over any section of this policy for civilian employees.

### 904.1.1 DEFINITIONS

**Grievance** - A grievance can be any of the following

(a) Any difference of opinion concerning terms or conditions of employment or the interpretation or application of any of the following documents:

1. The Meet and Confer Agreement.
2. Department Policy.
3. City Personnel Policy.

(b) Complaints related to alleged acts of sexual, racial, ethnic or other forms of unlawful harassment and discrimination as set forth in Policy 914 (Discriminatory Harassment).

**Business Day** - For purposes of this policy, a business day does not include weekends or City observed holidays.

## 904.2 GRIEVANCE PROCEDURES

(a) Civilian employees shall follow the grievance procedure outlined in the City Personnel Policy.

(b) Sworn employees shall follow the grievance procedure outlined in:

1. The Meet and Confer Agreement to file a grievance related to the Agreement.
2. Chapter 143 of the Texas Local Government Code, the Rules and Regulations of the City's Civil Service Commission, and the current Meet and Confer Agreement for grievances and appeals related to disciplinary action.
3. This policy for all other grievances.

### 904.2.1 PRE-GRIEVANCE

Sworn employees should attempt to resolve any grievance or complaint informally by communicating with their immediate supervisor and/or next level supervisor within fifteen (15) business days of the occurrence of the reason for the complaint. Every effort should be made by the employee and supervisor to resolve the grievance at this level.

### 904.2.2 FORMAL GRIEVANCE

(a) Sworn employees may file a formal grievance as outlined below if no resolution is reached by informally speaking with a supervisor.



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1. Complete the APD Civil Service Grievance Form, which may be obtained from APD-HR.
2. Submit the completed form to the APD-HR Manager no later than five (5) business days after the final pre-grievance meeting with the officer's supervisor(s).
   (a) APD-HR will date stamp the grievance and provide the Officer with a copy.

(b) Within five (5) business days after the written grievance is filed with APD-HR, the grievant's commander shall schedule a meeting with the grievant and any other relevant parties in an attempt to resolve the grievance. This meeting shall occur no more than ten (10) business days after the grievance has been filed.

1. If a resolution to the grievance is reached, the resolution shall be noted on the grievance form by the commander and grievant, and forwarded to the Chief for approval. If the Chief concurs with the resolution he will sign the grievance document and return the document to the APD-HR Manager who will forward a copy of the grievance to the grievant, the commander, and if appropriate, to the Austin Police Association (APA).
2. If no resolution to the grievance is reached, or if the Chief does not concur with the resolution, the Chief shall schedule a meeting with the grievant to occur no later than ten (10) business days after receipt of the grievance.
   (a) The Chief shall issue a written decision on the resolution of the grievance within five (5) business days of this meeting.
   (b) The decision of the Chief for the grievance shall be final.

## 904.3 NO REPRISAL

No employee shall be discriminated against, harassed, intimidated, nor suffer any reprisal as a result of filing a grievance or complaint in good faith, or for participating in the investigation of a grievance or complaint.

No action of a formal or informal nature shall be taken by the Department against an employee, their witnesses, or the employee's representative, merely for having filed a grievance in good faith, nor is such filing to be unfavorably looked upon by the Department.

## 904.4 EMPLOYEE REPRESENTATION

Department employees are entitled to have representation during the grievance process. Employees may select their representative which may include, but is not limited to, an attorney or union representative.

## 904.5 GRIEVANCE RECORDS

At the conclusion of the grievance process, all documents pertaining to the process shall be forwarded to APD-HR for inclusion into a secure file for all written grievances.

(a) If a civilian employee files a grievance with the City Employee Relations Division, City-HR will coordinate and retain the records for the grievance.

(b) Employee grievances and the records relating to them will not be made part of the employee's personnel record unless requested in writing by the affected employee.



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# Guidance Advisory Program

## 906.1 PURPOSE AND SCOPE

The Guidance Advisory Program (GAP) is an employee early warning system designed to give supervisors tools to manage their officers and proactively identify potential areas of concern before they lead to a more significant impact on the officer and/or Department.

GAP should not be used to disseminate any form of discipline, but should be used as an opportunity to assess, identify, and assist an officer with any issue(s) the officer may be experiencing.

## 906.2 INDICATORS FOR PERFORMANCE HISTORY AUDITS

Performance indicators represent the categories of activity that have been determined to be relevant data for generation and analysis into a Performance History Audit.

(a) GAP tracks three (3) categories on all officers:
  1. **Use of sick leave** - Use 160 hours or more in any 12 month period.
  2. **Complaints received by Internal Affairs** -
     (a) Level 1- A, Admin, B, C– Two (2) or more per 12 month period
     (b) Level 2- D, I, S– Four (4) or more per 12 month period
  3. **Response to Resistance**:
     (a) Patrol related duties - Six (6) or more incidents per 12 month period.
     (b) Non-Patrol related duties - Varies based on the assignment.

## 906.3 NOTIFICATION AND RESPONSE

Each quarter a Performance History Audit report will be run and verified by the Risk Management Unit. If an officer exceeds the established threshold for any one of the tracked categories, the officer's immediate supervisor is notified. The supervisor may be required to meet with the officer. The officer should be notified they have exceeded the GAP threshold and allowed the opportunity to discuss any action or incidents related to the GAP activation.

(a) Prior to the meeting, supervisors may review:
  1. Officer's use of sick leave.
  2. Recent mobile video recording tapes.
  3. Response to resistance reports or other Versadex reports.
  4. Activity logs.
  5. Internal Affairs complaint history.
  6. Secondary employment activity.

(b) Supervisors may consider taking the following action plans:
  1. Refer the employee to:
     (a) The APD Psychologist.
     (b) The Employee Assistance Program (EAP).



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(c) A Chaplain.

(d) Peer Support.

2. Place the officer on a Performance Improvement Plan (PIP), or any other action the officer's chain-of-command deems appropriate

(c) No follow-up action is necessary when the GAP thresholds are activated due to long term illness, approved Family Medical Leave, or incorrect data entered into the APD database.

## 906.4 COMPLETION OF REVIEW

Upon completing the review, supervisors may discuss their findings with the officer.

(a) Supervisors will write a memorandum addressed to their commander to document the findings. The memorandum should be signed by each level of the officer's chain-of-command as it is routed to the commander.

(b) Commanders will review the GAP memorandum then scan and email it to the GAP Coordinator for retention and any necessary follow-up. The original memorandum shall be retained by the officer's chain-of-command.

(c) If an action plan is initiated, the GAP memorandum should include a date for the completion of the required action(s).

## 906.5 CONFIDENTIALITY OF DATA

Information, data and copies of material compiled to develop Performance History Audits Reports shall be considered confidential as part of the employee's personnel file and will not be subject to discovery or release except as provided by law. Access to the data in the system will be governed under the same process as access to an officer's personnel file as outlined in Policy § 910 (Peace Officer Personnel Files).

## 906.6 RETENTION AND PURGING

Except as incorporated in separate training or disciplinary records, all performance indicators and Performance History Audit Reports shall be purged from the Internal Affairs Unit and all other locations within the Department one year from the date generated. The City Attorney however, shall retain a copy of Performance History Audit Reports for an additional one year period as attorney work product.



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# Reporting of Employee Arrests and Police Involvement

## 908.1 PURPOSE AND SCOPE

Arrests and convictions of certain offenses may restrict or prohibit an employee's ability to properly perform official duties. All employees shall report any arrest, charge, or indictment of a:

(a) Class B Misdemeanor offense or higher; or

(b) Class C Misdemeanor involving the duties and responsibilities of office.

## 908.2 DOMESTIC VIOLENCE CONVICTIONS AND RESTRAINING ORDERS

Texas and federal law prohibit individuals convicted of certain offenses and individuals subject to certain court orders from lawfully possessing a firearm. Such convictions and court orders often involve allegations of the use or attempted use of force or threatened use of a weapon on any individual in a domestic relationship (e.g., spouse, cohabitant, parent, child (18 USC § 922; Tex. Penal Code § 46.04(b); Tex. Penal Code § 46.04(c)).

All employees 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.

### 908.2.1 EMPLOYEE DOMESTIC VIOLENCE

The Department's position is one of zero tolerance toward domestic violence. It is the policy of the Department to use early prevention strategies in order to avoid or minimize the occurrence and effects of domestic violence. This policy addresses the dynamics of domestic violence and how it impacts the employee and the Department. The purpose of this policy is to heighten awareness of domestic violence and provide guidance for employees, supervisors, and management.

(a) The policy takes a continuum approach, seeking first to educate at all phases of an employee's career, then prevent or intervene in domestic abuse situations in order to reduce victimization of the family member or partner and increase the chances of employee career stability.

(b) The Department will respect the confidentiality and autonomy of its employees to direct their own lives, to the fullest extent permitted by state law. The Department will provide assistance to employees, which may include, but is not limited to:

1. Resource and referral information; and
2. Safety plans for the workplace; and
3. Work schedule adjustment or leave necessary to obtain medical, counseling, or legal assistance and arrange for housing and child care; and
4. Workplace relocation.



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### 908.2.2 PREVENTION AND INTERVENTION OF EMPLOYEE DOMESTIC VIOLENCE

(a) The goal of the Department is to accomplish the following in regard to domestic violence:

1. Heighten awareness.
2. Provide guidance for employees, supervisors, and management.
3. Identify warning signs.
4. Establish prevention and intervention guidelines.

(b) In order to provide non-punitive avenues of assistance to employees, their partners, and other family members before an act of domestic violence occurs, the Department will provide confidential referrals to reputable internal or external counseling services.

(c) Employees with knowledge of suspected abuse or violence involving another employee of the Department shall report it to their immediate supervisor.

(d) Supervisors will monitor employees for warning signs of domestic violence. If warning signs exist, intervention measures must be taken. The following are some examples of steps that can be taken, based on the level of violence and the likelihood of recurrence:

1. Problem solving meeting with both parties conducted by the Department's Psychological Services.
2. Mediation.
3. Referral to counseling services for emotional support and guidance:
   (a) Internal (e.g., APD Peer Support, Wellness Office, Victim Services).
   (b) External (insurance coverage).
   (c) Employee Assistance Program (city benefits).
4. Referral to Family Violence Protection Team for assistance with protective orders.
5. Develop a safety/prevention plan with the assistance of counseling services.
6. Arrange for temporary reassignment to avoid further contact.
7. Issue directive to restrict contact with the other party.
8. Liberal use of employees accumulated existing leave time up to and including approved Administrative Leave.

## 908.3 OTHER CRIMINAL OFFENSES

State law prohibits any person convicted of a felony from being a peace officer in the State of Texas. This prohibition applies regardless of whether the guilt was established by way of a verdict, guilty plea or *nolo contendre* plea.

Convictions of certain violations of the Texas Transportation Code (e.g., suspended drivers license) and other provisions of law may also place restrictions on an employee's ability to fully perform the duties of the job.

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.



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### 908.3.1 TELECOMMUNICATORS

Any person who has been convicted of a felony offense or convicted of barratry as defined by Tex. Penal Code § 38.12 may not be a telecommunicator in the State of Texas (Tex. Occ. Code § 1701.312; Tex. Occ. Code § 1701.313). In addition, telecommunicators are held to the statutory standards outlined in 37 Tex. Admin. Code § 217.2 with regard to certain misdemeanor offenses.

## 908.4 REPORTING PROCEDURE

(a) Employees who are arrested will inform the booking officer they are employed by APD and request APD Communications be immediately notified of the arrest.

(b) Employees shall immediately report to their supervisor, with a follow-up memorandum through the chain-of-command to the Chief, of:

1. Any arrests, criminal charges, and/or criminal court actions brought against the employee (to include the name of the arresting agency, a description of the nature of the charges, and the style, court and cause number of the charge or indictment, if any); or
2. Anytime an employee is involved in an off-duty incident that results in a response from any law enforcement agency with the exception of traffic violations, minor collisions, and other minor calls for service where the employee is not considered to be a suspect (e.g. alarm calls, noise complaints); or
3. Anytime an employee becomes the subject of a family violence protective order issued by a court of competent jurisdiction.

(c) Supervisors receiving such information shall immediately notify the Internal Affairs Commander, with a follow-up memorandum through the chain-of-command to Internal Affairs, detailing the circumstances of the situation.

(d) Employees who receive a criminal conviction which unduly restricts or prohibits them from fully and properly performing their duties may be disciplined up to and including indefinite suspension/termination.

(e) Employees failing to provide prompt notice pursuant to this policy are subject to discipline.

### 908.4.1 DEPARTMENT RESPONSIBILITY TO REPORT

When a peace officer or county jailer is arrested, the Chief of Police of the arresting agency must report such fact, as mandated by 37 Tex. Admin. Code § 211.28, to TCLEOSE within 30 business days of the arrest.

In addition, the Chief of Police must report the arrest, charge or conviction of any person who is under appointment with this department to TCLEOSE within 30 days of the arrest, as mandated by 37 Tex. Admin. Code § 211.29.

### 908.4.2 OFFICER RESPONSIBILITY TO REPORT

Any officer employed by the Department must report any arrest, charge or indictment for a criminal offense above the grade of a Class C misdemeanor, or for any Class C misdemeanor involving the duties and responsibilities of office or family violence to TCLEOSE within 30 days as mandated by 37 Tex. Admin. Code § 211.27. In addition, an officer must report any of the above mentioned arrest, charge, or indictment for a criminal offense to the Austin Police Department.



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## 908.5 PROCEDURE FOR RELIEF

While a peace officer may be permitted to carry a firearm following a conviction under state law, federal law does not provide for any similar relief, and therefore the peace officer is not relieved of the restrictions imposed by federal law.

(a) Relief for any employee falling under the restrictions imposed by federal law may only be obtained by the conviction being expunged. Employees shall seek relief from firearm restrictions on their own time and resources.

(b) Officers who have had their license suspended or revoked by TCLEOSE may appeal the action and request a hearing on the issue (37 Tex. Admin. Code § 223.21).

(c) 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.



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# Peace Officer Personnel Files

## 910.1 PURPOSE AND SCOPE

This section governs the maintenance, retention and access to peace officer personnel files in accordance with established law. It is the policy of this department to maintain the confidentiality of peace officer personnel records pursuant to state law (generally, Tex. Gov't Code § 552.102 and Tex. Local Gov't Code § 143.089).

## 910.2 PERSONNEL FILES DEFINED

Peace officer personnel records shall include any file maintained under an individual officer's name. Employee records will generally be maintained in any of the following:

(a) **Civil Service Personnel File** - That file maintained by the Department and based on the guidelines set by Tex. Local Gov't Code § 143.089(a).

(b) **Confidential Employee Personnel Files** - Any file maintained internally by the Department, separate from the Civil Service Personnel file, and based on the guidelines set by Tex. Local Gov't Code § 143.089(g).

## 910.3 CIVIL SERVICE PERSONNEL FILE

(a) The Civil Service Personnel File must contain any letter, memorandum or document relating to (Tex. Local Gov't Code § 143.089(a)):

1. A commendation, congratulation or honor bestowed on the officer by a member of the public or by the Department for an action, duty or activity that relates to official duties.
2. Any misconduct by the officer if the letter, memorandum or document is from the Department and if the misconduct resulted in disciplinary action. For purposes of this section, the phrase "disciplinary action" does not include discipline at the level of a written reprimand or lower.
3. The periodic evaluation of the officer by a supervisor.

(b) The Civil Service Personnel File may not contain a letter, memorandum or document relating to alleged misconduct when there is insufficient evidence to sustain the charge of misconduct.

## 910.4 CONFIDENTIAL EMPLOYEE PERSONNEL FILES

The Department may maintain confidential employee personnel files on a peace officer for the Department's use, but the Department may not release any information contained in these files to any agency or person requesting information relating to a peace officer except as permitted by law (Tex. Local Gov't Code 143.089(g)).

Confidential employee personnel files may include, but are not limited to, the following:

(a) **Department File ("201 file")** - The permanent record of a sworn officer's employment with the Department.

(b) **Internal Affairs File** - Information relating to the complaint and investigation history of each employee regardless of disposition.

(c) **Training File** - Documentation of the training records of an employee.



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(d) **Medical File** - Information relating to an employee's medical history.

(e) **Division File** - Documentation used by an employees supervisor for the purpose of completing timely performance evaluations.

(f) **Recruiting File** - Required hiring documentation of employees.

### 910.4.1 DEPARTMENT FILE ("201 FILE")

(a) The Department File is maintained by the Human Resources Department and may contain, but is not limited to, the following:

1. Performance evaluation reports regularly completed by appropriate supervisor(s) and signed by the affected employee shall be permanently maintained and a copy provided to the employee, along with any written statements the employee makes in response to the evaluation report. (generally, Tex. Local Gov't Code § 143.082).
2. Commendations, with a copy provided to the involved employee(s).
3. Personnel Action Reports reflecting assignments, promotions and other changes in the employee's employment status.
4. A photograph of the employee.

(b) If a negative letter, memorandum, document or other notation of negative impact is included in an officer's personnel file, the Department shall, within 30 days after the date of the inclusion, notify the affected officer. The officer may, on or before the 15th day after the date of receipt of the notification, file a written response to the negative letter, memorandum, document or other notation (Tex. Local Gov't Code § 143.089).

1. Any such employee response shall be attached to and retained with the original adverse comment.
2. If an employee 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. Such a refusal, however, shall not be deemed insubordination nor shall it prohibit the entry of the adverse comment into the employee's file.

### 910.4.2 INTERNAL AFFAIRS FILE

(a) The Internal Affairs File is maintained under the exclusive control of the Internal Affairs Division on behalf of the Office of the Chief of Police.

(b) While the Civil Service Personnel File contains the appropriate sustained complaint history of employees, the Internal Affairs File shall contain all the documentation relating to the complete investigation of all formal complaints of employee misconduct regardless of disposition.

(c) Access to these files may only be approved by the Chief of Police or the supervisor of the Internal Affairs Unit.

(d) Further details on an employee's Internal Affairs File can be found in Policy 902 (Administrative Investigation Procedures).

### 910.4.3 TRAINING FILE

(a) The Training File is maintained by the Training Division for each employee and shall contain:

1. Records of all training and education; and



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2. Original or photocopies of available certificates, transcripts, diplomas and other related documentation; and
3. Firearms qualifications, including mandated annual qualification.

(b) It shall be the responsibility of the involved employee to provide the Training Commander or designee with evidence of completed training/education in a timely manner.

(c) The Training Commander or designee shall ensure that copies of such training records are placed in the employee's Training File.

### 910.4.4 MEDICAL FILE

(a) The confidential Medical File is maintained by Risk Management separately from all other files and shall contain documents relating to the employee's medical condition and history, including but not limited to the following:

1. Materials relating to medical leaves of absence.
2. Documents relating to workers compensation claims or receipt of short-term or long-term disability benefits.
3. Fitness for duty examinations, psychological and physical examinations, follow-up inquiries and related documents.
4. Medical release forms, doctor's slips and attendance records that reveal an employee's medical condition.
5. Any other documents or material which reveals the employee's medical history or medical condition, including past, present or future anticipated mental, psychological or physical limitations.

(b) Documentation regarding an employee's FMLA status is maintained separately by APD Human Resources.

### 910.4.5 DIVISION FILE

(a) The Division File is considered an interim file that is maintained by an employee's supervisor and may contain information (e.g., supervisor log entries, notices to correct) used to serve as a foundation for the completion of employee performance evaluation.

(b) If any item will be included in the employee's Department File, a duplicate copy of it may also be placed in this interim file in anticipation of completing any upcoming performance evaluation.

### 910.4.6 RECRUITING FILE

(a) The Recruiting File is maintained by the Recruiting Division and contains all the required TCLEOSE documents of employees who are hired by the Department, including:

1. A copy of any TCLEOSE Forms L1, L2, L3, and any previous F5Rs; and
2. Required background information including, at a minimum, proof of citizenship and age, proof of education, proof of criminal history checks, and proof of military discharge if applicable.



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## 910.5 REQUESTS FOR DISCLOSURE

All personnel records shall be deemed confidential and shall not be subject to disclosure except pursuant to state and federal discovery procedures, state law or with the employee's consent.

Nothing in this section is intended to preclude review of personnel files by the City Manager, City Attorney or other attorneys or representatives of the City in connection with official business.

### 910.5.1 REQUESTS FOR CIVIL SERVICE PERSONNEL FILE INFORMATION

Subpoenas for documents or items from the Civil Service Personnel File maintained by IA will be directed to the IA Commander or Lieutenant. Any open records request for IA files will be referred to the APD Legal Adviser. No documents or items will be released pursuant to a subpoena without authorization from the APD Legal Adviser.

(a) Open records requests can come directly from the general public, APD or City PIO, or through the Civil Service Commission. Records will be released to the public only when authorized by law. All sustained complaints that resulted in disciplinary action are subject to open records requests. For purposes of this section, "disciplinary action" means (Tex. Gov't Code 143.089(a)(2)):

1. Temporary suspension (1-15 days); or
2. Agreed suspension (16-90 days); or
3. Indefinite suspension (the civil service equivalent of termination); or
4. Demotion.

(b) When IA is notified that an open records request has been received for a particular file, IA personnel shall review the file to ensure information that is not related to the sustained allegation, which formed the basis of the "disciplinary action", is redacted.

(c) The IA Legal Advisor shall be consulted before any file is released in relation to an open records request to ensure that any necessary redactions have been completed.

(d) If the request is submitted through the Civil Service Commission, the original redacted case file will be transferred to the Commission as soon as possible to ensure compliance with the statutory deadline for responding to the open records

### 910.5.2 REQUESTS FOR CONFIDENTIAL EMPLOYEE PERSONNEL FILE INFORMATION

Subpoenas and open record requests for any portion of an Confidential Employees Personnel File shall be submitted to APD PIO or City Legal.

### 910.5.3 EMPLOYEE ACCESS TO PERSONNEL FILES

Employees, or the employees' representative, may request access to their own Confidential Personnel Files by completing the appropriate form or memo during the normal business hours of the Division responsible for maintaining such files. Employees may be restricted from accessing confidential portions of their Internal Affairs files that have not been sustained against the employee.

### 910.5.4 APD EMPLOYEES SEEKING OTHER EMPLOYMENT

Former and current APD employees seeking employment with another law enforcement or government agency may have a representative from that agency granted access to



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portions of their Confidential Employee Personnel File as required by law when the following conditions are met:

(a) The representative presents their agency credentials; and

(b) The representative presents a signed, legally sufficient release/waiver form signed by the former employee; and

(c) Prior to reviewing the file, an IA supervisor and the Legal Advisor give their approval to grant access to said file.

## 910.6 RECORD RETENTION

All records and files shall be maintained for the minimum period outlined by law.

(a) All Internal Affairs files, records, and investigations shall be securely maintained as outlined in Policy 902 (Administrative Investigations).

(b) Contents of an employee's Division File may be destroyed:

1. Once the information is incorporated into an employee performance evaluation; or
2. If the original materials were forwarded for inclusion into another personnel file.

(c) All other portions of the confidential employee personnel file may be kept indefinitely.

## 910.7 *BRADY* MATERIAL IN PERSONNEL FILES

The purpose of this section is to establish a procedure for releasing potentially exculpatory information, known as *Brady* material, contained within confidential peace officer personnel files.

### 910.7.1 DEFINITIONS

**Brady material** - In the *Brady v. Maryland* decision (373 U.S. 83 (1963)) the United States Supreme Court held that the prosecution has an affirmative duty to disclose to the defendant evidence which is both favorable and material to the guilt and/or punishment of the defendant.

**The prosecution** - Refers to any prosecuting attorney and all investigative agencies involved in the criminal prosecution of a defendant, including this department.

### 910.7.2 RELEASE OF PERSONNEL FILES TO PROSECUTING ATTORNEY

Generally, the only time the prosecuting attorney, Attorney General or Grand Jury is entitled to access confidential peace officer personnel files without filing a court motion is when they are investigating the conduct of an officer or this department. Such access shall not be considered a waiver of the confidentiality of the information contained in these files.

Absent a specific investigation of identified officer(s) or a specific investigation of this department, or the consent of an involved officer, no confidential information from any officer's personnel file shall be released to the prosecuting attorney or Grand Jury without full compliance with the court process. The prosecution of a criminal defendant is not considered an investigation of any involved officer.

Should an officer's credibility or other issues related to an officer's personnel file arise in the context of an officer acting as a witness for the prosecution, access to that officer's



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personnel file by either the prosecuting attorney or the criminal defendant shall be limited to that which is authorized by the process set forth in court and evidentiary rules.

### 910.7.3 PROCEDURE

If an officer is a material witness in a criminal case, a person or persons designated by the Chief of Police may examine the subject officer's personnel file to determine whether there are *Brady* materials contained therein (e.g., evidence which is both favorable and material to the guilt and/or punishment of the defendant). If *Brady* material is located, the following procedure shall apply:

(a) In the event that a court motion has not already been filed by the criminal defendant or other party, the prosecuting attorney shall be notified of the potential presence of *Brady* material in the officer's personnel file.

(b) The prosecuting attorney should be encouraged to file a court motion in order to initiate an in-camera review by the court.

(c) As with any court motion, and prior to any review of the files by the court, subject officer(s) shall be notified in writing that a court motion has been filed.

(d) The Central Records Manager or authorized designee shall accompany all relevant personnel files during any in-camera inspection, and address any issues or questions raised by the court in determining whether any material contained in the file is both material and favorable to the criminal defendant.

(e) If the court determines that there is relevant *Brady* material contained in the file(s), only that material ordered released will be copied and released to the parties filing the court motion.

    1. Prior to the release of any materials pursuant to this process, the Central Records Manager or designee should forward the request to the City Attorney to evaluate the need for a protective order from the court limiting the use of such materials to the involved case and requiring the return of all copies upon completion of the case.



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# Personnel Evaluations

## 912.1 PURPOSE AND SCOPE

Performance appraisal should be a continuous process done by supervisors for each employee under their command. Appraisals assist in making the best use of human resources, ensure that personnel problems are identified and dealt with promptly and appropriately, and help the employee reach optimum job satisfaction.

Nothing in this policy negates the Department's right to immediately take appropriate corrective action when deficient behavior is observed and/or discipline an employee for poor performance.

## 912.2 POLICY

The evaluation system used by the Department is subject to periodic change and may be different for sworn and non-sworn employees. The system will provide evaluation of performance as it relates to, and supports, the Department's goals and objectives.

(a) Employees will only use the approved evaluation system.

(b) The evaluation system must be specific to the employee's assignment during the evaluation period.

(c) Evaluations will cover a specified period of time.

## 912.3 EVALUATION FREQUENCY

(a) Written performance evaluations will be conducted with the following frequencies:

1. **Sworn Employees**
   - (a) Officers assigned to the FTO program will be evaluated as designated by the FTO program.
   - (b) Officers who have graduated the FTO program will be evaluated annually.
2. **Civilian Employees**
   - (a) Probationary employees will be evaluated every three (3) months.
   - (b) Non-probationary employees will be evaluated annually, with at least one documented interim feedback session at six (6) months.

(b) Employees with documented performance deficiencies may be evaluated more frequently until the deficiency has been satisfactorily corrected.

## 912.4 EMPLOYEE EVALUATION SCHEDULE

Non-probationary employees evaluated on an annual basis shall be conducted according to the schedule below.

(a) Sworn employee evaluations will be completed as follows:

1. Officers, corporals, and detectives are evaluated between September 1 and September 15 by sergeants.
   - (a) Completed evaluations will be forwarded to the lieutenant for review by September 20.



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(b) Lieutenants will review and return the evaluations to their sergeants by October 5.

(c) Sergeants will review the evaluations with their employees.

2. Sergeants are evaluated between September 20 and October 5 by lieutenants.

(a) Completed evaluations will be forwarded to the commander by October 10.

(b) Commanders will review and return the evaluations to their lieutenants by October 20.

(c) Lieutenants will review the evaluations with their sergeants.

3. Lieutenants are evaluated between October 10 and October 20 by commanders.

(a) Completed evaluations will be forwarded to the assistant chief by October 25.

(b) Assistant chiefs will review and return the evaluations to their commanders by October 31.

(c) Commanders will review the evaluations with their lieutenants.

4. Commanders are evaluated between October 25 and October 31 by assistant chiefs.

(a) Completed evaluations will be forwarded to the Chief by November 10.

(b) The Chief will review and return the evaluations to the assistant chiefs by November 20.

(c) Assistant chiefs will review the evaluations with their commanders.

5. Executive evaluations will be completed between November 10 and November 30 by the Chief.

(b) Civilian employee evaluations will be completed by October 31 each year.

### 912.4.1 RESPONSIBILITIES OF SUPERVISORS OF PROMOTED AND TRANSFERRED EMPLOYEES

(a) Evaluations of employees promoted or transferred from one assignment to another will be handled by the supervisor over the employee prior to the effective date of the promotion or transfer as follows:

1. An evaluation of the employee will be completed within 15 days of the employee's promotion or transfer if the effective date of the promotion or transfer occurs more than 90 days after the last evaluation. The evaluation will be sent to the employee's new supervisor to be used during the next evaluation period.

2. No action is required if the effective date of the employee's promotion or transfer is within 90 days of the employee's last completed evaluation.

(b) Within 15 days of an employee promoting or transferring, the employee's new supervisor will review the evaluation documents and expectations with the employee.



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### 912.4.2 RESPONSIBILITIES OF PROMOTED AND TRANSFERRED SUPERVISORS

(a) When supervisors promote or transfer more than 90 days after the last evaluation period, supervisors will complete evaluations on all of their previous employees no later than 15 days after the effective date of their promotion or transfer. The evaluations will be given to the incoming supervisor to be used during the next evaluation period.

(b) Within 15 days of taking over a unit or command, promoted and transferred supervisors will:

1. Review current evaluation documents or develop new evaluation documents related to the unit or command; and
2. Review those evaluation documents with their new employees to set the supervisors expectations.

## 912.5 EVALUATION PROCESS

The principle objective when rating employees is to determine whether or not they can perform the required functions of the job. Supervisors/raters should evaluate an employee's knowledge, skills, and abilities and determine if any training or developmental needs exist.

(a) Employees are responsible for actively participating in the performance evaluation process and for utilizing this process for their professional growth and development. Employees should come to the evaluation meeting prepared to discuss career goals and any skills, training, education, or other assistance needed to enhance their career development and/or their performance.

(b) Supervisors will follow the instructions for completing and submitting employee evaluations included with the specific evaluation system being used.

1. Supervisors/raters are responsible for providing a written explanation whenever an employee's performance is rated as "unsatisfactory/does not meet expectations" or as "outstanding/exceeds expectations" by giving specific reasons for the rating given.
2. When unsatisfactory performance is identified in an employee, supervisors will notify the employee of the deficiency and define actions that should be taken to improve the performance as soon as practicable. The notification and the improvement plan shall be documented and given to the employee at least ninety (90) days prior to the end of the annual rating period.

(c) Next-level managers shall incorporate the following points into the evaluations of the supervisors/raters under their command:

1. Fairness and impartiality of ratings.
2. Participation in counseling employees at time of evaluations.
3. Uniform application of ratings.
4. Ability to perform the role of evaluator.
5. Adherence to established deadlines for conducting evaluations.
6. Ability to communicate to employees the Department's goals and objectives, business plan.

### 912.5.1 EVALUATION TRAINING

(a) **Field Training Officers** - Training on the evaluation process used for probationary officers will be provided through the FTO program.



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(b) **Sworn Employee Supervisors** - Officers promoting to the rank of sergeant will be provided instruction on the evaluation process during the first-line supervisor school. Further training will be provided as needed.

(c) **Civilian Employee Supervisors** - The City Organizational Development Department conducts on-going training for supervisors on the performance evaluation process. APD-HR will provide training as needed.

### 912.5.2 EVALUATION REVIEW PROCESS

(a) Prior to administering completed evaluations to employees, evaluations will be forwarded to the rater's next-level manager for review and acknowledgment by signature.

1. Raters and next-level managers that do not agree on the evaluation should attempt to come to an agreement before the evaluation is given to the employee. If an agreement cannot be reached the evaluation will not be changed; however, the next-level manager may add comments and initial any notations made.
2. After next-level manager review:
   (a) **Sworn Employees** - The evaluation will be reviewed with the employee.
   (b) **Civilian Employees** - The evaluations will be forwarded to APD-HR. APD-HR will analyze the evaluations for compliance with city-wide guidelines. After analysis the evaluations will be returned to the supervisor for review with the employee.

(b) Supervisors will review completed performance evaluations with their individual employees and provide feedback regarding the employee's performance during the evaluation period.

1. Employees will be given the opportunity to make written comments to the completed evaluation to be included with the evaluation when it is submitted.
2. Employees will sign their completed evaluation to indicate they have read and understand the evaluation. If the employee refuses to sign, supervisors will have another supervisor witness the employee's refusal and both the rater and the witness will initial the form.
3. Career counseling will be provided for each employee in regard to training needed for continued improvement in their current position, advancement, specialization, and/or promotion.
4. New evaluation criteria for the next rating period will be established and discussed with the employee, including goals for the specified time period and the level of performance expected in each area. The employee will be given a written copy of this information.
5. Completed and signed evaluations, along with any written comments attached, will be given to each employee once the evaluation review session is completed.

### 912.5.3 APPEALS TO EVALUATION RATINGS

(a) Employees who disagree with the rating provided by their supervisor should first speak with the supervisor about the specific reason(s) for the rating and provide any information about why they believe this rating is inaccurate.

(b) If the employee and the supervisor do not reach an agreement on the rating, employees may utilize the appropriate grievance/appeal procedure.



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1. Employees who wish to appeal their performance evaluation should contact APD-HR as soon as possible in order to meet any deadlines established in the grievance/appeal procedure.
2. The Chief or designee will make the final decision on any appeals of performance evaluations.

## 912.6 EVALUATION RETENTION

(a) Performance evaluations shall be a permanent part of the employee's personnel file.

(b) Pursuant to Local Government Code, Section 143.089, the performance evaluations on officers shall be forwarded to the Civil Service office for retention in the officer's Civil Service Personnel File. Retention in this file will be governed by rules in accordance with law and as adopted by the Civil Service Commission.



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# Discrimination and Harassment

## 914.1 PURPOSE AND SCOPE

The purpose of this policy is to prevent Department members from being subjected to discrimination, harassment, or sexual harassment and to ensure full equal employment opportunity in conformance with federal, state and local law.

## 914.2 POLICY

The Austin Police Department is committed to creating and maintaining a work environment that is free of all forms of discrimination and intimidation, including sexual harassment. The Department will take preventive, corrective and disciplinary action for any behavior that violates this policy or the rights and privileges it is designed to protect.

## 914.3 DEFINITIONS

### 914.3.1 DISCRIMINATION

(a) Discrimination is any act or omission of an act which would create a hostile work environment, or exclude any person from employment or promotional opportunities because of creed, color, national origin, sex, gender identity, age, religion, veteran status, disability, or sexual orientation.

(b) In addition, the City will not discriminate on the basis of an individual's AIDS, AIDS Related Complex, or HIV status; nor will the City discriminate against individuals who are perceived to be at risk of HIV infection, or who associate with individuals who are believed to be at risk.

(c) Discrimination includes, but is not limited to, derogatory comments, slurs or jokes, pictures, cartoons or posters and actions that result in an employee being offended or insulted.

### 914.3.2 SEXUAL HARASSMENT

(a) Sexual harassment is any unwelcome sexual conduct that occurs under one or more of the following conditions. Unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature will be considered harassment when:

1. Submission to such conduct is made either openly or by implication a term or condition of an individual's employment; or
2. Submission to or rejection of such conduct by an individual is used as a basis for employment decisions affecting that person; or
3. Such conduct unreasonably interferes with the individual's work performance or creates an intimidating, hostile, or offensive working environment.

(b) Sexually oriented jokes, remarks, gestures, or pictures may be offensive to other employees and will not be tolerated.

(c) Any manager, supervisor or employee who engages in such objectionable conduct is subject to immediate discipline up to and including termination.



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### 914.3.3 HARASSMENT

(a) Harassment is abusive, obscene or threatening conduct or communication that is intended to harass, annoy, alarm, torment, embarrass or injure another.

(b) Employees who engage in such conduct while on duty or on City premises will be subject to immediate discipline.

### 914.3.4 ADDITIONAL CONSIDERATIONS

Discrimination and harassment does not include actions that are in accordance with established rules, principles or standards, including the following:

(a) Acts or omission of acts based solely upon bona fide occupational qualifications under the Equal Employment Opportunity Commission.

(b) Bona fide requests or demands by a supervisor that an employee improve his work quality or output, that the employee report to the job site on time, that the employee comply with City or Department rules or regulations, or any other appropriate work-related communication between supervisor and employee.

## 914.4 RESPONSIBILITIES

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

(a) All employees shall promptly report any observed or known violations of this policy to:

1. Any person in the employee's chain-of-command, including the Chief. If the allegation involves a person in the employee's chain-of-command, employees should feel free to report the situation to any other supervisor.
2. Internal Affairs (for sworn employees).
3. The APD-HR manager (for civilian employees).
4. City Auditor's Office.
5. The Director of City-HR or Civil Service.

### 914.4.1 SUPERVISOR RESPONSIBILITY

Each supervisor and manager shall:

(a) Ensure that the work environment is free from all types of unlawful discrimination, including sexual harassment.

(b) Take prompt, appropriate action within the work units to avoid and minimize the incidence of any form of discrimination.

(c) Ensure subordinates attend any required training on discrimination and harassment.

### 914.4.2 SUPERVISOR'S ROLE

Discrimination and harassment is viewed from the perspective of the victim, not the offender. Because of differences in individual values, supervisors and managers may find it difficult to recognize that their behavior or the behavior of others is discriminatory or harassing. Supervisors should consider whether a reasonable person in the victims place would consider the conduct to be inappropriate.

Supervisors and managers shall be aware of the following considerations:



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(a) Behavior of supervisors and managers should represent the values of the Department and professional law enforcement standards.

(b) False or mistaken accusations of discrimination and sexual harassment have negative effects on the careers of innocent employees.

(c) Supervisors and managers must act responsibly in the handling of such situations.

## 914.5 INVESTIGATION OF COMPLAINTS

(a) The Chief has the authority to order Internal Affairs to conduct an investigation alleging discrimination/harassment regardless of whether the conduct involves sworn or non-sworn employees.

(b) All complaints of discrimination/harassment involving sworn employees shall be reported to the Chief.

(c) All complaints of discrimination/harassment involving civilian employees will be reviewed and/or investigated according to City Personnel Policy.



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# Drug and Alcohol Free Workplace

## 916.1 PURPOSE AND SCOPE

The Department believes employees have a right to work in a drug and alcohol free environment. Persons under the influence of drugs or alcohol on the job may pose serious safety, health and security risks to the public and to other Department employees. This policy provides directives concerning the use or presence of drugs and alcohol in the workplace, the use or possession of prohibited drugs while off-duty, and provides procedures for substance abuse testing.

### 916.1.1 APPLICABILITY

Each applicant and hired employee must agree, as a condition of employment or continued employment, to abide by the terms of this policy.

(a) All potential police cadets must submit to a pre-employment drug test.

(b) All sworn employees must submit to:

1. Random drug testing; and
2. Drug and/or alcohol testing if there is a reasonable suspicion the employee has violated this policy or after the occurrence of a critical incident (as defined in the Meet and Confer Agreement).

### 916.1.2 DEFINITIONS

The following definitions apply to this policy.

**Alcoholic Beverage** - Alcohol, or any beverage containing more than one-half of one percent of alcohol by volume, which is capable of use for beverage purposes, either alone or when diluted (Tex. Alcoh. Bev. Code § 1.04).

**Drug** - Includes the following:

(a) Prohibited drugs.

(b) Prescription drugs not prescribed to the employee by a physician.

(c) Inhalants.

**Drug Test** - A urine, breath, hair, fingernail, toenail, or blood test for the presence of prohibited drugs or alcohol, conducted at a facility designated by APD management.

**Work Day** - Includes any time the employee is receiving compensation from the city (e.g., normal work shift, breaks, lunch hour, overtime).

## 916.2 GENERAL GUIDELINES

(a) This policy specifically prohibits employees from:

1. Reporting to work under the influence of any drug or alcoholic beverage.
2. Reporting to work under the influence of any prescription or over-the-counter drug that would adversely affect their senses or judgment.
3. Reporting to work or driving a City vehicle within four (4) hours after having consumed an alcoholic beverage.



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4. Consuming alcoholic beverages while the employee is on-call.
5. Using, possessing, selling, purchasing, distributing, or being under the influence of any prohibited drug while off-duty.
6. Testing positive for a drug.
7. Using, possessing, selling, purchasing, distributing, or being under the influence of any drug while on-duty unless authorized by the employees' supervisor and part of an employee's official duty.
8. Consuming or possessing alcoholic beverages while on any Department facility or while wearing any part of the APD uniform unless authorized by a supervisor for a legitimate law enforcement purpose.

(b) This policy does not prohibit the consumption of alcohol or other drug as necessary in the performance of an employee's duties and as approved by a supervisor. Personnel who consume alcohol as part of their duties shall not do so to the extent of impairing on-duty performance.

### 916.2.1 RESPONSIBILITY FOR REPORTING LEGAL DRUG USE

Department employees who use prescription or over-the-counter medication during work hours shall not allow such medication to impair their ability to perform their work.

(a) Employees who take any medication with side-effects which might impair their ability to fully and safely perform all requirements of their position shall report the need for such medication to their immediate supervisor.

(b) Supervisors will consult with the next level in the chain-of-command and make a determination whether to limit, suspend, or modify the employee's work activity, or otherwise reasonably accommodate such adverse effect.

(c) Employees may be requested to provide medical documentation of their ability to safely and effectively perform the essential functions of their position.

(d) Employees shall not be permitted to work on or drive a Department-owned or leased vehicle while taking medication that could impair their ability without a written release from their physician.

(e) Any information about an employee's medical condition obtained by a supervisor or manager is confidential, and will be shared only on a need to know basis. Any documentation of such medical information must be kept in the employee's confidential file by the Drug Testing Coordinator.

### 916.2.2 RESPONSIBILITY FOR REPORTING PASSIVE DRUG EXPOSURE

Employees subjected to the passive inhalation or exposure of a drug (e.g., marijuana) must immediately notify an on-duty supervisor.

(a) The supervisor should document in a memorandum:
    1. The substance the individual was exposed to; and
    2. The period of exposure; and
    3. A brief statement explaining the circumstances surrounding the exposure.

(b) The memorandum will be forwarded to the Drug Testing Coordinator who will maintain this documentation for use if needed in the drug testing program.



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### 916.2.3 CONSEQUENCES OF VIOLATIONS

APD has a zero tolerance standard for any violation of this policy. Employees shall be subject to disciplinary action up to and including indefinite suspension or termination.

## 916.3 PRE-EMPLOYMENT DRUG TESTING OF POLICE CADETS

Police cadet applicants ("applicant") shall submit to pre-employment drug testing after a conditional offer of employment has been extended. The following procedures will be followed for pre-employment drug testing:

(a) Applicants shall provide a drug test sample to the designated vendor.

(b) Test results shall be forwarded from the analyzing laboratory to the APD Wellness Office.

(c) The Wellness Office shall notify the commander over the Recruiting Unit or designee, in writing, of the test results.

(d) Applicants are not eligible for hire if they:

1. Refuse to sign the consent form.
2. Refuse to be tested.
3. Do not provide an adequate specimen.
4. Fail the drug test.

## 916.4 RANDOM TESTING OF SWORN EMPLOYEES

All officers are subject to unannounced and random drug testing at any time. Random tests will occur at unpredictable times and create the possibility any name(s) may be selected one or more times in a year, or not at all.

### 916.4.1 RANDOM TESTING SELECTION

The City will contract with a qualified and independent firm to operate and certify a non-discriminatory, computerized program, to generate an automated random list of officers to be tested, upon request by the Drug Testing Coordinator (DTC).

(a) The random list will be delivered to the DTC or designee by FAX, email, or hand delivered letter.

(b) Acting under the authority of the Chief, the DTC will issue a written directive to each officer on the list ordering them to submit to drug testing at the specified date, time, and location.

(c) Except when in actual use, the list of names will be limited to the DTC and employees approved by the Chief.

### 916.4.2 SWORN EMPLOYEE NOTIFICATION AND REPORTING FOR RANDOM TESTING

The DTC shall coordinate with the testing vendor concerning the date, time, location, and number of officers to be drug tested. The collection dates will not be announced to the affected employee in advance.

(a) The DTC shall provide the respective commanders or a Special Point of Contact (SPOC) with a list of names of those officers selected for testing. The *Notification to Report Form* (PD0101) will be utilized.



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(b) The commander or SPOC shall ensure selected officers are ordered both orally, and in writing using the *Notification to Report Form*, to report for testing at the specified time and location. Officers shall consider this directive to be an order from the Chief.

1. The use of the *Notification to Report Form* serves as a direct order by authority of the Chief to provide the necessary sample at the specified location.
2. This notice also instructs the selected personnel to report to the specified collection location within one hour of being served with the notice.

(c) The DTC shall coordinate the testing process to coincide with an officer's regularly scheduled workday.

1. Supervisors shall make every effort to ensure the officer reports to the testing facility immediately upon notification.
2. Officers with a legitimate conflict (e.g., court or training) shall immediately inform their supervisors of the conflict and shall report for testing as soon as practicable.

(d) Supervisors shall complete the *Documented Absence Form* (PD0102) and forward it to the DTC when an officer is on approved leave (e.g., vacation, sick). The form will be routed through the officer's chain-of-command to the DTC.

1. Officers missing a scheduled test due to an approved reason may be rescheduled for testing as soon as possible, irrespective of any random sampling selection.
2. Officers missing a scheduled test due to an unapproved reason or who are unable or fail to provide an adequate specimen shall be placed on administrative leave pending review.

(e) Officers who become involved in an emergency situation or police action while enroute to the testing facility shall notify an on-duty supervisor as soon as practical and request a second officer be dispatched to take over any necessary police functions. When relieved, the officer scheduled for testing shall continue to the testing facility.

### 916.4.3 ADDITIONAL DRUG SCREENING DUE TO ASSIGNMENT

(a) The Department has a compelling interest in ensuring that officers assigned to specified organizational levels do not use prohibited drugs or inhalants, abuse controlled substances, or abuse prescription or over-the-counter medications, due to the sensitive nature of their assignments. In these assignments, the strictest precautionary safeguards are necessary to provide for a drug-free working environment, and to ensure that there are no drug abusers or controlled substance abusers who jeopardize the safety of fellow officers and citizens. All sworn members who apply for or are assigned to the following divisions/bureaus will be subject to additional drug testing:

1. Organized Crime Division
2. Special Operations Division
3. Professional Standards Bureau
4. Any other assignment (s) that the Chief of Police or his designee determines by SOP should be subject to additional random drug testing.

(b) Sworn members assigned to these units may be randomly tested up to a maximum of three times per calendar year. This additional testing is separate and distinct from the random testing that every sworn member of the Department is subject to pursuant to this policy and the Meet and Confer Contract.



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## 916.5 REASONABLE SUSPICION TESTING FOR SWORN EMPLOYEES

(a) The Chief, an assistant chief, the Duty Commander, the DTC, and authorized designees have the authority to order officers to submit to a drug test.

(b) The Department may require drug testing of officers when a determination of reasonable suspicion is agreed upon by any two (2) supervisors.

### 916.5.1 CONDITIONS FOR REASONABLE SUSPICION TESTING

Reasonable suspicion must be based on facts or circumstances that lead a supervisor to believe the employee may:

(a) Be under the influence of drugs or alcohol.

(b) Currently have or had possession of drugs either on- or off-duty, or on or off City premises.

(c) Have been associated with or involved with others who were using or under the influence of drugs, or who were in possession of same. Such association or involvement was not authorized or required in connection with any law enforcement duty, under circumstances which reasonably indicate participation or complicity with, or protection of such other individuals.

(d) Have engaged in any conduct or situation involving alcohol, while on- or off-duty, which results in on-duty impairment.

### 916.5.2 PROCEDURES FOR REASONABLE SUSPICION TESTING

(a) Supervisors who reasonably suspect an employee to be under the influence of a drug or alcohol will:

1. Immediately remove the employee from performing regular duties, and, when possible, bring the employee to a private area away from the observation of coworkers and/or the public.
2. Notify the employee's commander, or if after normal office hours the Duty Commander.
3. Document in a memorandum addressed to the Chief detailing factors and any observations leading to the reasonable suspicion.
4. Immediately request another supervisor to witness and record their observations of the employee in a memorandum to the Chief.
5. Place the employee on restricted duty. Arrangements will be made for the employee to be taken home unless a decision is made to immediately conduct a drug test.
   (a) The Chief, an assistant chief, Duty Commander, or DTC may order the employee to take an immediate drug test. If testing is ordered:
      1. Supervisors will be notified and the DTC will arrange for the test.
      2. Supervisors will notify the affected employee of the test and prepare a memorandum instructing the affected employee to submit to the test.
      3. Supervisors will accompany the employee to the testing site and remain at the site until the testing is complete.

(b) If there is probable cause to believe a crime has been committed, appropriate arrest procedures will be followed.



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## 916.6 CRITICAL INCIDENT DRUG TESTING OF SWORN EMPLOYEES

The Department shall require a drug test of any sworn employee within 24 hours after the following critical incidents:

(a) Discharge of a firearm, on- or off-duty, whereby a person was the intentional or accidental object of the shooting, including when no injury is caused;

(b) A vehicular crash while driving an APD vehicle resulting in the death or serious injury of any person.

(c) An event in which an officer, on- or off-duty, while performing a law enforcement function:

1. Suffers serious bodily injury and is hospitalized; or
2. Causes the death or serious injury of another person.

## 916.7 SAMPLE COLLECTION AND RESULTS REPORTING PROCEDURES

Collection of the necessary samples and analysis will be conducted by a contracted firm/laboratory certified by the National Institute of Drug Abuse (NIDA). Scientifically accepted screening and confirmation tests will be employed in the analysis of the collected samples. After arriving at the specified collection location, officers will comply with instructions received from screening personnel. Screening will only be done for prohibited drugs and/or alcohol.

(a) When a drug test is required of employees, it will be collected by a vendor contracted with by the City or a person selected by the Chief or DTC who is qualified to administer such a test. Any employee involved in the collection of samples shall be trained in collection and chain of custody protocols.

1. Drug test samples from police cadet applicants will be collected by the contracted vendor. The vendor will deliver the samples to the laboratory for testing.

(b) Collection dates for random testing will not be announced in advance.

(c) Three (3) samples of hair will be collected for hair follicle testing. Samples collected will be:

1. Cut as close to the scalp as possible.
2. Taken from the same body area, preferably the head or face, or if necessary the body. Samples will not be taken from the pubic area.
3. If an employee does not have sufficient head, face, or body hair, then a nail sample from the fingers or toes will be taken for analysis.

(d) Sample collections for all tests administered by the contracting vendor will be taken in accordance with the procedures established by the vendor. Officers will be required to present a valid driver's license and APD identification card at the collection location.

(e) Officers summoned to provide a specimen for analysis will remain at the collection location in view of collection personnel until an adequate sample can be produced. The samples will be provided in feasible privacy.

(f) Drug test results acquired by the DTC as a result of employment are the property of APD and copies will not be made available to employees; however, both positive and negative results will be communicated to the officer who submitted the sample.



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### 916.7.1 POSITIVE TEST RESULTS

(a) If the initial screening indicates a positive test result, a second test of this specimen will be performed.

1. A confirmed positive report will only be made after this second test also comes back positive.
2. A confirmed positive test report will be maintained by the DTC in a secure area.

(b) Once the DTC has received the initial notification from the drug-testing vendor that an officer has a positive test result, the DTC will notify a supervisor in the officer's immediate chain-of-command.

1. Employees shall be placed on Restricted Duty pending final review and disposition which will be made, if possible, within thirty (30) calendar days of the date the positive test result was reported to the DTC.
2. Within eight (8) hours after receiving notification from their chain-of-command of an initial positive test result, officers will have the opportunity, at their own expense, to provide a urine sample to their private physician.
3. In order to ensure the integrity of the sample and the testing process, personnel from the drug-testing vendor will accompany the officer to the physician's office. The sample must be submitted by the physician for analysis to a firm/laboratory certified by the NIDA.
4. Officers must provide the DTC with a copy of the independent test results, as well as a signed release authorizing the independent firm/laboratory to provide the DTC with a copy of all documents related to the drug test.
5. Verified, confirmed, positive test results in random drug testing are for administrative purposes only and will not be used against officers in any criminal proceeding.

(c) Officers may request the urine sample be stored in case of legal disputes. The urine sample will be submitted to the designated testing facility where a sample will be maintained for a period of one (1) year.

## 916.8 STORAGE OF TESTING RECORDS

Drug test documentation, other than disciplinary reports, shall be maintained in a secured cabinet in the office of the DTC. A separate, confidential file will be maintained for each employee who submits to drug testing.



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# Drug and Alcohol Abuse and Treatment

## 917.1 PURPOSE AND SCOPE

The Austin Police Department encourages any employee who has an alcohol or other drug problem to seek treatment before the problem manifests itself into a violation of Department policy.

## 917.2 ALCOHOL USE AND ABUSE

The Department recognizes alcoholism as an illness which can be effectively treated. Early recognition of alcohol abuse and problem drinking increases the chances for successful recovery before serious personal or professional problems occur.

(a) Drinking alcohol by adults is a widely practiced social activity which does not violate any law and is often considered a natural part of participating in group recreational activities. As a result, there is more social pressure to drink than to be disciplined in drinking.

(b) Because of its short-term numbing effects, alcohol is also used to relax and to manage mental stress and emotional pain. As a result, people can develop a dependence on alcohol to relax or to avoid the discomfort of stressful living.

### 917.2.1 IDENTIFICATION OF PROBLEM DRINKING

When employees' drinking interferes with their work responsibilities and/or personal life, they should be encouraged to seek professional assistance. This would be to assess the nature of the drinking habit and to begin practicing the discipline of moderate drinking or abstention.

(a) Some of the early signs of problem drinking include, but are not limited to:

1. Poor attendance at work.
2. Off-duty disturbances involving alcohol.
3. Increased social drinking.
4. Drinking alone or in isolation.
5. Friends or family suggesting to reduce drinking.
6. Looking forward to drinking at certain times or the day or week.
7. A reliance on alcohol to relax or socialize more comfortably.
8. Knowingly make excuses for excessive drinking.
9. Arranging your weekly schedule around partying or drinking so as to have plenty of time to sleep it off or get over the hangover.

## 917.3 PERSONNEL RESPONSIBILITIES

### 917.3.1 AFFECTED EMPLOYEE RESPONSIBILITIES

(a) Employees should recognize a problem with alcohol may exist when their personal attendance, job performance, off-duty behavior, or general conduct falls below normal professional standards.



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(b) Employees are expected to perform their job in a consistently professional manner regardless of their status with respect to alcohol issues (e.g., identification of a drinking problem, treatment program, recovery process).

### 917.3.2 SUPERVISOR RESPONSIBILITIES

(a) Supervisors are expected to be alert to signs that an employee may have a drinking problem. The supervisor will review the problem behavior with the employee, encourage the employee to seek voluntary assistance, and make a mandatory referral for professional assessment when appropriate.

(b) Scheduling arrangements should be made for the employee to utilize accrued sick leave or personal leave to obtain assistance.

(c) Supervisors should avoid accepting chronic excuses for problem drinking.

## 917.4 VOLUNTARY ASSISTANCE AND TREATMENT

(a) All professional counselors, both within the Department and in private practice, are ethically required to keep confidential the names of people who are receiving voluntary treatment.

(b) All inquiries about assistance by an employee or family member shall be kept confidential.

1. The City-HR maintains information regarding the Employee Assistance Program and other appropriate resources and programs.
2. Employees who suspect they have an alcohol or legal drug problem can obtain assistance from:
   (a) APD employees who are:
      1. Trained Peer Support employees.
      2. Chaplains.
      3. Recovering alcoholics.
   (b) APD Psychological Services staff members.
   (c) The City Employee Assistance Program (EAP).
   (d) Private treatment programs.

(c) An employees voluntary disclosure of an alcohol or legal drug problem before submitting to a drug test or being requested to submit to a drug test may be considered by the Chief as a mitigating factor should the facts warrant the matter being handled as a disciplinary issue.

## 917.5 REFERRAL FOR ASSESSMENT AND TREATMENT

(a) Employees who are identified by supervisors because of disciplinary problems or off-duty incidents shall:

1. Be referred to the Department Psychological Services Unit which will coordinate the assessment, treatment and follow-up program with an outside professional treatment center; and
2. Will not have confidentiality because of the Department's responsibility to follow-up on problem behavior.



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(b) Upon completion of the recommended treatment program, the affected employee shall obtain a letter from the treatment staff confirming that the employee has completed the recommended treatment. That letter will be forwarded through Psychological Services to the employees' chain-of-command.

## 917.6 TREATMENT FOLLOW-UP

(a) To prevent relapses into problem drinking, it is often useful to establish new support networks such as joining an Alcoholics Anonymous group, obtaining a sponsor, or meeting regularly with other recovering problem drinkers. In some cases, the treatment center staff will recommend random urine testing to reinforce the habit of not drinking.

(b) The Department will expect employees with drinking problems to complete whatever treatment follow-up is recommended by the outside treatment center staff.

(c) In cases where the employee is referred by a supervisor for problem drinking, completion of any follow-up program will be documented by the treatment center staff and sent to the employee's supervisor.

## 917.7 VOLUNTARY REHABILITATION PROGRAM

These guidelines apply only to one requested leave of absence. Any request for additional leave of absence under the Voluntary Rehabilitation Program will be handled on a case-by-case basis and granted only at the sole discretion of the Chief or designee, and as required by law. The return to work agreement should be prepared by the affected employee's immediate supervisor, and a copy of this agreement should be sent to the DTC.

(a) An employee who is being treated for a legal drug or alcohol problem may be placed on unpaid medical leave of absence; however, some or all of the leave of absence may be substituted with paid leave accrued by the employee.

(b) While on such leave the employee will be subject to all APD policies and procedures governing such leaves of absence.

(c) Nothing in this policy is intended to conflict with the provisions of the Family and Medical Leave Act (FMLA), and in the case of any conflict, the provisions of the FMLA prevail.

### 917.7.1 PROGRAM AGREEMENT

Employees who seek to participate in the Voluntary Rehabilitation Program must agree to the following:

(a) Actively participate in an appropriate drug or alcohol treatment program of a licensed, accredited treatment facility, and follow all rules, guidelines, and recommendations of that program or facility, including but not limited to after-care recommendations; and

(b) Complete the treatment program, not reject any treatment or recommendations of the program or facility, and not leave or discontinue the treatment program before being properly discharged; and

(c) Upon completion of the treatment program, agree to unscheduled, periodic drug tests for a period of not less than one (1) year to be administered by the contract vendor. The failure of a subsequent drug test shall result in immediate termination or indefinite suspension of the employee; and



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(d) Sign all necessary authorizations and consents to allow the treatment facility to furnish copies of the employee's treatment records to APD's physician so that APD can monitor the employee's treatment program.

### 917.7.2 RETURN TO WORK

An employee who seeks to return to active employment while undergoing treatment or after completing treatment must sign and fully comply with a written "Return to Work Agreement" containing at least the following provisions:

(a) The employee must submit to a drug test and obtain a negative test result before returning to work; and

(b) APD's physician must determine that the employee is capable of returning to full duty status; and

(c) The employee must comply with all APD policies and procedures; and

(d) The employee must agree to unscheduled, periodic drug tests for a period of not less than one (1) year. The failure of a subsequent drug test shall result in immediate termination or indefinite suspension of the employee.



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# Vacancy and Transfer Guidelines for Sworn Employees

## 918.1 PURPOSE AND SCOPE

The purpose of this policy is to set guidelines for posting and filling of vacancies for all sworn employees up to and including the rank of commander. While the proper staffing of all positions is a prime concern, it is also desirable to maintain a certain level of stability in assignments of personnel to particular workgroups. Although not mutually exclusive, at times both objectives may not be simultaneously achievable. Occasions will arise when deviations from the norm will be required in order to meet the needs of the Department.

### 918.1.1 AUTHORITY

The Chief has ultimate authority over all transfers and reserves the right to bypass provisions of this policy if it is in the best interest of the Department. The Chief may delegate his authority for transfer issues to an appropriate assistant chief or commander.

## 918.2 DEFINITIONS

**Initial Vacancy** - A vacancy created based upon a promotion or by the separation of an employee from APD (e.g., retirement, resignation, termination).

**Vacancy in the Near Future** - A vacancy which will occur within fourteen (14) calendar days after the vacancy posting.

**Hardship** - A situation that an employee experiences because of a specific work assignment and which causes unusual stress, an uncomfortable working relationship, or causes an employee to be mentally distracted from optimal performance of duty or attention to duty.

## 918.3 GENERAL GUIDELINES

(a) Assistant chief and commander assignments will be at the discretion of the Chief.

(b) Lieutenant and sergeant assignments will be made by the commanders with the concurrence of the affected assistant chiefs and approved by the Chief.

(c) Corporal, detective, and officer assignments will be governed by this policy.

(d) Officers normally will be assigned to patrol while still on probation.

(e) The Chief may appoint employees to assignments in Internal Affairs, the Special Investigations Unit, and Training.

(f) A newly promoted employee, other than commander, will not generally be assigned within the same Unit he was assigned to prior to a promotion.

1. A newly promoted employee awaiting an assignment may be placed within his current command with a person of equal rank in order to begin learning the responsibilities of the rank.
2. A newly promoted employee that has not been selected after thirty (30) calendar days will be assigned to a vacancy by the affected assistant chiefs.



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### 918.3.1 STABILIZATION PERIOD

(a) Employees that voluntarily transfer into an assignment will serve a minimum of one (1) year in the new assignment.

(b) Employees transferred into an assignment that was not requested may be allowed to transfer earlier if the transfer will not impact service delivery.

(c) The stabilization period is not required for transfers within a command.

### 918.3.2 MAJOR STAFFING ADJUSTMENTS

When a major staffing adjustment is necessary as a result of shift imbalances caused by promotions, transfers, cadet class graduations or reorganizations, all affected commanders or designees will meet to facilitate the adjustment.

## 918.4 VACANCY GUIDELINES

(a) When a vacancy occurs, the affected commander has up to seven (7) calendar days to make any desired internal staffing adjustments to fill that vacancy.

1. Commanders shall notify their assistant chief prior to the transfer, or if impractical, as soon as possible after the transfer is made.

(b) If the vacancy is not filled from within a command, an initial vacancy notice will be electronically posted for ten (10) calendar days on the APD intranet site.

1. No postings will begin on Saturday, Sunday or an official City holiday.
2. All subsequent postings resulting from the filling of the initial vacancy should follow the same process.
3. Commander and lieutenant vacancies may be paged or emailed as allowed by the Meet and Confer Agreement.

(c) Vacancy notices will include the following information:

1. Title of position; and
2. A job description or information pertaining to where the job description may be obtained; and
3. Duty hours, although the hours may be listed as "hours vary"; and
4. Special requirements an applicant must meet; and
5. Special licenses, skills, or abilities (e.g., specialized training, physical abilities, credit checks) the applicant must possess; and
6. The deadline for applications to be submitted.

(d) Vacancy postings should remain open for ten (10) calendar days.

## 918.5 TRANSFER PROCESS

Applications for all vacancies shall be made using the *Sworn Transfer Request Form* available on the Human Resources Sharepoint site.

(a) Applicants are responsible for electronically submitting the *Sworn Transfer Request Form* to their immediate supervisor and the supervisor listed on the posting prior to the deadline.

(b) The next eligible person(s) on an applicable promotion list will automatically be included for consideration of a vacancy, along with other applicants.



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### 918.5.1 HARDSHIP TRANSFERS

(a) Employees requesting a transfer based on a hardship shall document the request in a memorandum to their assistant chief through the chain-of-command.

1. The memorandum shall contain the specific reasons why the current assignment is causing a hardship.
2. Each member of the chain shall make a recommendation to the assistant chief as to whether or not the hardship transfer should be honored.

(b) The hardship shall be evaluated by a joint committee pursuant to the Meet and Confer Agreement.

(c) Assistant chiefs will make a decision regarding hardship transfers on a case-by-case basis. Included in any decision to grant the transfer shall be a specific statement as to the time frame for which the transfer is effective.

### 918.5.2 TRANSFERS WHILE ON LIMITED DUTY

Employees may apply for transfers to full-duty positions while on Limited Duty status.

(a) An employee's Limited Duty status will not automatically disqualify the employee from consideration for a vacant position.

1. Selections will be based upon the qualifications of the individuals applying for the transfer and the operational needs of the Unit in which the vacancy exists.
2. Consideration may be given to the availability of Limited Duty tasks in the assignment being applied for and the anticipated duration of the employee's Limited Duty status.

## 918.6 FILLING VACANCIES

Affected assistant chiefs, commanders and/or designees have ten (10) calendar days after the posting closes to make a choice and finalize a selection.

(a) Affected assistant chiefs, commanders and/or designees will review vacancy applications and, when possible, make the selection from those employees having shown interest in the position.

1. If a person on the promotion list is preferred over an incumbent for the posted assignment, written justification must be submitted through the chain-of-command and approved two ranks above the position being filled prior to selection.
2. If no candidate for a vacancy meets the stabilization requirement, the commander or designee over the position may:
   (a) Choose the best overall candidate who applied; or
   (b) Repost the vacancy.
3. If no applicants are selected or no applications are received, the Chief may approve an affected assistant chief or commander to:
   (a) Solicit further applicants; or
   (b) Transfer an employee into the position.

(b) An eligibility list may be established but can only be maintained for up to ninety (90) calendar days.



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(c) The chain-of-command filling the position shall contact all applicants and inform them who was selected to fill the vacancy. If appropriate, the chain will provide feedback to applicants who were not selected to potentially increase an applicant's future opportunities for selection.

(d) Once a vacancy has been filled, all *Transfer Request Forms* will be forwarded to APD-HR to be maintained in compliance with the records retention schedule.

### 918.6.1 TWENTY-EIGHT DAY NOTICE

Generally, employees transferring to a new assignment will receive a notice at least twenty-eight (28) calendar days prior to the start of their new assignment.

(a) Employees may waive the 28-day notice by signing the transfer paperwork.

(b) The Department reserves the right to transfer an employee without granting a 28-day notice when a need exists to make the transfer sooner due to workload, unforeseen vacancies, emergencies, or when it is in the best interest of the Department. The manager that makes such a decision must notify the employee in writing and forward a copy to the Chief through the chain-of-command.

### 918.6.2 WHEN AGREEMENT IS NOT REACHED REGARDING TRANSFERS

If an agreement cannot be reached between the immediate supervisors involved as to whether the applicant may be allowed to transfer, the decision shall be moved to one higher level, up to and including the Chief, until a decision can be reached.

## 918.7 APPEAL PROCESS

Employees transferred into a position that was not requested may submit a memorandum through their chain-of-command appealing the decision. The Chief has final authority regarding all transfers.



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# Promotional Bypass of Sworn Employees

## 919.1 PURPOSE AND SCOPE

This purpose of this policy is to outline the process for the Chief of Police to bypass a candidate on a promotional eligibility list.

## 919.2 POLICY

The Chief of Police may bypass a candidate on a promotional eligibility list with a valid reason. Factors taken into consideration to determine if a valid reason exists include, but are not limited to:

(a) Whether the candidate is subject to any pending administrative or criminal investigation.

(b) Whether the candidate understands his role in the organization as a leader and role model.

(c) Whether the candidate has exhibited behavior which could result in a lack of trust or respect for the candidate by his superiors, his subordinates, and/or the community.

(d) Whether the candidate or his chain-of-command has identified any deficiencies or concerns, and whether the candidate has taken advantage of opportunities available to him to address those deficiencies.

(e) Whether the candidate has been subject to Disciplinary Action.

1. Suspensions that are not eligible to be reduced to a written reprimand as provided for by the Meet and Confer Agreement may be considered for a period of five (5) years from the date the suspension was issued.
2. Written reprimands resulting from a suspension reduction as provided for by the Meet and Confer Agreement may be considered for a period of thirty-six (36) months from the date the initial suspension was issued.
3. All other written reprimands may be considered for a period of thirty-six (36) months from the date the written reprimand was issued.

(f) Whether the candidate is or has been on a Performance Improvement Plan.

1. A PIP may be considered for a period of eighteen (18) months from the date of successful completion.



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# Awards and Commendations

## 922.1 PURPOSE AND SCOPE

This document establishes directives regarding the Departmental commendations or awards to APD employees and other individuals outside of the Department.

## 922.2 COMMENDATION GUIDELINES

Initiation of a personal commendation to honor an employee for exceptional performance may be made by any employee, a group of employees, or by an individual outside of the Department. Commendations will be processed in the following manner:

(a) Personal Commendations are to be submitted on APD Form PD0183, PERSONAL COMMENDATION FORM.

(b) Original commendations will be sent to the commended employees commander/manager for review.

1. The commander/manager will forward the original commendation to each employee's assistant chief who will read and sign the commendation and return it to the employees commander/manager.

(c) Upon receipt of the commendation, the commander/manager will ensure:

1. A copy of the commendation is sent to the employee within ten (10) working days of receipt.
2. A second copy is sent to each employee's immediate supervisor who will take any additional action should the commendation need further review by the Committee for an award or service ribbon.
3. The original is forwarded to APD-HR for placement in each employee's personnel file.

## 922.3 AWARD GUIDELINES

### 922.3.1 AWARDS COMMITTEE

(a) Members of the Committee will be selected by the Committee chairperson, with final approval by the Committee coordinator.

1. Five (5) committee members, in addition to the chairperson and Committee Secretary, must be present to vote on nominations.
2. The secretary is a non-voting position.
3. The chairperson votes only in case of a tie.

(b) The Committee may recommend a different award than a nomination recommends to maintain the integrity of the Department's award system.

(c) The Chief reviews and has final approval over all recommendations for awards made by the Committee.



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### 922.3.2 AWARD NOMINATION PROCEDURES

(a) An employee wishing to nominate another employee or a citizen for an award, except Unit of the Year, will:

1. Complete nomination packet consisting of a memorandum (NOT Personal Commendation form) providing detailed information as to why the nomination is being made and attach all necessary documentation (e.g., reports, letters, newspaper articles) to support the nomination.
2. Nomination packets will then be routed up the Chain of Command to the Commander/Division Manager level.
3. The receiving Commander/Division Manager will ensure that the nomination packet, including all supporting documentation, is forwarded to the Committee Secretary at APDAwardsCommitte@austintexas.gov. The Committee will then forward approved award nominations to the Chief of Staff.
4. Nominations should be submitted within one year of the event.

(b) Nominations for Unit of the Year procedures are as follows:

1. An employee wishing to nominate a unit for Unit of the Year will submit a nomination packet to their respective Commander/Division Manager no later than December 1st. The packet should consist of:
   (a) A two to three page summary memo (NOT Personal Commendation Form) containing an overview of the unit's accomplishments and up to 10 additional pages of supporting documentation (i.e. commendations, press releases, letters of recommendations, etc).
   (b) A list of all personnel who were unit members for at least 6 months during the calendar year and the actual dates each member was assigned to that unit.
   (c) Data used for nominations should run from calendar year start and end dates to ensure consistent time frames.
2. Each Commander/Division Manager will review the nomination packets and forward the packets to their Assistant Chief/Assistant Director no later than December 15th.
3. Executive Staff will select the top 3 nominations and forward those to the Chief of Police.
4. The final decision will be made by the Chief of Police and sent to the Awards Committee Chair by January 10.
5. The unit selected must commit to having 80% of their staff attend the Chief's presentation of the award.

## 922.4 CITIZEN AWARDS

The following awards are authorized for citizens and shall consist of a citation mounted on a plaque or placed in a certificate holder:

(a) **Distinguished Service Citation**

1. Presented by the Chief or designee to award citizens for providing exceptional service to the Department under emergency or hazardous conditions while displaying uncommon courage and good judgment.

(b) **Certificate of Recognition**



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1. Presented by the Chief or designee to award citizens for providing unexpected and exceptional service, without regard for compensation, to the Department over any period of time. The provided service may include support of the Department, officers or the families of officers.

## 922.5 EMPLOYEE AWARDS

Medals, ribbons and authorized pins and medallions shall only be worn as specified in Department policy. Employees will not receive an award through the below process while under formal investigation for violating a departmental policy without the consent of the Chief.

(a) The following awards, citations, and/or ribbons are for sworn personnel only:

1. Medal of Valor
2. Police Distinguished Service Cross for Valor
3. Honorable Conduct Citation
4. Special Response Team (SRT) Campaign Ribbon
5. Master Certification Ribbon
6. Safe Driving Ribbon
7. Fitness

### 922.5.1 MEDAL OF VALOR

Conferred for displaying exceptional bravery and courageous action, risking life or serious bodily injury, while in the performance of duty, thereby earning high honor and distinction and bringing favorable recognition to the Department.

(a) Medal, ribbon, "V" device, and certificate.

(b) Presented by the Chief.

### 922.5.2 POLICE DISTINGUISHED SERVICE CROSS FOR VALOR

Conferred for displaying bravery and uncommon courage in the face of hazardous duty, thereby meriting honor and recognition for distinguished service and bringing great credit to the law enforcement profession.

(a) Medal, ribbon, "V" device, and certificate.

(b) Presented by the Chief.

### 922.5.3 DISTINGUISHED COMMAND MEDAL

(a) Conferred for distinguished command as demonstrated by:

1. Exceptional and courageous command during critical times which required extraordinary police service; or
2. Clearly exceptional command and leadership for an extremely difficult or hazardous project or task which was highly successful or brought great recognition to law enforcement; or
3. Clearly exceptional command and leadership, which have been consistently demonstrated over an extended period of time.

(b) Medal, ribbon, lapel pin and certificate.



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(c) Presented by the Chief.

### 922.5.4 PURPLE HEART

Conferred for suffering serious bodily injury or death in the line of duty under honorable circumstances, which brought favorable recognition to the Department.

(a) Medal, ribbon, and certificate.

(b) Presented by the Chief.

### 922.5.5 LIFE SAVING MEDAL

Conferred for going above and beyond what is expected to save a human life. The event must have involved specific and direct intervention.

(a) Medal, ribbon, and certificate.

(b) Presented by the Chief or designee.

### 922.5.6 MERITORIOUS SERVICE MEDAL

Conferred for meritorious service demonstrated through outstanding performance of duty under clearly hazardous and complicated conditions, or when the service delivered clearly contributed to a high degree of success in a difficult or complicated project or task.

(a) Medal, ribbon, and certificate.

(b) Presented by the Chief or designee.

### 922.5.7 UNIT OF THE YEAR CITATION

Presented to ONE outstanding Unit each year, based upon meritorious service as demonstrated through exceptional valor by all members during extremely hazardous duty or exceptional collective outstanding performance which exemplified dedication to the Unit mission or assignment over an extended period of time.

(a) Medal, ribbon and certificate for each Unit member.

(b) Presented by the Chief or designee.

### 922.5.8 SUPERIOR SERVICE CITATION

(a) Presented to employees for

1. Demonstrating a superior commitment to quality service or caring service within the community or Department; or
2. Exhibiting outstanding problem-solving skills which brings recognition to the individual and Department; or
3. Providing volunteer community service which results in favorable recognition of the Department.

(b) Medal, ribbon and certificate.

(c) Presented by the Chief or designee, or the employee's commander/manager.

### 922.5.9 HONORABLE CONDUCT CITATION

(a) Presented to employees for completing 10 years (aggregate) of commissioned service, as long as the officer:



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1. Is in good standing; and
2. Receives a favorable recommendation from their supervisor; and
3. After the formula set out in (b) has been applied.

(b) Calculation of eligibility:

1. Written Reprimand
   (a) Loss of one year eligibility (other than for a collision or minor traffic infraction).

(c) Suspension

1. One (1) to three (3) days suspension results in a loss of three (3) years of eligibility.
2. Four (4) to fifteen (15) days suspension results in a loss of five (5) years of eligibility.
3. Sixteen (16) or more days suspension requires ten (10) years consecutive honorable service starting from last day of suspension.

(d) A minimum amount of time must pass between a dishonorable event and consideration for the Citation as determined by the Chief or his designee. The purpose is to prevent presenting the award to someone who has recently received discipline, thereby undermining the significance of the Citation.

(e) An employee who remains eligible under the criteria above for 20 and 30 years of honorably commissioned service may add the following devices:

1. One authorized star device for 20 years.
2. Two authorized star devices for 30 years.

(f) To apply for the Honorable Conduct Citation:

1. Officers must complete the request form, and attach a copy of their complaint history to the form and submit both to their supervisor.
2. Supervisors will review the complaint history and make a recommendation concerning the officer's eligibility. Supervisors will sign the form and forward it to the Commander of IAD.
3. The Commander of IAD or his/her designated Lieutenant will review the request and approve only if the criteria in Policy 922 (Honorable Conduct Citation) has been met. The request form must be signed by the Commander of IAD or his/her designated Lieutenant and forwarded to the Awards Committee Secretary.

(g) Medal, ribbon and certificate.

(h) Presented by the employee's commander or designee.

### 922.5.10 MILITARY SERVICE RIBBON

Issued to personnel honorably discharged from military service in one of the U.S. military branches (e.g., Army, Navy, Air Force, Marine Corps, Coast Guard, National Guard, or Reserves).

(a) A single star may be added to the ribbon for each foreign combat theater deployment.

(b) To apply for the Military Service Ribbon employees must:

1. complete a request form;



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2. provide a copy of their U.S. Department of Defense Form DD214, or equivalent paperwork from the Reserve or National Guard;
3. submit the form to the Committee Secretary for Committee Chair's approval.

(c) Ribbon and Certificate.

(d) Presented by the employee's commander or designee.

### 922.5.11 SPECIAL RESPONSE TEAM (SRT) CAMPAIGN RIBBON

(a) Presented to members of Units which the Chief determines:

1. Are directly involved in the resolution of a large-scale crowd-control incident which immediately jeopardizes the safety of citizens, or causes great concern to a large segment of the Austin community; and
2. The recipient demonstrated exceptional tactics, team work, courage, and self discipline under hazardous conditions.

(b) Only the initial ribbon received will be worn. Subsequent awards will be indicated by an authorized star device placed on the first award ribbon (up to four stars, representing a total of five awards).

(c) SRT Campaign Ribbon request forms will be provided by the SRT Command Staff who will ensure officers have met the award's criteria.

(d) Ribbon and Certificate.

(e) Presented by the Chief or designee.

### 922.5.12 ACADEMIC ACHIEVEMENT RIBBON

(a) Issued to personnel who submit to the Learned Skills Unit a completed request form and documentation showing proof of one or more of the following:

1. Bachelors, Masters, or Doctorate degree; or
2. Successful graduation from the APD Leadership Academy or Department approved long-term management/leadership school.

(b) The following devices may be worn on the Ribbon:

1. One silver diamond device for a Bachelor's degree,
2. One single lamp device for a Master's or Doctorate degree.
3. One single "L" device will be worn on the ribbon for the APD Leadership Academy or Department approved long-term management/leadership school.
4. The "L" device may be worn with the Diamond or Lamp device if the employee has been awarded both devices.

(c) The Awards Committee Chair will review the request and approve only if the criteria in Policy 922(Academic Achievement Ribbon) has been met.

(d) Issued by Awards Committee Secretary.

### 922.5.13 MASTER CERTIFICATION RIBBON

(a) Issued to officers completing the request form and showing proof of their TCLEOSE Master Certificate to the Awards Committee Secretary.

(b) Issued by Police Equipment who will forward the form to the officer's personnel file for archiving.



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### 922.5.14 SAFE DRIVING RIBBON

This award is given at three (3) years, with an authorized star device added at 5, 10, 15 and 20 years of safe driving (up to four stars, representing a total of five awards).

(a) Eligibility is determined by subtracting one (1) year from the officer's total years of service for each preventable collision. After 5 years, a collision will no longer be counted against the officer if no other preventable collision has occurred within the period.

(b) Officers must initiate receiving the ribbon by following the instructions on the Safe Driving Award form.

(c) Approved awards are issued by Awards Committee Secretary. Completed forms will be forwarded to the officer's personnel file for archiving.

### 922.5.15 FITNESS RIBBON

Initial ribbon is approved by Health Services upon meeting established criteria.

(a) Subsequent awards will be indicated by an authorized star device placed on the first award ribbon. The additional star device may be added in five (5) year increments, up to four stars, for a total of five (5) awards.

(b) Issued by Awards Committee Secretary who will forward the completed form to the officer's personnel file for archiving.

### 922.5.16 CERTIFICATE OF RECOGNITION

Certificate presented by a commander/manager or designee to show recognition for exceptional effort or for a job well done.

### 922.5.17 HAZARDOUS DEPLOYMENT RIBBON

(a) Conferred for response and deployment to a natural or man-made disaster in a public safety capacity under hazardous and extended conditions.

(b) Only the initial ribbon received will be worn. Subsequent awards will be indicated by an authorized star device placed on the first award ribbon (up to four stars, representing a total of five awards).

(c) Hazardous Deployment Ribbon request forms will be provided by the Emergency Planning and Response Unit who will assist employees in determining their eligibility.

(d) The Hazardous Deployment Ribbon form will be routed to the APD Awards Committee who will make the final recommendation to the Chief

(e) Employees shall receive a Ribbon and Copy of Hazardous Deployment Ribbon request.

(f) Presented by the Chief or designee.



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# Personal Appearance Standards

## 924.1 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 the Department and for their assignment.

## 924.2 GROOMING STANDARDS

The following appearance standards shall apply to all employees unless an employee's current assignment would necessitate an approved exception to the standard or the Chief of Police has granted an exception.

### 924.2.1 HAIR

Hairstyles of all civilian and sworn employees shall be neat in appearance and shall not be extreme (e.g., spiked, dreadlocks, partially shaved to form a design; colored an unnatural shade or sprayed with substances such as glitter, neon, or fluorescent colors). In addition:

(a) **Male Sworn Employees**

1. Hair must not extend below the top edge of the uniform collar while assuming a normal stance and shall not interfere with the wearing of any issued headgear.

(b) **Female Sworn Employees**

1. Hair must not extend below the bottom line of the back yoke of the uniform shirt (or comparable area on a shirt without a yoke) and shall not interfere with the wearing of any issued headgear.
2. Hair must be styled such that it will not contribute to injury or unnecessarily interfere with normal work duties. Hair may be styled:
   (a) In an upward sweep or bun; or
   (b) In braids that are close to the head and secured in a way that does not constitute a safety hazard; or
   (c) To reflect other current conservative hairstyling.
3. Hair clasps or barrettes may be worn but must correspond with the colors of the uniform, employee's hair color or rank insignia. Ribbons, beads or other decorative items will not be worn in the hair.

### 924.2.2 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.

### 924.2.3 SIDEBURNS

Sideburns shall not extend below the bottom of the outer ear opening (the top of the earlobes) and shall be trimmed and neat.



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### 924.2.4 FACIAL HAIR

(a) Sworn employees shall not wear facial hair other than sideburns or mustaches. Requests for religious and medical exemptions shall be submitted to the officer's chain-of-command for approval by the appropriate assistant chief. It is critical that facial hair not interfere with the ability of sworn employees to effectively don personal protective gear such as a gas mask.

(b) Civilian employees who are not assigned to field duty may wear a beard only with the approval of their commander/manager. If worn, the beard shall be neatly trimmed and not present a bushy or unkempt appearance.

### 924.2.5 FINGERNAILS

Fingernails extending beyond the tip of the finger can pose a safety hazard to officers or others. For this reason, fingernails shall be trimmed so that no point of the nail extends beyond the tip of the finger.

### 924.2.6 JEWELRY AND ACCESSORIES

No jewelry or personal ornaments shall be worn by officers on any part of the uniform or equipment except those authorized within this manual. Jewelry, if worn around the neck, shall not be visible above the shirt collar.

(a) Ear cuffs shall not be worn.

(b) Wristwatches shall be conservative in design and will not display any offensive design, logo or wording.

(c) Bracelets

1. Employees in a field duty assignment may not wear bracelets, other than medical alert bracelets.
2. Employees not in a field duty type assignment may wear bracelets as long as they do not present a hazard or a distraction in the normal work environment.

(d) Tie Tacks, Tie Bars, and Pins

1. Only issued or authorized tie bars will be worn with the Class A uniform. Tie bars will be worn horizontally on the lower half of the necktie, midway between the third and fourth buttons from the top.
2. Only authorized tie tacks and pins may be worn with any APD uniform. Employees will not wear any tie tack or other pin making a political statement, or displaying any offensive design, logo, or wording.

## 924.3 TATTOOS

While on-duty or representing the Department in any official capacity, every reasonable effort should be made to conceal tattoos or other body art. At no time while on-duty or representing the Department in any official capacity shall any offensive tattoo or body art be visible. Examples of offensive tattoos would include, but not be limited to, those that depict racial, sexual, discriminatory, gang related or obscene language.

## 924.4 BODY PIERCING OR ALTERATION

(a) Earrings

1. Male employees will not wear earrings.



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2. Female employees in a field duty assignment may wear one pair of conservative ear studs.
3. Female employees not in a field duty assignment may wear ear studs, hoops or dangle-type earrings as long as they do not present a safety hazard or distraction in the normal work environment due to their design, size, appearance, or number.

(b) Any other body piercing which is not concealed by the employee's clothing is prohibited for wear when the employee is representing the Department.

(c) Body alteration to any area of the body visible in any authorized uniform or attire that is a deviation from normal anatomical features and that is not medically required is prohibited. Such body alteration includes, but is not limited to:

1. Tongue splitting or piercing.
2. The complete or transdermal implantation of any material other than hair replacement.
3. Abnormal shaping of the ears, eyes, nose or teeth.
4. Branding or scarification.



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# Court Appearances

## 934.1 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.

## 934.2 DUTY RELATED COURT APPEARANCES

Employees who receive a subpoena related to employment with the Department are subject to the provisions of this policy. Employees are expected to act in a professional manner to ensure the successful conclusion of a case.

### 934.2.1 SERVICE OF SUBPOENA OR NOTIFICATION

Service of a subpoena or notification 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:

(a) Delivering a copy of the subpoena or notification to the employee.

(b) Reading of the subpoena in the presence of the employee in a hearing.

(c) Electronically transmitting a copy of the subpoena through Versadex to the employee.

### 934.2.2 GENERAL SUBPOENA AND NOTIFICATION GUIDELINES

Court Liaisons shall maintain a log of all Department subpoenas and notifications.

(a) Employees should be aware that compliance with all served subpoenas and notifications is mandatory.

(b) Employees may be subpoenaed or notified on short notice. If contacted by a Court Liaison, the employee will be required to appear in court regardless of whether the employee received the subpoena or written notification.

(c) Employees are responsible for keeping track of all court dates, times, and locations.

(d) Employees are required to appear in court for all "Must Appear" subpoenas and notifications unless excused by the court.

    1. All ALR subpoenas (e.g., court appearance or telephonic hearing) are considered "Must Appear."

    2. All Municipal Court notifications are considered "Must Appear."

    3. County and District Court subpoenas may be marked as a "Must Appear."

(e) Employees who will be unable to honor any subpoena or notification shall request to be excused by completing the required documentation (e.g., Motion for Continuance) and contacting the appropriate Court Liaison.

    1. An employee's regular day off and/or living outside the city limits of Austin are not valid reasons for being unavailable for any subpoena.

    2. Approved leave, in-service training, and/or supervisor approval alone does **not** relieve an employee from attending court; employees must complete the required documentation and request to be excused.



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3. Employees are responsible for confirming whether they have been excused from court; this can be done by contacting a Court Liaison .
4. If the employee suffers an illness or injury that prevents appearing in court as directed by a previously served subpoena, the employee shall, at least one hour before the appointed date and time, inform the Court Liaison of the situation. It shall be the responsibility of the Court Liaison to notify the court/prosecutor of the employee's unavailability to appear.

### 934.2.3 ELECTRONIC VERSADEX SUBPOENAS

Court Liaisons will log electronic subpoenas into the Versadex Subpoena Tracking Module and route them to the employee's Versadex queue.

(a) Employees are required to check the Versadex queue at least once a week during regular duty hours.

(b) Employees will acknowledge all subpoena notifications in the Versadex queue by selecting "Acknowledge" or "Decline."

1. Employees who select "Decline" will be prompted electronically to provide a reason for requesting an absence from court and shall include the applicable date range the employee is unavailable.
   (a) Declining a subpoena notice does not release the employee from complying with the subpoena; it is simply a request made to the court to be excused from appearing on the date indicated in the subpoena.
   (b) Employees are responsible for confirming with a Court Liaison whether they have been excused from court.

### 934.2.4 HARD COPY SUBPOENAS AND NOTIFICATIONS

Employees receiving a hard copy subpoena or notification will acknowledge it by initialing and dating the subpoena or notification and placing it in a Court Liaison drop box.

(a) Employees unable to honor a subpoena or notification on the specified date/time shall adhere to the following procedures:

1. **ALR, County, or District Court**
   (a) Notate the reason for not being able to appear on the notification form; and
   (b) Indicate the date in which the employee will return to duty; and
   (c) Return the form to a Court Liaison drop box within 24 hours of receipt of the subpoena.

2. **Municipal Court**
   (a) Complete a Municipal Court Motion for Continuance form.
   (b) Notate the reason for being unable to appear on the Continuance form. Employees will not write the reason for being unable to appear on the subpoena notification form.
   (c) Give the Continuance form to their supervisor to approve and sign.
   (d) Fax, interoffice mail, or hand-deliver supervisor approved Continuance forms to the municipal court prosecutor's office. Faxed forms should be placed in a Court Liaison drop box after faxing.



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(b) Employees are responsible for confirming with a Court Liaison whether they have been excused from court.

### 934.2.5 CIVIL SUBPOENA ACCEPTANCE

Employees will not accept a civil subpoena for another employee.

(a) Employees receiving a civil subpoena or a subpoena duces tecum related to an on-duty incident will:

1. Check out the case file, reports, and documents upon which the employee's testimony will be based.
2. Forward the material to the Commander/Manager who will present it to the APD Legal Advisor for review and approval.

(b) The employee's supervisor shall decide if criminal charges related to the civil case are pending and, if so, the approving supervisor shall notify the appropriate prosecutor.

### 934.2.6 COURT APPEARANCE GUIDELINES AND REQUIREMENTS

(a) Employees will not request personal leave (e.g., vacation, exceptional vacation, compensatory leave, personal holiday), nor will supervisors approve these requests for any date and times the requesting employee has already received and acknowledged a subpoena.

1. Supervisors may approve these leave requests if the requesting employee provides documentation that a Motion for Continuance has been filed and granted for all court cases occurring during the requested leave period.

(b) When a subpoena or notification indicates "MUST APPEAR," employees shall appear in court on the designated date and time.

(c) When a County or District Court subpoena does not indicate "Must Appear," employees shall:

1. **Jury Trials**
   (a) Contact the Court Liaison for specific appearance instructions
2. **Pre-Trials and Trials Before the Court**
   (a) Appear on the designated date and time or be available by phone or pager.
      1. Phone and pager numbers on file with APD-HR will be used to contact employees.
      2. Employees are responsible for ensuring the Court Liaison has the appropriate phone number. Employees may leave a voice mail for the Court Liaison containing alternate phone number(s).
      3. Employees will not be compensated for being available by phone.

(d) The appropriate Court Liaison should be notified as soon as possible when employees will be detained or late.

(e) Officers are required to sign in on the sign in logs and complete overtime sheets (when overtime is earned) while attending court. Location of logs and overtime forms are outside the court liaison's offices, ALR hearing rooms, Gardner Betts, and the Williamson County courthouse.



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### 934.2.7 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 (Tex. Code of Crim. Pro. art. 24.05).

### 934.2.8 COURT OVERTIME

The guidelines on overtime granted to employees who appear in court are outlined in the current Meet and Confer Agreement.

(a) When requesting overtime, each employee is responsible for completing an overtime form and forwarding it to the appropriate Court Liaison. The court subpoena must be attached to the overtime form.

  1. If the court assignment is after Court Liaison business hours, the employee may place the overtime form and subpoena in a Court Liaison drop box.
  2. If the court assignment is a week-long subpoena and the employee does not appear at court, the overtime form and the subpoena may be interoffice mailed to the Court Liaison.
  3. The Court Liaison will confirm the information on the form and forward it to the Court Liaison supervisor for approval and routing to APD-HR.

(b) When a prosecutor requests a phone consultation with an off-duty employee, the overtime form will indicate the actual length of the phone consultation rounded up to the nearest quarter hour (e.g., .25, .50, .75) as the hours worked.

(c) If an employee is required to meet with a prosecutor, the employee will submit an overtime form for the actual length of time for the meeting, which will include the prosecutor's name, to the Court Liaison.

(d) Before an employee submits an overtime request two weeks or more past the date of any related subpoena or court overtime, the employee will first submit a memorandum explaining the delay to the chain-of-command. The chain-of-command will review the circumstances described in the memorandum. A copy of the memorandum will be attached to the overtime form sent to Court Liaison.

### 934.2.9 PARKING CITATIONS WHILE AT COURT

Employees receiving a parking citation at a metered parking spot while honoring a work related subpoena will adhere to Policy 804 (Department Vehicles) for guidelines on how to dismiss the citation. Employees will follow these guidelines in a timely manner to prevent the fine from being doubled, the vehicle being booted, and the ticket not being dismissed.

## 934.3 NON-DUTY RELATED SUBPOENAS

Employees receiving a valid criminal or civil subpoena for matters not related to employment with the Department will comply with the requirements of the subpoena. Arrangements for time off to honor the subpoena will be coordinated through the employee's immediate supervisor. Employees will be compensated for a subpoena resulting from a law enforcement related case that originated while the employee was employed by another agency. Employees will follow the same policy as outlined in 934.2.8.

## 934.4 COURT TESTIMONY AND INTERVIEWS

(a) Employees will notify their supervisor and the appropriate prosecutor if they are subpoenaed or otherwise agree to either testify as a witness or assist the defense in



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any criminal matter. Supervisors will notify the APD Legal Advisor so that the Legal Adviser can review the matter in a timely manner.

(b) Employees will not receive compensation for testimony as an expert witness without the approval of the Chief or designee. Employees will complete all necessary Secondary Employment documents prior to the testimony being given.

(c) Employees will not solicit themselves or otherwise encourage their appearance as an expert witness as a result of abilities gained through employment with the Department.

### 934.4.1 INTERVIEWS WITH ATTORNEYS

Contact with defense attorneys should be limited to those necessary to protect the legal rights of the accused and to speed the prosecution of criminal cases. Defense attorneys wishing to interview employees beyond that scope should be referred to the appropriate section supervisor or the appropriate prosecuting attorney.

(a) When an attorney representing the City or an employee in any work-related civil suit needs to interview an employee about a criminal case, the employee's immediate supervisor will be notified.

1. The supervisor should ensure the interview takes place while the employee is on-duty, if possible.

(b) When an attorney representing residents in litigation against one another, or in litigation against the City of Austin, wishes to interview an employee concerning an incident, the attorney will be referred to the employee's immediate supervisor.

1. The supervisor will contact the APD Legal Advisor.
2. If the Legal Advisor approves an interview, the supervisor should ensure the interview takes place while the employee is on-duty.

## 934.5 COURT DRESS CODE

(a) Employees will not wear a uniform or other clothing which identifies them as a member of the Department, or represent themselves as speaking on behalf of the Department, in any cases not related to APD.

(b) Employees will wear appropriate attire, but not any part of their uniform, if the employee appears in court for any action the employee has brought against the Department.

(c) Employees appearing in court on a duty related subpoena will adhere to the following dress code:

1. Sworn employees may wear their Class A, B, or C uniform unless testifying in Federal Court. Body armor is not required when appearing in court.
2. Civilian employees, and sworn employees not wearing their uniform, will wear:
   (a) Males:
      1. Business suit and tie; or
      2. Sport coat, slacks and dress shirt with tie.
   (b) Females:
      1. Dress; or
      2. Skirt or dress slacks with blouse or sweater; or
      3. Skirted or Pant suit.



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3. When on-duty employees are urgently needed in court and do not have time to obtain suitable dress, they may appear in working attire (e.g., Class D uniform) with the approval of a supervisor.
4. Casual wear is prohibited for court appearances.
5. Dress code for sworn employees working in undercover operations will be regulated by the appropriate commander and mindful of all provisions of this section.

(d) Weapon guidelines for sworn employees when not in uniform.

1. Plain clothes officers entering a criminal justice center or courthouse with a weapon are required to:
   (a) Prominently keep the badge and APD ID displayed; and
   (b) Allow court security to visually verify the weapon; and
   (c) Notify the bailiff of each court of the officer's presence and the fact that the officer is armed.
2. Employees who fail to comply with these requirements will be directed to secure the weapon elsewhere before being granted access to the facility.

## 934.6 OUT OF TOWN APPEARANCES

When employees receive a criminal subpoena to testify in a court outside the City jurisdiction, they will notify their commander/manager through the chain-of-command. The commander/manager will help the employee with travel arrangements. When practical, travel within the state will be by City vehicle. When it is not practical to travel by City vehicle, air travel may be used.

(a) Travel and living expenses will be advanced. Any witness fees, travel expenses or per diem fees granted to the employee will be refunded to the City.

(b) Whenever possible, the employee's days off will be changed so that the out of town court appearance and travel will be on-duty. If it is not possible to change the employee's days off, the employee will be given overtime for off-duty court appearances.

## 934.7 WITNESS FEES

(a) Employees may not accept or solicit fees for testifying before any Municipal, County or State Court within Travis County, except the witness fee attached to civil subpoenas or ALR hearings.

(b) Employees are authorized to accept the witness fee required on subpoenas for the defense in federal court or military installations.

(c) Employees summoned for jury duty while on-duty may keep jury duty fees paid. When an employee is dismissed before the end of the workday, the employee must return to their assignment for the remainder of the workday.

(d) Except as provided in Policy 900 (General Conduct), any other fees collected by an employee for a court appearance will be turned in to the Office of the Chief of Police. Fees will not be retained by an employee without the express approval of the Chief.



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# Training and Career Development

## 942.1 PURPOSE AND SCOPE

It is the policy of the 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, skills and abilities necessary to provide a professional level of service that meets the needs of the community.

### 942.1.1 TRAINING APPROVAL

All internal and external training of APD employees shall be coordinated through the APD Training Academy.

(a) Employees attending any training that has not been reviewed and authorized by the Department do so at their own risk.

(b) The Department will not assume any liability for an officer's utilization of information and/or techniques that are not Department sanctioned and which may be contrary to Department policy and procedures.

## 942.2 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 Texas Commission on Law Enforcement Officer Standards and Education (TCLEOSE).

## 942.3 OBJECTIVES

The objectives of the Training Program are to:

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

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

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

(d) Comply with TCLEOSE rules and regulations concerning mandatory law enforcement training.

## 942.4 TRAINING

It is the responsibility of the Training commander to develop, review, update and maintain a training plan and to ensure that TCLEOSE mandated training, in-service training, and Department mandated training is completed by all employees.

(a) While updates and revisions may be made to any portion of the training plan at any time it is deemed necessary, the Training commander shall review the entire training plan on an annual basis. The plan shall:

1. Include a systematic and detailed method for recording and logging all training for all personnel.

2. Include information on curriculum, training material, training facilities, course and student scheduling.



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3. Address state required minimum mandated training for the licensing of sworn officers and the training of non-sworn employees.

### 942.4.1 MANDATED TRAINING

Training requirements include, but are not limited to:

(a) **Cadet Recruits and Sworn Officers**

1. Individuals hired by the Department as a Cadet Recruits shall complete all mandated training in order to be commissioned by the Austin Police Department.
2. Commissioned officers of the Austin Police Department shall complete:
   (a) All mandated TCLEOSE recertification training to maintain TCLEOSE licensing.
   (b) All training throughout the year mandated by Department policy and the Training Division.

(b) **Civilian**

1. Individuals hired by the Department to work in a civilian capacity shall complete all mandated training in order to perform all duties and functions of their position.
2. Civilian employees shall receive additional job-related training as per City of Austin Personnel Policy.

### 942.4.2 WEB BASED TRAINING

The Training Academy may deliver online courses via web based training. The courses may fulfill mandatory or elective training hours. This policy also applies for courses taken through the TCLEOSE POSEIT website. If TCLEOSE and APD both offer the same course, officers will register for the APD course as it will include policy and address APD needs.

(a) Web based courses can be completed through the intranet by utilizing a Department computer or off-site through the internet utilizing a personal computer.

1. Employees will not give access to the training website or material to anyone without approval of the Training commander or designee.
2. Courses will consist of training content followed by an exam. To receive credit for the course, employees must successfully pass the exam. Upon completion, course information and exam score will be electronically transmitted to the Training Academy.

### 942.4.3 SHIFT BRIEFING TRAINING

Shift briefing training is a technique that may supplement other training. Shift briefing training is a useful element of agency training if it is well managed and supervised. The goal of this training should be to keep officers up-to-date between formal training sessions.

(a) This training is usually conducted by the shift sergeant or corporal but may include other personnel from other units (e.g., Communications, Forensics).

(b) This training shall be designed with enough flexibility as to fit into a short and succinct time period.

1. Shift briefing training will generally be less than one hour in duration and will be credited as Department training.



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2. At times, the Training Division may supply lesson plans for instruction for shift briefing training. If the training qualifies for TCLEOSE credit, the instructor shall follow the "Guidelines for Conducting a Continuing Education Course" established in this policy

### 942.4.4 TRAINING FOR NEWLY PROMOTED EMPLOYEES

All newly promoted employees shall be required to participate in mandated training appropriate for their new position/rank.

(a) Whenever possible, this training will occur prior to promotion. However, if this is not feasible, the training will occur within the first year following the date of promotion.

(b) The training may be provided directly by the Department or through another source.

1. The Training Academy will assist sworn employees and the employees' next-level supervisors in identifying appropriate training and locating sources for instruction applicable to the new rank.
2. APD-HR will assist civilian employees and the employees' next-level supervisors in identifying appropriate training and locating sources for instruction applicable to the new position.

### 942.4.5 PROFESSIONAL DEVELOPMENT TRAINING REQUIREMENTS

APD's professional development training requirements were established to provide incumbent and future lieutenants and commanders with a specific curriculum that must be completed during their tenure in a rank. The following mandatory training specifies the requirements that must be achieved at both levels during an officer's tenure as a lieutenant and commander.

(a) Within three years of being promoted to the rank of lieutenant or commander, an officer must be enrolled in an APD approved long-term management school. The Training Academy will maintain a list of approved courses. Assistant chief approval is required for any substitutions including attendance to a management school that is not on the approval list.

(b) Lieutenants and commanders must also attend and successfully complete additional APD sponsored courses as determined by Executive Staff and the Training Academy.

(c) The Chief's Office will determine which employees are selected each year to attend approved management courses. Selections will be based upon consideration of all of the following factors:

1. The individual's development needs.
2. The individual's span of control.
3. Previous management training.
4. Tenure in position.
5. Plans for the individual to assume more leadership responsibility.
6. Budgetary constraints.

## 942.5 GUIDELINES FOR CONDUCTING A CONTINUING EDUCATION COURSE

All internal and external training must be coordinated through the Training Academy. These guidelines shall be followed when any APD instructor or outside source instructor is providing Department approved training to APD personnel, regardless of whether



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TCLEOSE credit is being requested. For additional information contact the Continuing Education Unit (CEU).

(a) Thirty (30) days prior to the start of any training course provided to APD personnel, the CEU supervisor or designee needs the following items electronically (e.g., CD, DVD, email):

1. Course Lesson Plan.
2. Course Agenda/Schedule/Outline.
3. Power Point presentation. If there are any audio or video clips embedded in the Power Point, a CD/DVD must be made of the entire presentation and sent to the CEU.
4. Any course handouts (e.g., pamphlets, diagrams, instructor evaluations).
5. A VITA/bio for each person providing any instruction as part of the class/course.
6. TCLEOSE or other roster.

(b) Within 5 days after completion of a course, an instructor must:

1. Email the completed roster to the CEU; and
2. Send the original roster with signatures to the APD Training Academy.

(c) If TCLEOSE credit is being requested for the course and an instructor cannot provide any of the required materials due to intellectual property or proprietary interest reasons (e.g., copyright), the instructor must provide written documentation on company letterhead to the CEU supervisor or designee thirty (30) days prior to the start of any training course to include:

1. The reason why the required materials cannot be provided to APD; and
2. A guarantee the instructor shall provide the materials to TCLEOSE upon request by TCLEOSE.

## 942.6 TRAINING ADVISORY BOARD

The Training Advisory Board serves to review the training practices of the Department and to make recommendations to the Chief of Police regarding needed changes in curriculum, policy and direction, and meeting the guidelines for procedure, purpose and reporting, as directed by TCLEOSE.

## 942.7 EMPLOYEE TRAINING RECORDS

The Training Division is responsible for the creation, filing and storage of all training records in compliance with TCLEOSE standards using the Texas Commission on Law Enforcement Data Distribution System for sworn peace officer records. Training records shall be retained as long as the employee's personnel file is retained.

## 942.8 TRAINING PROCEDURES

For purposes of attendance, all training is considered on-duty and thus falls within compliance for time and attendance.

(a) Employees assigned to attend training shall attend unless excused by their immediate supervisor. Excused absences from mandatory training should be limited to:

1. Court appearances.
2. Approved personal leave.



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

(b) Employees unable to attend a mandatory training shall:

1. Notify their supervisor as soon as possible, but no later than one hour prior to the start of training.
2. Notify the course instructor or Training Academy/APD-HR, if possible.
3. Make arrangements through their supervisor and the Training Division/APD-HR to attend an alternate date.
4. Update their attendance status for any missed training.

### 942.8.1 ADDITIONAL GUIDELINES

(a) Approval for special assignment to attend a school, conference or seminar at the employee's own expense may be given provided the appropriate selection procedures have been followed. The supervisor approving the school may also authorize the special assignment.

(b) Prior approval must be given by the employee's assistant chief/director for any training that includes one or more of the following elements:

1. Department funds are to be expended for travel, tuition, and meals.
2. More than two (2) City vehicles are to be used for transportation.
3. There is reason to believe that the training may conflict with established policy.

(c) Employees will be compensated in accordance with current Department policy when the duration of the actual training hours, including travel for out-of-town trips, exceeds forty (40) hours in one week.

1. Training conducted locally will not be eligible for travel/per diem expenses.
2. Training conducted out-of-town may be eligible for travel/per diem reimbursement but only with prior approval.

(d) If prior approval is obtained from the employee's commander/manager to use a privately owned vehicle, mileage will be paid at the current City rate.

(e) Employees wanting to receive cash advances must submit the request to Financial Management at least four (4) weeks in advance of departure.

1. Monies advanced for travel will be on an individual basis.
2. Each person will be responsible for submission of his own travel vouchers upon completion of the travel and/or training.

### 942.8.2 DRESS CODE

Employees will attend training, conferences, and seminars in uniform or authorized plain clothes attire.

(a) A polo-type shirt is considered part of the authorized plain clothes attire while attending training.

(b) The coordinator or sponsor of the training may direct an employee to wear other attire that is more appropriate to unusual training activities or conditions (e.g., tactical courses, physical training, maintenance/repair course).



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(c) APD Training may allow employees to wear casual attire (e.g., denim jeans, athletic shoes) for training conducted at APD facilities.

## 942.9 DAILY TRAINING BULLETINS

The Lexipol Daily Training Bulletins (DTBs) are contained in a web-accessed system that provides training on the Austin Police Department policy manual and other important topics. Generally, one training bulletin is available for each day of the month. However, the number of DTBs may be adjusted by the Training commander.

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

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

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



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# Smoking/Tobacco Use

## 946.1 PURPOSE AND SCOPE

The U.S. Surgeon General has determined that second-hand smoke is hazardous to one's health. Tobacco products may also be offensive to employees and the public.

## 946.2 POLICY

(a) Employees shall not use tobacco products (e.g., cigarettes, chewing tobacco) while engaged in official police business with the public or in any City building or City vehicle.

1. This provision does not apply when conducting a custodial interrogation in an interview room, which is designated as a smoking area in accordance with the City ordinance and when the person being interrogated is also a user of tobacco.

(b) Employees who smoke on-duty while working at a Department facility must do so during authorized breaks and in designated smoking areas.

(c) Employees shall not use tobacco products in the sally port and shall not carry tobacco products into the booking area of any jail facility.



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# Secondary Employment

## 949.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidelines for secondary employment. Secondary employment is a privilege, not a right. While allowing employees to pursue legitimate sources of supplemental income, it is imperative to maintain an agency in which its employees are physically fit and mentally alert. Additionally, the appearance of impropriety must be avoided.

The Chief, or designee, reserves the right to approve, deny, revoke, add restrictions or allow exemptions to any provision of this policy.

### 949.1.1 DEFINITIONS

**Secondary Employment** - Any *outside* employment, either law enforcement related or non-law enforcement related.

(a) **Law Enforcement Related Employment (LERE)** - Any secondary employment that is conditioned on the actual or potential use of law enforcement powers by the officer (e.g., private security contracts). Court Overtime, Department overtime, late calls, overtime related to workload, or emergency holdovers are not considered secondary employment for the purposes of this policy.

(b) **Non-Law Enforcement Related Employment (Non-LERE)** - Any secondary employment that is not conditioned on the actual or potential use of law enforcement powers by the off-duty employee (e.g., lawn care business, ownership of rental property).

### 949.1.2 SUPERVISOR RESPONSIBILITIES

It is the duty and responsibility of each supervisor in an employee's chain-of-command to monitor the secondary employment activities of subordinates to ensure compliance with this policy. Failure to do so, and to take corrective action as may be needed, will be considered dereliction of duty on the part of the supervisor.

## 949.2 GENERAL SECONDARY EMPLOYMENT GUIDELINES

All employees shall abide by the following guidelines when working secondary employment:

(a) An employee's first duty is to the City and the Department. An employee will respond to any order to return to duty when issued by a supervisor, even if the employee is working secondary employment when called.

(b) A sworn employee's primary responsibility is the enforcement of state laws and city ordinances. Sworn employees are reminded of the Code of Ethics and Oath of Office which shall not be circumvented by any secondary employment agreement.

    1. Sworn employees engaged in secondary employment work will not refuse to assist any resident requesting reasonable law enforcement assistance. Officers are expected to take any necessary action to assist residents in this capacity.

(c) Employees performing secondary employment are subject to the same rules and regulations as if they were on-duty.



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(d) Employees shall honor all subpoenas, even when the subpoenas create a scheduling conflict with the secondary employment assignment.

1. Employees shall be required to take personal leave for any civil trial resulting from secondary employment that is held during the employee's regularly scheduled workday; however, sworn employees may be placed on Special Assignment by their supervisor if the civil trial is a result of a police related matter.

(e) Only the secondary employer is allowed to pay an employee for secondary employment. If payment is made through checks executed from the employer to individual employees, one employee may pick up and distribute all checks; however, under NO circumstances shall any employee accept cash payment intended for anyone other than themselves.

(f) Employees serving as coordinators of secondary employment assignments shall act only as an administrative liaison between the secondary employer and the other employees working for the employer.

1. Coordinators shall not exercise hiring and firing authority over other employees working for the secondary employer; only employers may hire or terminate employees.
2. Coordinators shall report any allegations of misconduct associated with the secondary employment to the accused officer's chain-of-command or Internal Affairs.
3. Coordinators shall not receive any fee or other remuneration from other employees for any action as the coordinator.

(g) Employees will report any alleged act of misconduct of another employee engaged in secondary employment to that employee's chain-of-command or Internal Affairs.

### 949.2.1 TENURE REQUIREMENTS FOR SECONDARY EMPLOYMENT

(a) Police Cadets will not engage in any type of secondary employment.

(b) Sworn employees will not engage in:

1. Secondary Non-LERE for six (6) months from the date of commissioning with APD.
2. Secondary LERE for one (1) year from the date of commissioning with APD unless the employee graduated from a modified academy in which case he may engage in LERE after six (6) months from the date of commissioning with APD.

(c) Sworn employees with less than two (2) years of being commissioned with APD will not hold an initial application for LERE unless the:

1. Application is for a courtesy officer at an apartment complex which the applicant resides; and
2. Applicant is the sole employee for that contract.

### 949.2.2 UNIFORM AND EQUIPMENT GUIDELINES

(a) Sworn employees should generally work LERE assignments in uniform, with the following exceptions:

1. Employees will not wear any part of an APD uniform, or uniform of similar appearance, while engaged in any secondary employment outside the corporate city limits of Austin unless approved by the Chief or designee.



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2. Commanders may approve plain clothes LERE assignments:
   (a) If at least two (2) officers are assigned when police enforcement or intervention is likely (e.g., focus is targeting criminal behavior, at a congested public place where crime is likely); or
   (b) If one (1) officer is assigned when police enforcement or intervention is not likely (e.g., weddings, apartment courtesy officer).

(b) Employees will not use Department issued equipment in secondary employment unless the equipment is normally worn with the police uniform and the employee is engaged in a LERE assignment. All other issued equipment may only be used with the permission of the employee's commander.

(c) Police vehicles will not be used for secondary employment. If a police vehicle is needed, the assignment must go through the Department's Special Events Unit as a City overtime assignment and the police vehicle must be equipped with emergency lights and siren.

(d) Sworn employees working LERE assignments will have an APD radio available.

## 949.3 RESTRICTIONS AND PROHIBITIONS

The following section contains the restrictions and prohibitions on secondary employment.

(a) Employees are prohibited from accepting or engaging in any secondary employment that might conflict or interfere with an employee's duty and responsibility to the Department.

(b) Employees cannot recruit or solicit persons or organizations for, nor advertise for or accept, any secondary employment while on-duty or in uniform.

(c) Employees are prohibited from performing any secondary employment during on-duty hours.

(d) No one above the rank of commander will work LERE, or coordinate or schedule the work of other employees involved in LERE work.

(e) Employees may not engage in any type of secondary employment which may:
   1. Render the employee unavailable to respond during an unanticipated emergency; or
   2. Physically or mentally exhaust the employee to the point that the employee's performance is affected; or
   3. Require any special consideration for scheduling the employee's regular duty hours; or
   4. Bring the Department into disrepute or impair the operation and/or efficiency of the Department; or
   5. Bring the employee into disrepute or impair the employee's effectiveness.

(f) Employees are restricted from working any secondary employment on the same day the employee has failed to report for regular duty due to an illness or injury.

(g) Sworn employees are prohibited from working LERE secondary employment while on Limited Duty, Extended Limited Duty, Injury Leave, Administrative Leave or Extended Leave.

(h) All employees are prohibited from working Non-LERE secondary employment that is inconsistent with any limitations or restrictions placed on the employee while on



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Limited Duty, Extended Limited Duty, Injury Leave, Administrative Leave, or Extended Leave.

1. Sworn employees may request to work Non-LERE secondary employment by following the procedure outlined in Policy 958 (Restrictions while on Limited Duty and Extended Limited Duty).

(i) Confidential information obtained by the Department or in an employee's official capacity with the Department may not be used in any secondary employment unless the information is used in connection with law enforcement duties. This provision does not constitute an exception to any confidentiality requirements contained in law or other Department policies and regulations.

(j) Sworn employees will not perform LERE outside the corporate city limits of Austin unless approved by the Chief or designee.

(k) Sworn employees will not work any LERE while on Restricted Duty or Suspension.

1. Employees on Restricted Duty or Suspension who observe conduct that requires a police response will call for an on-duty unit to handle the situation.
2. Employees that work as a courtesy officer may be exempted from this with the permission of the Chief or designee. If approved, the employee may perform his regular duties as a courtesy officer, such as unlocking the doors of residents who lock themselves out, during the effective dates of the suspension.

(l) Employees shall not be permitted to obtain a permit or license from the Texas Board of Private Investigators and Private Security Agencies.

(m) Sworn employees shall not be permitted to be a deputy or hold a commission from any other law enforcement agency (e.g., local, state, federal).

### 949.3.1 PROHIBITED TYPES OF SECONDARY EMPLOYMENT

Employees shall not work for, or engage in, the following types of secondary employment:

(a) A bad check or bill collector.

(b) A repossession agent or agency.

(c) A wrecker company.

(d) Any other employment in which law enforcement authority might be used to collect money or merchandise for private purposes.

(e) Where it is expected the employee will enforce company policies or rules (commonly known as "house rules").

(f) A bouncer.

(g) A bar or other establishment or event where liquor, beer or other alcoholic beverages are sold and/or consumed on premises and the sale of alcohol is the principal source of income. The Department shall have the absolute discretion to determine which businesses, establishments or events fall within this section.

1. This includes contracting with a leasing company for "strip centers" where a bar or other such drinking establishment is a tenant, and the obvious reason for the need of officers is due to that tenant.
2. This section does not normally apply to businesses such as restaurants and bowling alleys whose primary source of income are not from the sale of alcohol.
3. This section does not apply to City owned facilities or City sponsored events.



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(h) Any employment which involves the manufacture or transportation of alcoholic beverages as the principal business.

(i) A courier of monies, jewels, bonds, securities, or other things of value, except as additional security for such a person or business.

(j) A pawnshop.

(k) A sexually oriented business.

(l) Protection of management, employees, or property during a strike or labor dispute.

(m) For a business or labor organization that is on strike (e.g., "strike buster").

(n) For any person or organization which advocates hatred, prejudice, or oppression of any racial, ethnic, gender or religious group, or which disseminates defamatory materials.

(o) By political parties or employment that favors one candidate over another.

(p) Any business or establishment in which gambling is the principal business.

(q) By an employer known to engage in criminal activity.

(r) Any individual, firm, association, company, partnership, corporation or other entity which holds a license or permit from the Texas Board of Private Investigators and Private Security Agencies. Exceptions to this will be reviewed on a case-by-case basis by the Chief or designee.

## 949.4 APPLYING FOR SECONDARY EMPLOYMENT

Employees desiring to engage in secondary employment will have the following forms completed, approved, and on file with APD-HR as applicable.

(a) ***Application for Secondary Employment* (PD0036)** - All secondary employment requires an *Application for Secondary Employment* (PD0036) to be completed and signed by each employee wishing to work in a secondary employment capacity. All "Initial" secondary employment applications are valid for a maximum of two (2) years from the date issued, with all related documents and "Subsequent" applications for that same employment expiring simultaneously.

1. LERE Applications:

   (a) One employee shall complete the *Application for Secondary Employment* as the "Initial" applicant holder when attempting to establish a new secondary employment agreement with a business or prospective employer, or when taking over the initial application from another APD employee.

   (b) All additional employees wishing to work for an employer or business where an initial application is established shall complete the *Application for Secondary Employment* as a "Subsequent" applicant.

2. Non-LERE Applications

   (a) Each employee working in a Non-LERE capacity will complete the *Application for Secondary Employment* as the "Initial" applicant holder.

(b) ***Master Liability Agreement for Law Enforcement Related Employment* (PD0036b)** - This form is required for all secondary LERE employment, other than City overtime, and must accompany the "Initial" secondary employment application. This is not required for secondary Non-LERE.



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(c) ***Addendum to Master Liability Agreement for Apartment*** **(PD0036c)** - This form is required to be completed by the property owner/manager when an employee is engaged in secondary employment as a courtesy officer and must accompany each courtesy officer application.

1. Officers receiving discounted rent in exchange for service as a security/courtesy officer are considered to be working a LERE assignment. Officers are prohibited from accepting discounted rent or reduced rental rates in exchange for these services unless all secondary employment paperwork has been submitted and approved.

2. Patrol officers will not be employed as a courtesy officer within the area to which they are regularly assigned.

   (a) Should an officer be transferred so that they are in conflict with this provision, it is the officer's duty to immediately terminate the LERE agreement.

   (b) Officers on-duty shall not respond to complaints at any property for which they are employed unless dispatched to that location by Communications or authorized by an APD supervisor.

3. Courtesy officers shall confine their duties to those of a law enforcement nature. Notifications of evictions, collection of rent, bad checks, and enforcement of complex rules, regulations or policies that are not violations of the law are strictly prohibited

### 949.4.1 APPROVAL PROCESS OF SECONDARY EMPLOYMENT APPLICATIONS

Secondary employment is subject to approval by the Department (e.g, APD-HR, APD-Intel and the employee's chain-of-command). The Chief has final authority in decisions to accept or deny any prospective employer/business.

(a) Completed application packets require approval in the following order:

1. APD-HR.
2. APD Intelligence Unit (APD-Intel).
3. Employee's immediate supervisor and chain-of-command.

(b) APD-HR will confirm the application packet has all the necessary documentation filled out completely and accurately.

(c) Upon approval from APD-HR, the "Initial" application packet will be submitted to APD-Intel by the employee. The business and the owner(s) for whom the application applies will be the subject of a background investigation conducted through APD-Intel. "Subsequent" packets do not require APD-Intel approval.

1. APD-Intel will mark "Not Acceptable" on the application if the business and/or owner(s) are found to have been:

   (a) Convicted of any felony; or

   (b) Affiliated with persons known to have a criminal record; or

   (c) Engaged, or planning to engage in, criminal activity.

2. If the employment relationship is not approved at this point, the original paperwork will be clearly marked as "DENIED" and retained by APD-HR.



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(d) Applications that have been processed and approved by APD-HR and APD-Intel will be taken to the employee's immediate supervisor for approval/denial.

1. Supervisors should not sign any application packet unless it has been reviewed and approved by APD-HR and APD-Intel.
2. Supervisors will ensure the type of secondary employment falls within the guidelines of Department policy.

(e) Applications approved by the immediate supervisor will be forwarded to the next-level supervisor and up the chain-of-command as follows:

1. For officer, detective, corporal, or sergeant applicants, approval must proceed up to the appropriate commander.
2. For lieutenant and commander applicants, approval must proceed up to an assistant chief.

(f) Applications approved by commanders or assistant chiefs, as required, become effective upon their signature and are handled as follows:

1. Commanders or assistant chiefs will forward the application to the employee's immediate supervisor.
2. Immediate supervisors shall retain a photocopy of all paperwork and return the original documents to APD-HR.

(g) Applications denied by anyone in the chain-of-command will be handled by the immediate supervisor as follows:

1. Notify the employee that the application has been denied; and
2. Ensure that the paperwork is clearly marked as "DENIED" with an explanation as to the reason; and
3. Retain a photocopy of all paperwork; and
4. Return the original document(s) to APD-HR.

(h) Denied applications (whether "Initial" or "Subsequent") may be grieved through established procedures.

### 949.4.2 APPLICATION FOR AUSTIN POLICE ASSOCIATION ASSIGNMENTS

Officers desiring to engage in a LERE assignment through the Austin Police Association (APA) will complete an *Application for Secondary Employment* as a "Subsequent" applicant.

(a) Only one (1) application per employee is necessary when working any LERE overtime through the APA, regardless of the assignment.

(b) Subsequent LERE applications for APA assignments must be approved by the employee's chain-of-command but do not require APD-HR approval.

(c) Subsequent LERE applications for APA assignments will remain valid unless revoked and do not expire after 2 years.

### 949.4.3 CANCELLING A SECONDARY EMPLOYMENT APPLICATION

Employees who wish to cancel any "Initial" or "Subsequent" Secondary Employment contract they are on prior to the expiration date of the contract must complete the required *APD-HR Secondary Employment Cancellation* form.



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(a) The effective date of cancellation shall not be prior to the date the employee is submitting the cancellation form.

(b) Cancellation forms shall be retained by APD-HR.

## 949.5 SPECIFIC LERE ASSIGNMENT GUIDELINES

(a) Officers engaged in LERE assignments will carry the necessary forms and citations reasonably required for the assignment.

(b) While working a LERE assignment, employees will notify APD Communications of:

1. The LERE assignment location; and
2. Hours of the assignment (on-duty and off-duty times); and
3. Immediate contact information (e.g., mobile and/or radio number); and
4. If the assignment is in uniform or plain clothes. Employees in plainclothes will provide a description of their attire and the nature of the assignment.

### 949.5.1 GUIDELINES OF UTILIZING ADDITIONAL EMPLOYEES AND SUPERVISORS

(a) The initial LERE application holder will determine the number of officers needed for an assignment. However, a minimum of two (2) officers must be present at all times for any assignment to a City facility or function where alcohol is sold or served.

(b) Supervisors are required as follows:

1. When more than three (3) APD officers are simultaneously engaged in LERE at the same location, a supervisor must be one of those additional employees.
2. The Chief or designee may assign up to five (5) officers for a LERE assignment related to traffic control (e.g., lane/street closure) without utilizing a supervisor; however, when more than five (5) officers are simultaneously engaged in LERE at the same location, regardless of the event, a supervisor must be one of the officers.
3. When more than twenty (20) officers, along with the required number of supervisors, are needed simultaneously at the same location for a LERE assignment, a lieutenant or commander will also be required.

(c) The following general guidelines apply when utilizing supervisors:

1. Corporals may not be hired to work LERE in a supervisory role.
2. No supervisor will supervise more than ten (10) officers.
3. The supervisor must be present at the job site at all times.
4. Supervisors will not work any secondary employment where a subordinate employee in their direct chain-of-command holds the initial application without prior approval of the Chief or designee.
5. Supervisors will not work any secondary employment where they function in a subordinate role to an officer of a lower rank without prior approval of the Chief or designee.
6. When multiple supervisors are required, one will be specifically designated as the supervisor-in-charge and be responsible for the actions of all officers working at that time. Designation of the supervisor in charge can be as assigned by the person scheduling the event or by agreement among those supervisors involved.



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7. The coordinator will work with the supervisor (designated supervisor-in-charge) on placement of employees at the LERE site. At no time should supervisors (designated supervisor-in-charge) be placed in a position where they are unable to monitor the operation of the assignment of all officers.

### 949.5.2 LIMITATION ON LERE HOURS WORKED

(a) Employees shall not work more than 16 total LERE hours within a 24-hour period without approval from their commander/manager.

1. A 24-hour period is any consecutive 24-hours, regardless of the time the work started.
2. The employee is responsible for notifying the appropriate supervisor two (2) hours prior to the 16th hour of the 24-hour period. The name of the approving commander will be noted on the employee's overtime log/timesheet.

(b) Sworn employees shall not work in excess of 76 combined regular duty, Department overtime, and LERE hours per work week without approval from their commander.

1. All LERE hours must be recorded on the employee's timesheet and not exceed a maximum of 36 LERE hours unless the employee has been given approved leave (e.g., vacation, exceptional vacation, comp leave).
   (a) Employees may substitute one quarter (1/4) hour of productive time per one quarter (1/4) hour of LERE time, which will not count against the 36 hour LERE limit.
   (b) Non-LERE hours, court overtime, late calls, emergency holdovers, and hours spent relating to military service (e.g., drills) are not reported.
2. Employees will record LERE hours on the last line of their timesheet as follows:
   (a) The earnings code of LEH will be used and the employee will document the number of LERE hours worked each day.
   (b) Employees will add the number of LERE hours worked and indicate it on the right hand Total column at the end of the LEH line to reflect the total number of LEH hours worked each week. The Total row on the bottom of the timesheet will not include LEH hours.
   (c) Employees are required to include the estimated hours worked per week as a LERE Courtesy Officer.

### 949.5.3 MOTOR VEHICLE ESCORT GUIDES

This section applies to officers working LERE assignments as Motor Vehicle Escort Guides for public safety purposes such as funeral processions and oversized loads. No other type of Motor Vehicle Escort, such as private motor coaches, limousines, or any other motor vehicle, is authorized without consent of the Chief or his designee. This section does not apply to motor vehicle escorts provided by on-duty personnel. Dignitary and VIP escorts are covered in Policy 343 (Escorts and Traffic Control). Officers working as a Motor Vehicle Escort Guide will:

(a)

1. Use personally owned motorcycles that are equipped as prescribed in Austin City Code Volume 1, Title VIII, Chapter 8-15-1.
2. Maintain the motorcycle in proper working order with current registration and Motor Vehicle Inspection.



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3. Maintain Liability Insurance limits of $300,000/$100,000.
4. Wear an APD uniform or APD Motor Officers' uniform.

(b) The use of amplified electronic horns is authorized for officer safety purposes however; the use of a siren that has wail, yelp, or Hi-lo tones is not authorized.

(c) Oversize load escorts include but are not limited to wide loads, over-sized loads, house moves, and industrial equipment. When conducting escorts for over-sized loads the officer will ensure that all necessary permits have been obtained from the Texas Department of Transportation and will abide by the route set out in the permit. The officer will not escort any vehicle if the officer has reason to believe it is not in a safe operating condition.

(d) On occasion the size of a funeral procession may require additional officers to be utilized to provide a safe escort. In the interest of safety, off-duty officers may request assistance from the on-duty patrol supervisor to assist with an escort if call load allows.

(e) The Department understands that there are occasions where the escort officers need to travel beyond the city limits of Austin to provide for the safety of those in or around the vehicle procession or oversize load vehicles. The following exceptions to this policy will apply:

1. Officers engaging in motor vehicle escorts will be allowed to conduct the escorts within the boundaries of Hays, Travis and Williamson Counties.
2. If the escort begins within 10 miles of the city limits of Austin, the escort must terminate inside the city limits.
3. Officers will obey the laws of the State of Texas and any ordinances of any city they may pass through while providing an escort. The officers should comply with escort requirements of the Chief of Police of those cities or the Sheriff of the county in which the escort is performed.

### 949.5.4 LAW ENFORCEMENT ACTIONS MADE WHILE WORKING LERE ASSIGNMENTS

(a) Law Enforcement Actions

1. Incidents that originate off the property of the LERE work location.
   (a) Officers will provide reasonable assistance (e.g., take immediate action to protect life and property, assist the citizen in contacting 911 for an on-duty officer) to any citizen requesting assistance for incidents that have occurred, or that are occurring, off the property of the LERE assignment.
      1. The responding on-duty officer will write an incident report.
      2. The LERE officer will write a supplemental report to the on-duty officer's incident report, if needed.
2. Incidents originating on the property of the LERE work location.
   (a) Officers will immediately report any incident or situation arising from or connected with the LERE assignment in the same regard as if on-duty. This includes completing all paperwork related to an incident (e.g., original and/or supplementary reports, associated forms and documents, evidence tags, impound forms).
   (b) When an officer is the victim of an incident or the incident is of such a nature that an immediate extensive investigation would be required (e.g., murder, rape, robbery), an on-duty unit will be called.



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(b) Arrest Guidelines

1. LERE officers making arrests for incidents connected with the LERE assignment will complete an incident report and, if necessary, a probable cause affidavit following normal arrest reporting procedures and will:

   (a) Contact Communications to request an incident number for the arrest report before turning it over to another officer; and

   (b) Request a Unit for prisoner transport.

2. Transporting officers will write a supplement to the original report, sign any evidence tags or chain-of-custody documentation, and book the prisoner.

(c) Reporting Guidelines

1. Incident reports initiated by the LERE officer not pertaining to custody arrests will be turned in by the LERE officer at any substation within 24 hours.

2. Officers writing an incident report requiring immediate entry, such as a misdemeanor citation or custody arrest, shall ensure the report is entered into Versadex before the end of their LERE assignment.

(d) Nothing in this document prohibits an officer working a LERE assignment from calling for backup assistance from on-duty personnel.

(e) If prior to the end of the LERE assignment it becomes apparent to the officer that he will not be able to complete all duties required by the Department in connection with the use of his law enforcement powers (e.g. completing reports, transporting persons or property), the officer will immediately contact the on-duty patrol lieutenant responsible for the area where the LERE assignment is located. The officer will be required to provide the lieutenant with an explanation regarding why they are unable to complete the required duties prior to the end of the LERE assignment.

1. If the patrol lieutenant determines the duties can wait until the officer's next regularly scheduled shift, the officer will be released. It is the officer's responsibility to ensure the required duties are completed prior to the end of their next shift when released by a lieutenant.

2. If the patrol lieutenant determines that the duties must be completed without delay at the conclusion of the LERE assignment, the lieutenant will authorize overtime and the time spent completing the required duties will be counted as productive hours during that work week.

(f) If an officer is working a LERE assignment and takes law enforcement action during the time he is being compensated by the LERE employer, the officer will not be compensated by the City for those hours, nor will those hours be included as productive hours during the officer's work week.

## 949.6 REVOCATION OF SECONDARY EMPLOYMENT PRIVILEGES

(a) Authorization for secondary employment of any employee may be revoked at any time by any supervisor in the employee's chain-of-command when specific, documented evidence indicates such action is in the best interest of the Department.

1. Revocation will be documented and the employee notified in writing. If possible, without compromising any on-going criminal investigation, the employee will be given the reason for the revocation.

2. The employee will acknowledge receipt of the notification by initialing the notice.



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3. After the employee initials the notice, a copy will be given to them, a copy of the revocation will be maintained by the immediate supervisor and the original forwarded to APD-HR.
4. In the event revocation is for an employee working under an APA initial application, the APD-HR will notify the APA of the revocation.

(b) The following are examples of some grounds for revocation of secondary employment privileges. This list is for example purposes only, and is not intended to be all-inclusive:

1. Apparent abuse of sick leave.
2. Sleeping or being inattentive on-duty.
3. Tardiness due to conflicts in work schedules.
4. Damage to the reputation of the Department.
5. Acts of misconduct associated with the secondary employment.
6. Repeated physical injuries incurred during secondary employment.
7. Evidence of debilitating stress from the secondary employment.
8. Conflicts of interest that may develop or become known after approval of the employment was granted.

(c) Failure to comply with the TCLEOSE firearm's qualification standards will result in immediate revocation or denial of secondary employment.



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# Overtime and Compensatory Time

## 950.1 PURPOSE AND SCOPE

It is the policy of the Department to compensate non-exempt employees who work authorized overtime either by payment of wages or by allowing the accrual of compensatory time off. In order to qualify for either, the employee must complete and submit a Request for Overtime Payment as soon as practicable after overtime is worked.

### 950.1.1 DEFINITIONS

**Callback** - Employees in non-exempt positions may receive compensation as established by the Meet and Confer Agreement and City Personnel policy when they are off-duty and receive notification to return to duty status.

**Compensatory Time** - Employees in non-exempt positions may receive compensatory time in lieu of overtime pay. The maximum amount of compensatory time that an employee may accumulate is 120 hours.

**Exempt Employee** - An employee exempt from the overtime provisions of the Fair Labor Standards Act. Employees in these positions are "salaried" and are not eligible for overtime pay or compensatory time.

**Non-exempt Employee** - An employee that meets the overtime requirements of the Fair Labor Standards Act. Non-exempt employees will receive overtime pay or compensatory time for productive hours worked in excess of 40 in a work week.

**On-Call -** A period of time outside of normally scheduled working hours during which an employee must remain fit for duty and available to return to work.

**Productive Time (Civilian Personnel)** - Established by City Personnel Policy.

**Productive Time (Sworn Personnel)** - Established by the Meet and Confer Agreement. For the purposes of computing overtime or compensatory time, all approved paid leave other than sick leave shall be calculated as hours worked.

## 950.2 DEPARTMENT POLICY

(a) Employees may be required to work beyond regularly scheduled hours or be called back to active duty at any time in order to meet the operational needs of the Department.

(b) Employees who refuse to work overtime or fail to report back to work when ordered to do so will be subject to disciplinary action.

(c) Supervisors may adjust an employee's regularly scheduled hours so that no more than 40 productive hours are worked in a particular week.

(d) Unless otherwise specified by the assignment, employees in non-exempt positions may choose overtime pay or compensatory time for productive hours in excess of 40 in a workweek.

1. Overtime will be paid at a rate of 1.5 times the regular rate of pay.
2. Compensatory time will be accrued at a rate of 1.5 hours for each hour worked.



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3. Overtime pay and compensatory time will be calculated by computing time worked to the nearest quarter hour, rounding either up or down.

(e) The assignment of elective City and mandatory overtime should be allocated in a fair and equitable manner and utilized only when necessary to meet the operational needs of the Department.

(f) Certain assignments contracted for by a source outside the Department will be compensated at the overtime rate of pay or with compensatory time, regardless of the number of productive hours worked in the work week.

(g) Employees will not be compensated by the Department for work performed during the course and scope of a secondary employment contract.

### 950.2.1 ELECTIVE CITY OVERTIME/SECONDARY EMPLOYMENT

Employees will follow Policy 949 (Secondary Employment) on the limitations and reporting responsibilities for overtime assignments classified as elective city overtime or secondary employment.

## 950.3 OVERTIME ASSIGNMENT GUIDELINES

Employees may be eligible for overtime pay and/or compensatory time as outlined in this section for:

(a) Employee Call-Back.

(b) On-Call Assignments.

(c) Court Time.

### 950.3.1 EMPLOYEE CALL-BACK

(a) Officers called into work one hour or less before the start of the employee's regularly scheduled shift shall receive one (1) hour of overtime pay or compensatory time.

(b) Officers shall receive (3) full hours of overtime pay or compensatory time when called into work:

1. More than one (1) hour before the employee's regularly scheduled shift; or
2. After the conclusion of their regularly scheduled shift.

(c) Supervisors may authorize up to three (3) hours of overtime pay for an employee called into work for an official reason (e.g., IA/SIU interview, special investigation) while on approved leave that would coincide with the employees regular duty hours. Any amount in excess of three (3) hours must be approved by the appropriate commander/manager.

(d) Employees will receive fifteen (15) minutes of overtime pay or compensatory time should the call-back be canceled within fifteen (15) minutes of the notification, or the actual time spent completing the assignment lasts no more than (15) minutes.

### 950.3.2 ON-CALL ASSIGNMENT

On-call assignments may be established to meet the operational needs of the Department. On-call assignments are generally paid in compensatory time unless otherwise approved by the appropriate commander. Employees assigned to be on-call will:

(a) Accept an on-call assignment that might result in a call back to work.



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(b) Maintain any necessary equipment when in an on-call status (e.g., radio, pagers, mobile phone).

(c) Respond when called back to work.

(d) Maintain the physical and mental fitness standards that are regularly required for performing job tasks when in an on-call status.

(e) Notify their supervisor if, due to illness, injury or other circumstances, the employee is unable to be on-call.

### 950.3.3 COURT TIME

Court time will be paid as outlined in Policy 934 (Court Appearances) and the Meet and Confer Agreement.



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# Pay Differential

## 951.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidelines for handling temporary assignments in a higher rank classification and the associated pay differential for such assignments.

## 951.2 STATUTORY AUTHORITY

(a) The Chief of Police may authorize the designation of a person from the next lower classification to temporarily fill a position in a higher classification (Tex. Local Gov't Code § 143.038).

(b) The designated person is entitled to the base salary of the higher position plus the person's own longevity or seniority pay, educational incentive pay, and certification pay during the time the person performs the duties, even if the temporary position lasts only one (1) day.

(c) Temporary designations will not be made for periods of less than one day unless approved by a Commander or above.

## 951.3 PROCEDURES

If a sworn supervisor will be absent for an entire day or longer (e.g., vacation, sick leave, FMLA leave, injury leave, training), the next higher supervisor in the chain-of-command is authorized to designate an officer to temporarily serve as an acting supervisor.

(a) The consideration should be based on the following criteria:

1. If it is in the best interests of the Department for an acting supervisor to be temporarily assigned.
2. If there is another on-duty supervisor who can assume the supervisory duties within the Department's established span of control.

(b) In order to initiate pay differential, a "Pay Differential Assignment Form" must be completed by the employee's supervisor and submitted to the APD-HR office.

(c) The calculation for pay differential is based on years of service with the Department.

1. Employees will be compensated as if they were at the higher rank with the same years of service.
2. If years of service do not equal the minimum number of years required before attaining the higher rank, the base salary of that rank will be used for the calculations.

(d) A sworn officer who works overtime while temporarily filling in for a higher classification, and who is eligible for overtime pay, shall be paid overtime at the appropriate rate as calculated by APD HR.

(e) The temporary performance of the duties of a higher position by an employee who has not been promoted as prescribed by this chapter may not be construed as a promotion. All promotions must meet the requirements of the Civil Service Act and the Meet and Confer Contract.



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## 951.4 LIMITATIONS

(a) Policies related to compensation that are not required by Chapter 143 are dependent upon City Council's approval of the budget. Budget approval is determined annually. For current information, contact APD-HR.

(b) The Chief or designee may set limitations on the duties and responsibilities on the person assuming the higher rank.



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# Incentive Pay

## 953.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidelines for compensation for designated skills and education. Officers who have demonstrated their proficiency in designated skills and who are subsequently authorized may receive assignment pay in amounts provided by the current Meet and Confer Agreement.

## 953.2 BILINGUAL PAY

In order to be eligible for bilingual pay, officers must successfully pass an established bilingual test reflecting the types of bilingual communication in which officers would normally be required to engage during the course and scope of duty.

(a) Eligible officers accepting bilingual pay will be required to utilize their bilingual communication skills when requested by the Department.

(b) Officers who fail to utilize their bilingual skills when required may be deemed ineligible to receive bilingual pay. In these circumstances and on a case by case basis, the officer's commander will make a recommendation to the appropriate assistant chief. The Chief or designee will make the final decision on eligibility.

### 953.2.1 BILINGUAL TESTING PROCEDURES

(a) APD-HR will schedule bilingual tests as needed with a professional consultant or organization selected by the Department. A test will be given for each requested compensable language.

(b) Any officer may take a bilingual test. Officers interested in testing for a language must submit an application for bilingual testing to their immediate supervisor to be forwarded through the chain-of-command to APD-HR.

(c) The bilingual test is a voluntary test. Officers must take the test on their own time, with no compensatory time or overtime pay allowed.

(d) APD-HR will notify officers taking a bilingual test of the test results by mail. Those officers who pass the bilingual test will begin earning bilingual pay during the pay period following the date the Department received notice of their successful completion of the test. Officers not passing the authorized proficiency test may retest after six (6) months.

(e) Officers passing the proficiency test may be required to be reassessed.

## 953.3 MENTAL HEALTH CERTIFICATION PAY

Eligible officers shall be compensated for mental health certification as identified in the Meet and Confer Agreement. The Department identifies these officers as part of the Crisis Intervention Team (CIT).

(a) In order to be eligible for CIT pay, officers must attend the forty (40) hour TCLEOSE mental health certification class and pass the course test and meet the following requirements:

1. A licensed peace officer at the rank of police officer commissioned with APD for a minimum of two (2) years.



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2. Regularly assigned to a Patrol shift.
3. Designated by the commander to receive CIT pay based on the needs of the Command (e.g., appropriate shift distribution of stipends).
4. Attend required mental health/crisis intervention update training.

(b) Officers above the rank of police officer are ineligible to receive CIT pay.

(c) CIT officers will be required to utilize their intervention skills when requested or needed during the course and scope of their patrol duties.

(d) CIT officers who fail to utilize their intervention skills when required or needed may be deemed ineligible to receive the stipend. The officer's commander will decide this on a case-by-case basis and/or documented mental health report activity and make a recommendation to the appropriate assistant chief. The Chief of Police will make the final decision.

## 953.4 EDUCATION AND CERTIFICATE PAY

An officer shall be entitled to either Certificate pay or Education pay as outlined in the Meet and Confer Agreement but shall not be entitled to both. Education pay shall only be payable for degrees or college credit from an accredited college or university as defined by the Meet and Confer Agreement.

(a) Only officers hired before March 25, 2001 are eligible for certificate pay if they have been awarded the TCLEOSE Intermediate or Advanced Certificate.

(b) An officer holding at least 60 hours of college credit, an Associates, Bachelors, or Masters degree from a nationally accredited college or university may receive education pay as authorized by the Meet and Confer Agreement.

## 953.5 FIELD TRAINING OFFICER PAY

Field Training Officer (FTO) pay is for eligible officers assigned as Field Training Officers.



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# Attendance and Leave

## 955.1 PURPOSE AND SCOPE

This policy outlines employee attendance requirements, leave benefits, and the basic procedures to be followed when using leave time. The types of leave covered in this policy include vacation leave, exception vacation leave, personal holiday, sick leave, Family Medical Leave Act (FMLA), compensatory time, emergency leave, leave without pay, leave of absence, administrative leave, and military leave.

(a) Guidelines for on-duty injury, illness, and crash incidents are outlined in Policy 956 (On-Duty Injury and Illness).

(b) Guidelines for Limited Duty status, Extended Limited Duty status, and the Return to Work Programs are outlined in Policy 958 (Limited Duty, Extended Limited Duty, and Pregnancy).

### 955.1.1 DEFINITIONS

**Exempt Positions** - Positions exempt from the overtime provisions of the Fair Labor Standards Act. Employees in these positions are "salaried" and are not eligible for overtime pay or compensatory time.

**Non-exempt Positions** - Positions that meet the overtime requirements of the Fair Labor Standards Act. Employees in these positions will receive overtime pay or compensatory time for productive hours worked in excess of forty (40) in a work week.

**Productive Time (Civilian Personnel)** - Established by City of Austin Personnel Policy.

**Productive Time (Sworn Personnel)** - For the purposes of computing overtime all approved paid leave, other than sick leave, shall be calculated as hours worked as established by the Meet and Confer Agreement.

**Law Enforcement Related Employment (LERE) -** Defined in Policy 949.1.1

**Non - Law Enforcement related Employment (Non-LERE)** - Defined in Policy 949.1.1

**Department Overtime** - Voluntary participation in job or duty related assignments originating from within the Department, which are outside an employee's regularly scheduled 40 hours of work per week, and for which the employee normally, but not necessarily, receives overtime compensation from the City of Austin. Compensation either can be at the expense of the Department or reimbursed through outside funding (e.g. grants). This does not include Court Overtime, late calls, overtime related to workload or emergency holdovers.

## 955.2 GENERAL ATTENDANCE GUIDELINES

(a) Employees will not be absent from work without prior approval from an immediate supervisor.

1. Unless a different notification is required by a Unit SOP, employees have the responsibility of notifying an immediate supervisor at least one (1) hour prior to the scheduled work start time if they are going to be absent.



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2. Employees who fail to report to work at the assigned place and time, or who leave work or an assignment without proper authorization will be subject to disciplinary action.
3. Employees may not work in excess of 76 hours of any combination of regular duty, department overtime or LERE assignments within a work week without the approval of a Lieutenant or above.
4. Employees may not work any more than 16 hours of any combination of regular duty, department overtime, or LERE assignments within a consecutive 24 hour period without approval of a Lieutenant or above.
5. Employees will advise their immediate supervisor when they will exceed or have reason to believe they will exceed 16 hours in a workday no later than 2 hours prior to reaching the end of the 16th hour.

### 955.2.1 TIMESHEETS

In order for the Department's payroll records to be properly and accurately maintained it is necessary that weekly timesheets be submitted to APD HR for each employee. Employees are responsible for the accurate recording of their own time on the weekly timesheet.

(a) Attendance records will be based on a work week that begins at 12:00 am on Sunday and ends at midnight on Saturday.

(b) Within each section, an employee may be designated as timekeeper to ensure completion and proper submission of weekly timesheets.

(c) All timesheets shall be:

1. Completed in ink; and
2. Signed and dated by the employee to attest to accuracy; and
3. Signed by a supervisor to indicate timesheet approval.

(d) Completed and signed timesheets must be turned in to APD HR no later than 4:00 pm on Thursday of each week. In the event the City calls for an earlier payroll deadline, APD HR will send notification to all sections on the deadline to turn in timesheets.

(e) Employees are responsible for submitting a corrected timesheet to the immediate supervisor if work hours or leave type changes after a signed timesheet has been submitted. Failure to do so may be considered falsification of an official City document. Any corrections to a timesheet must be initialed by an employee's supervisor.

### 955.2.2 FLEX TIME

Flex time is an adjustment of work hours on an hour-for-hour basis within a work week or pay week, as authorized.

(a) All flex time adjustments must be approved in advance by the employee's supervisor; employees may not make his own decisions pertaining to scheduled work hours or adjustments to them.

(b) The weekly timesheet should reflect the actual hours worked each day to ensure accurate attendance records.

(c) For non-exempt civilian personnel, flex time must be used within the same work week they are accrued. Flex hours cannot be carried over to another week. Productive hours that exceed the 40-hour work week are required to be recorded as authorized overtime or compensatory time.



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(d) For exempt civilian and sworn personnel, flex time must be used within the same pay period it was accrued. Flex hours cannot be carried over to another pay period.

## 955.3 GENERAL LEAVE GUIDELINES

When reviewing leave requests, supervisors will consider the needs of the Department and availability of other personnel before approving the requests.

(a) Employees requesting to use any personal leave (e.g., vacation, exception, compensatory, personal holiday) shall submit the appropriate leave request form to their immediate supervisor for approval.

1. Sworn employees must submit an *APD Leave Request Form* (PD0069A or E) for:
   - (a) paid continuous leave of 60 days (320 hours) or less for non-medical purposes, or
   - (b) pre-approved use of non-FMLA sick leave.
2. APD Extended Leave Request Form (PD0069C) for:
   - (a) Any unpaid leave, regardless of length
   - (b) Any leave exceeding more than 60 days, other than FMLA qualified
   - (c) Any leave of 30 days or more, if extending leave after FMLA approved leave has been exhausted
3. Non-Sworn employees must submit a:
   - (a) HRD/ Leave Request Form, effective 10/1/2004, updated 11/1/2010 any time an employee is absent regardless of the length of time or FMLA status, except when submitting the form in b) below.
   - (b) APD Extended Leave Request Form (PD0069C) to request leave time of:
     1. Any additional leave after exhaustion of FMLA approved leave
     2. Any leave of 30 days or more that:
        1. Is not FMLA qualified; or,
        2. The employee is not FMLA eligible; or,
        3. For non-medical reasons such as e.g. sabbaticals or extended vacation.
     3. Any leave of 30 days or more, if extending leave after FMLA approved leave has been exhausted
4. The APD Court Liaison Unit will be notified when the following employees are on approved leave:
   - (a) Sworn
   - (b) Non-sworn who are subject to subpoenas
5. Supervisors shall complete the appropriate leave request form on behalf of the employee if the employee is unable or unavailable to do so.

(b) Employees requesting to use sick leave shall follow the guidelines outlined in the sick leave section of this policy.



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(c) Supervisors and employees are responsible for ensuring that employees have sufficient leave time accrued prior to approving any leave request.

1. Employees shall not schedule leave time for use in the same pay period in which it is earned.
2. Leave time may not be taken in periods of less than a quarter (1/4) hour.

### 955.3.1 LEAVE ACCRUAL AND LONGEVITY WHILE ON APPROVED LEAVE

(a) Employees continue to accrue vacation leave, sick leave, and longevity while the employee is absent on approved vacation, exception vacation, personal holiday, sick, injury, compensatory, short-tour paid military leave, leave without pay, and FMLA.

(b) Employees continue to accrue longevity while the employee is absent on long-tour military leave of absence (without pay), but ceases to accrue vacation and sick leave.

(c) Employees will not accrue vacation, exception vacation, personal holiday, sick leave, or longevity while on leave of absence.

### 955.3.2 LEAVE PAYOUT UPON SEPARATION

(a) Employees who separate from the Department may be paid up to the following maximum allowable amounts (which may be different than the maximum allowable *accrual* amount):

1. **Vacation Leave** - Up to 240 hours provided the employee has completed their probationary period and given a 10 day notice of intent to separate as required by City of Austin policy.
2. **Exception Vacation Leave** - Up to 160 hours.
3. **Compensatory Time** - Up to 120 hours.
4. **Sick Leave** - As follows:
   (a) Sworn employees with ten (10) or more years of continuous service and who leave in good standing may be paid for accumulated sick leave hours as outlined in the Meet and Confer Agreement.
   (b) Sworn employees with less than ten (10) years of actual service will not be paid for any accumulated sick leave hours.
   (c) Civilian employees hired prior to October 1, 1986 that have been employed on a continuous basis and leave in good standing may be paid up to 720 accumulated sick leave hours.
   (d) Civilian employees hired on or after October 1, 1986 will not be paid sick leave hours.

(b) Employees who separate from the Department will not receive a payout for:

1. Any hours in excess of the maximum allowable amounts for each type of leave; and
2. Accrued personal holiday, administrative leave, or military leave.

(c) Sworn employees who have been indefinitely suspended from the Department are eligible for leave payout as outlined in the Meet and Confer Agreement.

(d) An employee's estate will receive payment for all maximum allowable leave amounts accrued by the employee in the event of an employee's death while:

1. Still a member of the Department; or



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2. On military leave, for leave accrued up to the employee's last day of active duty with the Department prior to entering military leave.

### 955.3.3 SWORN EMPLOYEE USE OF LEAVE TIME IN LIEU OF SUSPENSION

The Chief may authorize a sworn employee to use vacation leave, exception vacation leave, compensatory time, or personal holiday when the employee has been temporarily suspended without pay in accordance with the Meet and Confer Agreement.

## 955.4 VACATION LEAVE

Employees start to accrue vacation leave immediately upon employment with the City; however, a civilian employee is not eligible to use it until completing at least six (6) months of service and a cadet is not eligible to use it until after graduating from the police academy.

(a) Employees accrue vacation leave for 24 pay periods in a calendar year as regulated by City Personnel Policies (civilian) and the Meet and Confer Agreement (sworn).

(b) The maximum allowable amount of vacation leave an employee may accrue and retain at any time is 400 hours.

## 955.5 EXCEPTION VACATION LEAVE

Employees may accrue exception vacation leave for City-observed holidays as outlined below. As many employees as possible will be given each City-observed holiday off.

(a) Civilian employees:

1. Accrue up to eight (8) hours of exception vacation for each City-observed holiday when:

   (a) The employee works on the holiday; or

   (b) The holiday falls on an employee's regularly scheduled day off.

2. Do not accrue exception vacation when taking off on a City-observed holiday the employee is normally scheduled to work.

(b) Sworn employees accrue up to eight (8) hours of exception vacation for each official City-observed holiday regardless of whether or not the employee works on the holiday.

(c) The maximum allowable amount of exception vacation any employee may accrue is 160 hours.

(d) Employees desiring to observe an official holiday that falls on a regularly scheduled workday must submit the appropriate leave request form to their immediate supervisor for approval.

(e) Employees who work on December 25 will be paid according to City Personnel Policies (civilian) and the Meet and Confer Agreement (sworn).

(f) Supervisors will schedule employees to use exception vacation when balances approach the 160-hour limit. Exception vacation should be used before the pay period in which the next holiday occurs.

1. Civilian employees will be paid for any exception vacation hours accrued in excess of the 160 hour limit.

2. Sworn employees are subject to the Meet and Confer Agreement in regards to exception vacation hours accrued in excess of the 160 hour limit.



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## 955.6 PERSONAL HOLIDAY

An employee in a regularly budgeted position who has completed six months of service is eligible for sixteen (16) hours of personal holiday per calendar year. A part-time employee in a regularly budgeted position is allowed personal holiday hours on a prorated basis. Failure to utilize any part of these hours by December 31st of the year accrued will result in forfeiture of the accrued personal holiday hours.

## 955.7 SICK LEAVE

Employees start to accrue sick leave immediately upon employment and may take it once hours have been actually accrued. Sick leave may be used for doctor appointments, personal illness, maternity purposes, physical incapacity of an employee, or when an employee is required to care for a family member who is ill or incapacitated.

(a) Employees accrue sick leave for 24 pay periods in a calendar year as regulated by City Personnel Policies (civilian) and the Meet and Confer Agreement (sworn).

(b) Sick leave may be accumulated without limit.

(c) Employees who have a serious health condition, or are caring for a parent, spouse, or child with a serious health condition may apply for FMLA by contacting APD HR and/or request a medical leave of absence in accordance with City Personnel Policy.

(d) Supervisors may, with discretion, visit an employee that is unable to report for duty or has left duty because of illness to determine the extent of the illness and decide whether or not any assistance is needed. Supervisors need to be aware of employees on FMLA as contacting them may violate their privacy rights.

(e) Supervisors may require satisfactory proof of the proper use of sick leave and may disallow sick leave in the absence of such proof.

(f) The Chief may require sworn employees using sick leave to submit to an examination by a physician named by the Chief at the City's expense.

(g) Employees who misuse sick leave are subject to disciplinary action.

### 955.7.1 EMPLOYEE RESPONSIBILITIES WHEN USING SICK LEAVE

(a) Employees shall notify their immediate supervisor:

1. Unless otherwise specified in the employee's Unit SOP, at least one (1) hour prior to the employee's work start time if the employee is going to be out sick; or
2. If the employee becomes sick while on-duty to the extent the assignment must be terminated.

(b) Employees who become sick during approved personal leave may change their personal leave to sick leave while ill. It is the responsibility of the employee to contact his immediate supervisor to have the changes made on the timesheet and *Leave Request Form*.

(c) Employees shall contact APD HR to obtain information on employee rights, responsibilities, eligibility and qualifying conditions under the Family and Medical Leave Act (FMLA) when meeting the criteria outlined in the "General Leave Guidelines" section of this policy.

(d) Employees who have taken sick leave for five (5) or more consecutive work days are required to submit a completed *Medical Release to Return to Work , Off the Job Illness or Injury* Form (PD0119) to their immediate supervisor upon returning to work.



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### 955.7.2 SUPERVISOR RESPONSIBILITIES WHEN EMPLOYEES USE SICK LEAVE

(a) Supervisors will notify the chain-of-command and APD HR when an employee:

1. Has taken sick leave for three (3) consecutive work days and the reason is unknown or the reason indicates that the employee or employee's family member may be experiencing a serious health condition of themselves or a family member; or
2. Has taken sick leave for five (5) or more consecutive work days; or
3. Has an overnight stay in the hospital.

### 955.7.3 WHEN MEDICAL RELEASE TO RETURN TO WORK IS REQUIRED

An employee may be required to provide a completed Medical Release to Return to Work Off the Job Illness or Injury Form (PD0119) in either of the following situations:

(a) Whenever an employee is out for five or more consecutive work days for their own health condition.

(b) Anytime (regardless of length of absence) an employee has an injury/illness that requires medical treatment that would lead the employer (supervisor/manager) to believe the employee may have a serious medical situation such as when the employer becomes aware that:

1. the employee was transported to the hospital,
2. admitted into the hospital, or
3. had surgery, whether in or out patient.

(c) The employee may be required to submit the completed Medical Release to Return to Work Off the Job Illness or Injury Form (PD0119) prior to or upon return to work to one of the following

1. his/her immediate supervisor or
2. APD HR (Civilians) or
3. APD Risk Management (Sworn)

(d) If the Medical Release to Return to Work Form indicates the employee may return to work in a Limited Duty capacity, the employee may be placed on Limited Duty as outlined in Policy 958 (Limited Duty, Extended Limited Duty, and Pregnancy).

### 955.7.4 EXHAUSTION OF SICK LEAVE

(a) Employees who have exhausted their accrued sick leave may request their personal leave be substituted for sick leave by completing the appropriate leave request form for approval.

(b) Employees may request leave without pay or leave of absence as outlined in this policy. Approval must be received prior to the last day personal leave is used.

(c) Employees with an off-duty or non-occupational injury or illness may be terminated when:

1. The employee has exhausted all personal leave, sick leave hours, and FMLA; and
   (a) The employee has exhausted or is not approved for leave without pay or leave of absence as outlined in this policy; or
   (b) No Limited Duty or Return to Work assignment is available.



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## 955.8 FAMILY AND MEDICAL LEAVE ACT

(a) Employees shall contact APD HR as soon as practicable to obtain information on employee rights, responsibilities, eligibility, and qualifying conditions under the Family and Medical Leave Act (FMLA) when the employee:

1. Is absent or going to be absent from work on an intermittent basis due to a qualifying personal or family medical condition; or
2. Has taken sick leave for *three (3) or more consecutive days* and is unsure if they will immediately return to work; or
3. Is going to have ongoing treatment for a medical condition; or
4. Has had an overnight stay in the hospital and is unsure if they will immediately return to work.

(b) Guidelines for FMLA eligibility are outlined in City Personnel Policy. Employees may also contact APD HR for information on the Family and Medical Leave Act (FMLA).

## 955.9 EMERGENCY LEAVE

Emergency leave is for the purpose of attending funerals, making funeral arrangements, or otherwise attending to the affairs of the deceased for a death in an employee's immediate family. Immediate family includes a parent, spouse, domestic partner, child, sister, brother, grandparent, parent or grandparent of a spouse or domestic partner, or any relative who has been living in your house.

(a) An employee may be requested to provide information to document the necessity of the absence.

(b) The leave request form should indicate the relation of the deceased on the form and be approved by the employee's supervisor.

1. Civilian employees may use up to three consecutive days of emergency leave.
2. Officers may utilize up to forty (40) hours of emergency leave.
3. Additional time off, if approved, must be taken as vacation, exception vacation, compensatory, personal holiday, or unpaid leave.

## 955.10 LEAVE WITHOUT PAY

Employees may be granted leave without pay when the employee has exhausted all other leave balances.

(a) The Chief or designee may grant up to one week (40 hours) of leave without pay to an employee.

(b) An employee on leave without pay who exceeds the 40 hour allowance may be granted a leave of absence.

## 955.11 EXTENDED LEAVE (NON-FMLA)

Employees may be granted an extended leave (leave approved without pay or with pay via use of accrued leave) for a legitimate purpose (e.g., illness, disability, pregnancy, political activity, educational purposes, military duty).

(a) Employee must request an extended leave using APD Extended Leave Request form (PD0019) in accordance with Policy 955.3 General Leave Guidelines. The completed form must be routed through the chain-of-command for appropriate approval and must include:



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1. The reason or need for the leave; and
2. Duration of the leave; and
3. Anticipated date to return to work; and
4. Whether the approval being sought is for paid or unpaid leave; and,
5. Any additional documentation to support the need for the request (e.g., medical).
   (a) Medical documentation can be submitted to APD HR in lieu of sending it through the chain-of-command.

(b) The employee's immediate supervisor is responsible for routing the completed request form through the chain-of-command for review and the forwarding of the original form, with appropriate signatures, to APD-HR for final disposition.

(c) The Chief, or his designee, may grant extended leave to any employee for a period not to exceed thirty (30) days.

(d) All requests for more than 30 days (up to one year) will be delivered to APD-HR to be forwarded to the City Manager's office for review. APD-HR will communicate the City Managers decision on whether the request for leave was approved to the employee's immediate supervisor, who will be responsible for notifying his/her chain of command.

## 955.12 ADMINISTRATIVE LEAVE

A Department director may grant an employee administrative leave at full pay and benefits for a purpose approved by the City Manager (e.g., blood bank donations, pre-termination hearings, power failure, reduced work day by administrative directive).

(a) Employees may be placed on administrative leave pending an internal investigation (e.g., IA, SIU).

(b) Time off, when necessary, to vote in national, state, county and municipal elections shall be considered administrative leave.

(c) Employees who refer an applicant who successfully attends at least the first full day of the police academy will be given one (1) day of administrative leave.
   1. Employees assigned to the Training or Recruiting Divisions, and all assistant chiefs, are excluded from receiving administrative leave for recruiting an applicant.
   2. No more than two (2) days of administrative leave for recruiting an applicant may be accrued or used in a calendar year.
   3. The Recruiting Unit will be responsible for maintaining the necessary information for implementation of the program.

## 955.13 COMPENSATORY TIME

When a non-exempt employee is required to work in excess of a normal 40-hour work week, the employee may be entitled to receive compensatory time in lieu of overtime pay for those extra hours worked.

(a) Guidelines for compensatory time accrual are outlined in Policy 950 (Overtime and Compensatory Time).

(b) The maximum allowable amount of compensatory time which an employee can accrue is 120 hours.

(c) Supervisors will review compensatory time balances prior to approving an employee to accrue additional compensatory time.



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## 955.14 MILITARY LEAVE

An employee who is responding to orders of the US Armed Forces will be granted up to fifteen (15) working days of paid military leave per federal fiscal year (October 1 through September 30).

(a) Military leave is used for time in which the employee is required to attend military functions during regularly scheduled work hours. Authorized military functions include regularly scheduled "weekend drills" and meetings, physical examinations for selection or admission into the military, physical examinations to maintain a selective service rating or reserve status, travel time, etc.

1. Employees shall provide notice to the Department prior to the dates when military leave, with or without pay, or any other approved leave method is used to attend required military drills or training.
2. The appropriate leave request form will be completed, designating the type of leave to be used. It is not required that copies of written training orders be attached before approval may be given. Copies should be attached or forwarded to the immediate supervisor as soon as possible.

(b) Military Leave will not be used for:

1. Hours before or after regularly scheduled work hours; or
2. Regularly scheduled days off; or
3. Scheduled overtime.

(c) Whenever possible, employees required to attend short Reserve or Guard training sessions that conflict with regular work hours will, at the employee's request, have their schedule adjusted so they may work a full 40-hour week.

(d) Military leave will not be granted for diagnosis or treatment of any service related sickness or disability, for obtaining or sustaining any disability rating, or for treatment in any government facility.

(e) When tours cumulatively exceed the total of 15 days of military Leave, City Personnel Policy allows employees called to active duty to continue receiving pay while their active military duty continues.

### 955.14.1 ACTIVE DUTY CALL-UP

Although reservists called to active duty are not required to request leave or even notify the employer prior to responding to a call-up, notification should be given to the Department as soon as practical.

(a) Notification of active call-up of less than 30 days may be done verbally to the employee's immediate supervisor and to APD HR. Employees who are scheduled to be activated for more than thirty (30) days will be required to meet with APD HR.

(b) The immediate supervisor shall complete any needed paperwork and make the proper notations on weekly timesheets.

(c) When a copy of the orders becomes available, a set should be sent to the immediate supervisor and APD HR to retain with other paperwork relating to the absence.

(d) Employees called to active duty may qualify for a military pay supplement in accordance with City Personnel Policy.

(e) Upon release from military orders and pending return to the Department, the employee must contact APD HR.



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### 955.14.2 MILITARY ENLISTMENT

The Department shall grant a military leave of absence (without pay) to employees who desire to enter a military service of the United States.

(a) The leave of absence will continue during the period of active military service of the officer.

(b) Upon receiving an honorable discharge from the military, the employee may make an application for reinstatement in accordance with applicable federal and state law.



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# On-Duty Injury and Illness

## 956.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidelines for reporting on-duty injuries, illnesses, and deaths to the APD Workers' Compensation Office to ensure proper medical attention is received when appropriate and to document the circumstances of the incident.

Provisions contained herein shall apply to both sworn and civilian employees but only to injuries and illnesses that occur in the authorized course and scope of employment on or after the effective date of this policy.

(a) Guidelines for off-duty or non-occupational injury and illness incidents are outlined in Policy 955 (Attendance and Leave).

(b) Guidelines for Limited Duty status, Extended Limited Duty status and the Return to Work Programs are outlined in Policy 958 (Limited Duty, Extended Limited Duty, and Pregnancy).

## 956.2 DEFINITIONS

**Compensable Injury/Illness** - An injury or illness suffered by an employee in the course and scope of his employment as determined by the City of Austin's Third Party Administrator. This may include an injury or illness suffered:

(a) During an employee's regular duty hours.

(b) During authorized Department overtime.

(c) Taking law enforcement action as a peace officer while off-duty.

**Full Duty** - A medical determination that an employee can safely perform all of the essential functions of his job with no limitations or restrictions.

**Injury Leave** - Leave that is provided to eligible employees who are unable to work due to a compensable injury or illness.

**Limited Duty** - A medical designation that an employee may return to work with specific and detailed limitations or restrictions.

**No Duty** - A medical determination that an employee is unable to return to work.

## 956.3 REQUIRED REPORT OF ON-DUTY INJURY/ILLNESS

(a) Employees shall report all injuries, illnesses, and vehicle crashes that occur on-duty or qualify as a compensable injury to their supervisor within 24 hours of the occurrence or prior to the start of their next shift.

(b) Employees who fail to report an injury, illness, or crash as outlined in this policy may fail to qualify for wage continuation benefits.

### 956.3.1 INITIAL MEDICAL TREATMENT

Employees shall seek immediate medical attention when necessary and as required by the nature of the injury or illness. Employees who do not seek medical attention shall be



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considered on Full Duty status until otherwise determined by a physician as outlined in this policy.

(a) At the time of initial treatment, the employee shall have the attending physician complete a Texas Workers' Compensation Work Status Report (DWC-73).

1. The DWC-73 shall include the following information:

(a) Whether the employee should be placed on a No Duty, Limited Duty, or Full Duty status; and

1. If the employee is not cleared to return to work, a follow-up appointment date or return to work date.

2. If the employee is cleared to return to work, any medical restrictions or limitations, and a follow-up appointment date.

2. In the event the employee is seen at a hospital ER and the attending physician will not complete the DWC-73, the employee shall obtain all medical discharge paperwork.

(b) It is the employee's responsibility to ensure the DWC-73 form (or medical discharge paperwork if a DWC-73 is not completed) is received by the APD Workers' Compensation office no later than 24 hours after the initial treatment.

1. Forms or paperwork can be scanned and emailed to "APD Workers' Compensation" or faxed directly to the Workers' Compensation Office (974-6647).

## 956.4 SUPERVISOR RESPONSIBILITIES

Supervisors learning of any work-related injury or illness, or any crash involving injury or a complaint/statement of injury or pain, shall adhere to the following guidelines:

(a) Ensure the following Workers' Compensation forms are completed:

1. Employer's First Report of Injury/Illness Form (DWC-1).

2. Job Related Injury/Illness Supervisor Investigation Report.

3. City of Austin Workers' Compensation Employee Letter of Rights.

4. Employees Request for Wage Continuation (WC-800).

(b) Completed forms shall be scanned and emailed to "APD Workers' Compensation," or faxed directly to the APD Workers' Compensation Office (974-6647), within 24 hours.

1. All original forms shall be forwarded to the APD Workers' Compensation Office via inter-office mail.

## 956.5 INJURY LEAVE GUIDELINES

Injury leave for Department employees shall be granted as follows:

(a) Sworn employees shall receive up to 2,080 hours of injury leave per compensable injury or illness.

(b) Civilian employees may receive up to 80 hours of injury leave per compensable injury or illness that qualifies for wage continuation benefits.



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### 956.5.1 EMPLOYEE RESPONSIBILITIES WHILE ON INJURY LEAVE

All employees placed on injury leave for a compensable injury or illness shall adhere to the following guidelines:

(a) Employees shall be placed on FMLA, if eligible. Employees shall be notified of their FMLA status by APD-HR.

(b) Employees shall attend all doctor appointments as scheduled by their physician. Employees shall be required to schedule a monthly medical appointment if no follow-up appointment is scheduled by the physician.

(c) Employees shall obtain a copy of the completed *Texas Workers' Compensation Work Status Report* (DWC-73) for each doctor appointment and submit it to the APD Workers' Compensation Office within 24 hours of an appointment.

1. It is the employee's responsibility to ensure each DWC-73 is received by the APD Workers' Compensation Office.
2. Completed forms can be scanned and emailed to "APD Workers' Compensation" or faxed directly to the Workers' Compensation Office (974-6647).
3. No employee shall return to work or change their duty status until the DWC-73 form has been received by the APD Workers' Compensation Office indicating the employee can return to work.

(d) Employees shall update their supervisor after each doctor appointment.

(e) Employees shall be assigned to their residence and available Monday-Friday, 8am to 4pm, unless otherwise notified by Risk Management.

1. Employees shall report to their supervisor before leaving their residence except in cases where they are attending physician appointments, physical therapy appointments, or pharmacy visits.
2. Employees wishing to take personal leave (e.g., extended time away from home, go out of town) while on injury leave shall contact Risk Management for instructions.

### 956.5.2 SWORN EMPLOYEE EXHAUSTION OF INJURY LEAVE

Sworn employees not be able to return to work in a Limited Duty or Full Duty capacity after the expiration of the 2,080 hours of injury leave have the following options:

(a) Sworn employees may submit a written request to the Chief to request an injury leave extension:

1. At least 30 days prior to exhausting their 2,080 hours of injury leave, employees must submit a memorandum to the Chief requesting the extension.
2. The memorandum must be accompanied by a written report (DWC-73) from the employees' physician that indicates an anticipated date to return to work in a Limited Duty or Full Duty capacity.
3. The Chief shall review the request and, at his discretion, may forward the request to City Council for approval or deny the request.

(b) After exhausting any injury leave extension, or if an extension is not granted, sworn employees may:

1. Exhaust all available personal leave hours.
2. Exhaust any remaining FMLA, if applicable.



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3. Submit a written request for leave donations pursuant to City of Austin policies.
4. Submit a written request for a medical leave of absence pursuant to City of Austin policies.

(c) Sworn employees still unable to return to work in a Limited Duty or Full Duty capacity after exhausting all the above options may have their employment with the Department terminated.

### 956.5.3 CIVILIAN EMPLOYEE EXHAUSTION OF INJURY LEAVE

(a) Civilian employees unable to return to work in a Limited Duty or Full Duty capacity after exhausting the 80 hours of injury leave may:

1. Exhaust all available personal leave hours.
2. Exhaust any remaining FMLA, if applicable.
3. Submit a written request for leave donations pursuant to City of Austin policies
4. Submit a written request for a medical leave of absence pursuant to City of Austin policies.

(b) Civilian employees still unable to return to work in a Limited Duty or Full Duty capacity after exhausting all the above options may have their employment with the Department terminated.

## 956.6 RESTRICTIONS WHILE ON INJURY LEAVE

While on Limited Duty or Extended Limited Duty, employees shall not engage in conduct that could possibly hinder their own recovery or safety or the safety of others.

(a) No sworn or civilian employees shall:

1. Drive a City-owned vehicle without supervisor approval.
2. Utilize a take home vehicle without supervisor approval.
3. Participate in activities that could possibly hinder recovery (e.g., strenuous athletic activity).
4. Work any secondary employment that is inconsistent with any medical limitations or restrictions.
5. Work any secondary law enforcement related employment (LERE).

(b) Sworn employees may request to work Department overtime and Non-LERE secondary employment by completing the *Request for Departmental OT/ Non-LERE Employment* form (PD0143) and submitting it to the Professional Standards commander at least 7 days prior to the assignment.

1. The form shall specify the duration and duties being performed during the overtime assignment; and
2. The Professional Standards commander shall determine if the duties of the assignment are within the medical limitations or restrictions; and, submit a written response to the requesting employee granting approval or denial of the overtime assignment.

(c) In addition to the above guidelines, sworn employees shall not:

1. Wear any part of the APD police uniform.



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2. Enforce any laws of the United States, State of Texas, or Ordinances of the City of Austin.
3. Take law enforcement action or make arrests.
4. Carry a firearm unless:
   (a) It is concealed; and
   (b) There are no medical limitations or restrictions which would prevent them from using the weapon in an authorized manner.
5. Display their police badge or identification card, either on-duty or off-duty, in a manner that may identify them as a police officer.
   (a) This provision does not supersede the requirement that all Department employees must display Department issued identification while on Department premises.



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# Communicable Disease Exposures and Response Protocols

## 957.1 PURPOSE AND SCOPE

The purpose of this policy is to provide reporting guidelines for employees who believe they have been exposed to any communicable disease during the normal course of their work. This policy covers the most prevalent types of reported exposures which are Tuberculosis (TB) and Blood Exposures (HIV, Hepatitis B & C).

### 957.1.1 DEFINITION OF A COMMUNICABLE DISEASE EXPOSURE

When an external source of blood, body fluid or bacteria/virus from an infected person comes into contact with an employees' mucous membranes (eyes, mouth, or nose), an opening in the officers' skin or is inhaled by the officer.

## 957.2 PREVENTION OF EXPOSURE

Each communicable disease has its own methods of causing infection. Each employee can limit the risk involved with any method by simply using the tools that are available to each of them. Use your (PPE's) personnel protection equipment i.e.: Rubber gloves, safety goggles and disposable filter masks to decrease the risk of exposure and becoming infected with any disease/illness.

### 957.2.1 SUGGESTED EMPLOYEE ACTIONS IN ALL EXPOSURES

Employees believing they have been involved in a blood exposure should:

(a) Thoroughly flush mucous membranes with water and thoroughly wash skin with soap and water or hand sanitizer.

(b) It may be appropriate for the exposed employee who has been exposed to release care & custody of the suspect or delegate other tasks to a fellow employee so that the exposed employee may take more immediate decontamination or sanitization measures.

## 957.3 BLOOD EXPOSURES

A blood exposure can occur when an external source of blood comes into contact with another person's mucous membranes (eyes, mouth, or nose) or an opening in the skin. The highest risk for contamination is with hepatitis.

(a) Notify a supervisor and proceed immediately to any hospital. It is recommended, but not required, to use a hospital that is familiar with blood exposure protocol (e.g., Brackenridge, Seton Main, St. David's).

(b) Upon arriving at the hospital employees should:

1. Explain to the intake nurse that they have been exposed to blood.
2. Review the circumstances of how the exposure occurred with the doctor. The ER doctor will make an initial determination on whether a blood exposure has occurred.



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### 957.3.1 REPORTING REQUIREMENTS FOR ALL EXPOSURES

An employee who believes that he/she has been exposed to any communicable disease shall notify his/her immediate supervisor (at least within 24 hours) or at the start of the next shift in order to be eligible for wage continuation benefits. To safeguard the employee's rights to workers' compensation, any required blood test should be done within 10 days to test for HIV and Hepatitis.

(a) The employee's supervisor shall ensure the following forms are completely filled out. These forms are located in the Workers' Compensation Packet or can be printed from the "Workers' Comp Folder" in the public drive.

1. Employers First Report of Injury or Illness (DWC-1)
2. Supervisor's investigation report
3. Letter of Rights for Employees
4. Employees Request for Wage Continuation (WC-800)
5. Texas Workers Compensation Work Status Report (DWC-73)
   (a) This is filled out completely by the treating physician; however emergency room physicians are not required by law to complete the DWC-73. In these cases the discharge paperwork will suffice.
6. Fax only the signed and notarized Sworn Affidavit Requesting Testing Following an Exposure and addendum to the following: (For All and any type of exposures Blood, TB, Hepatitis, etc) to: The HHSD Surveillance Program at (512) 972-5772ï½¾and The APD Physician at (512) 974-6655.
7. Fax all the above forms and discharge paperwork to the APD Workers's Compensation Office or scan and email the forms from any XEROX network printer to apdworkerscompensation@austintexas.gov.
8. Forward all original documentation to the APD Workers' Compensation Office via interoffice mail.

(b) With all suspected exposure incidents, the employee will also complete an exposure packet which also must be submitted any time that an exposure is reported. The packet will include the affidavit.

1. The involved employee must sign the sworn affidavit requesting testing following an exposure in the presence of another licensed Texas peace officer. The form can be notarized by a peace officer provided that the notarizing peace officer has no relation to incident and cannot testify to any fact or circumstance surrounding the incident. The notarizing officer and involved employee (exposed officer) cannot be the same person.
   (a) Page 3 of the form is utilized for public notaries and NOT peace officers. Peace officers shall use the addendum titled special instructions to any Texas peace officer notarizing sworn affidavit requesting testing following an exposure. The notarizing peace officer SHALL follow the instructions provided on the addendum. The addendum is located in the same group folder as the exposure affidavit.
2. The exposure supplemental form (within affidavit packet ) needs to include whether the source of body fluids came into contact with non intact skin (e.g., scrapes, cuts, abrasions) and a detailed description of the incident leading to the exposure.



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### 957.3.2 SUPERVISOR RESPONSIBILITIES

Regardless of whether an ER doctor makes an initial determination that a blood exposure has occurred, supervisors will:

(a) Notify the Austin Travis County Health and Human Services Department (HHSD) at (512) 972-5555 of any potential employee blood exposure incident. Only the HHSD doctor can make a final determination on whether a blood exposure has occurred. If it is afterhours, supervisors will leave a short message with the employee's name, incident number, and whether the ER doctor made an initial determination of blood exposure.

(b) Fax the affidavit and addendum to HHSD and the APD physician (see 957.1.4), then fax all the above forms and discharge paperwork to the APD Workers' Compensation Office or scan and email the forms from any XEROX network printer to apdworkerscompensation@austintexas.gov

## 957.4 POST EXPOSURE INFORMATION

Lab results from source blood draws completed by the Austin Travis County Health and Human Services will be faxed to the Austin Police Department Physician.

(a) The Department physician will contact the employee within 72 hours and inform the employee of the results.

(b) Employees who have not heard from the Department physician within 72 hours of the incident should contact the physician directly.

## 957.5 FILING OF CRIMINAL CHARGES

If criminal charges are to be filed against an individual for attempting to expose an officer to blood, or to cause alarm or harass an officer by putting them in fear of being infected, regardless if the individual is carrying a communicable disease, the officer should proceed with the filing of Harassment of a Public Servant (Tex. Penal Code § 22.11).

(a) The individual need not be infected with a communicable disease to meet the elements of Harassment of a Public Servant and therefore no blood draw from the individual will be performed for the purpose of filing criminal charges.

(b) Under no circumstances will any suspect or person be requested to submit to any blood and/or saliva sample for testing. Only the Travis County Health and Human Services has such authority.

## 957.6 TUBERCULOSIS (TB) EXPOSURES

Tuberculosis is a disease that is spread from person to person through the air. It must be inhaled by the victim for it to be contracted. Almost all TB can be cured. Becoming infected with TB is more difficult than previously believed. TB is almost always contracted while indoors with an infected person for long periods of time; the suns' UV (ultra violet) light kills active TB germs including drug resistant strains.

(a) The employee who suspects that they have been exposed to TB shall notify their supervisor and complete the workers' compensation packet (957.1.4) and the exposure affidavit packet (957.1.4). Follow the submittal instructions as provided in section 957.1.4 . There is no need to report to any Emergency room for possible TB exposures.

(b) The exposed employee shall contact the TB Surveillance team at the Travis County Health and Human Services Department (HHSD) during normal business hours. Their



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offices and clinic are located at 15 Waller street, Austin TX. This is the only location where testing for the COA is conducted. The Number is (512) 972-5460.

(c) The exposed employee will review the circumstances with the team and may arrange an appointment time for their TB testing. Employees are reminded to contact the TB surveillance team by phone prior to any testing/treatment. Prior calling will help in arranging the most convenient and expedited testing for the employee.

(d) It is suggested that TB testing be completed by the HHSD team for they have the most advanced experience dealing with TB and utilize the more advanced blood testing procedures. The blood test is more accurate, less subjective and requires only one visit, unlike the skin test which requires a subsequent interpretation visit.

(e) If an exposed employee desires that their personal physician perform the test, the employee MUST ensure that their personal physician accepts workers' compensation claims. Otherwise, tests conducted will be at the employees' expense.

## 957.7 EVIDENCE /PROPERTY HANDLING PROCEDURES

Evidence or other materials coming into the custody of the Police department and suspected of being contaminated should be treated with extraordinary care.

(a) General procedures:

1. All materials contaminated with blood or other body fluids, whether wet or dry, will be handled with disposable rubber gloves.

2. Hypodermic needles and other sharp objects will be packaged in puncture resistant containers.

   (a) To prevent needle stick injuries; employees SHOULD NOT cap, bend, break, or remove needles from the syringe, or otherwise manipulate the needle by hand. The needles placement in the protective container is of more importance.

3. Blood or body fluid contaminated equipment

   (a) Any Non-disposable item, when contaminated with blood/body fluid, will be treated as if the item has been exposed to a communicable disease. It should be cleaned with a disinfectant agent (i.e. Chlorine bleach-water solution of 1:10; as recommended by the CDC- Center for Disease Control) followed by a thorough washing with soap and water. Metal items, such as handcuffs or service weapons, require drying and lubrication/oil treatment afterwards to prevent rust.

   (b) Clothing contaminated with blood or body fluid should be removed and then laundered separately from other garments to avoid cross contamination or should be professionally cleaned as soon as possible.

4. Evidence with blood or body fluids should be packaged in accordance with methods outlined in evidence handling procedures available at evidence drop off locations. Items with blood or body fluid must be packaged to prevent any cross contamination of other evidence/property and must be clearly marked as "Biohazard". (Policy 701.4.3 Submitting Biohazard material).



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# Limited Duty, Extended Limited Duty, Return to Work, and Pregnancy

## 958.1 PURPOSE AND SCOPE

The purpose of this policy is to establish procedures for assigning employees to Limited Duty or Extended Limited Duty. These assignments may be available to an employee who has an on-duty, off-duty, or non-occupational injury or illness, or is pregnant.

(a) Guidelines for on-duty injury, illness, and crash incidents can be found in Policy 956 (On-Duty Injury and Illness).

(b) Guidelines for off-duty or non-occupational injury and illness incidents can be found in Policy 955 (Attendance and Leave).

## 958.2 DEFINITIONS

**Limited Duty** - A temporary, limited term assignment not requiring performance of the full range of duties associated with the regular job classification due to medical limitations or restrictions.

**Extended Limited Duty** - An extension of Limited Duty status for non-probationary, sworn employees who have been on Limited Duty in excess of a cumulative total of 1,040 hours as a result of an on-duty or off-duty injury or illness.

**Return to Work Program (RTW)** - A City of Austin program that attempts to locate alternate job placement within the Department or City for employees who can no longer perform the essential functions of their job due to:

(a) A compensable injury or illness; or

(b) An off-duty injury or illness that is designated as meeting the definition of a disability under ADA and,

  1. The employee is non-sworn (as per City policy); or,

  2. The employee is sworn and has been designated not physically or mentally fit by the process set forth in Texas Local Government Code 143.081.

## 958.3 LIMITED DUTY GUIDELINES

Limited Duty assignments are a management prerogative and not an employee right. These assignments are intended to provide employees with the ability to continue working within the limits of their restrictions and limitations on a temporary basis while providing the Department with productive employees during the interim period. The Department will engage in a good faith interactive process to consider reasonable accommodations for any employee with a temporary or permanent disability.

(a) The Chief of Police has the ultimate authority to determine whether it is in the best interest of the Department to place an employee on Limited Duty status and, if so, in what position within the Department.

(b) For sworn employees, the Chief may at anytime invoke the fitness for duty process as outlined in Texas Local Government Code 143.081.



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(c) If a sworn employee is designated not physically or mentally fit to perform the essential job functions by the process outlined in Texas Local Government Code 143.081, the procedure outlined in 958.3.1(d) 2(a) shall apply.

(d) Limited Duty assignments shall be subject to continuous reassessment dependent upon:

1. Department need; and
2. The estimated length of time the employee is expected to remain on Limited Duty; and
3. The employee's current medical limitations and restrictions as dictated by a physician; and
4. The employee's ability to perform in a Limited Duty capacity.

(e) Employees with a compensable injury or illness may be assigned to a Limited Duty position outside of their normal assignment or duties if it becomes available.

1. Employees shall be required to take the offered assignment; failure to accept the assignment may result in the employee forfeiting their workers' compensation indemnity benefits.
2. If an assignment meeting the required restrictions and limitations is unavailable, employees may be eligible for FMLA, Worker's Compensation indemnity benefits, and/or draw on personal leave balances (e.g., sick, vacation) until an assignment becomes available.

(f) Employees with an off-duty injury or illness may be offered a Limited Duty position. If a position is offered, the employee may either accept the position or continue to draw on personal leave balances (e.g., sick, vacation).

(g) Employees on a Limited Duty assignment shall be required to:

1. Undergo a medical re-evaluation, as directed by a physician; or,
2. Submit an updated DWC-73 or a Medical Release to Return to Work Form (PD0119) when directed by a Risk Management supervisor; and,
3. Attend Designated Doctor appointments set by the Texas Department of Insurance, Division of Worker's Compensation.

(h) Employees that cannot adequately perform in a Limited Duty assignment may have such assignment modified or discontinued.

(i) The lack of Department need or a change in priorities may result in the employee's removal from or modification of a Limited Duty assignment.

(j) The Department may place conditions as deemed appropriate upon any Limited Duty assignment.

### 958.3.1 SWORN EMPLOYEES

All Limited Duty assignments for sworn personnel shall be coordinated through the APD Risk Management Unit and adhere to the following guidelines:

(a) Sworn employees shall be notified in writing by Risk Management of any approved, modified or canceled Limited Duty assignment.

(b) Sworn employees wishing to be assigned to a Limited Duty assignment different than that identified by Risk Management must receive prior approval from the employee's chain-of-command and APD Risk Management.



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1. Consideration for any special Limited Duty assignments, including requests to keep a sworn employee in his current work assignment, shall be based on written justification by the sworn employee's supervisor.
2. The sworn employee's supervisor shall complete a *Request to Keep Limited Duty Employee* (PD0061) and forward it up the chain-of-command for approval.
3. Upon approval by the sworn employee's chain-of-command, completed forms shall be forwarded to the APD Risk Management supervisor for final approval, with the following exception:
   (a) Sworn employees expected to remain on Limited Duty for no more than two (2) consecutive weeks shall be allowed to stay in their current work assignment with the approval of their commander.

(c) The supervisor to whom the Limited Duty sworn employee is assigned shall complete a *Limited Duty Assignment Evaluation* to document the employee's performance and forward it to the employee's regular duty supervisor and APD Risk Management.

(d) Sworn employees may remain on Limited Duty status for no more than a cumulative total of 1,040 hours per incident of injury or illness.

1. At least thirty (30) days before the expiration of a cumulative total of 1,040 hours of Limited Duty, the employees' physician must submit a written report to the APD Workers' Compensation Office indicating a reasonable anticipated date to return to Full Duty.
2. If a sworn employee's physician determines that the employee cannot return to Full Duty after the initial 1,040 hours, sworn employees may request an Extended Limited Duty assignment as outlined in this policy. The Chief of Police may approve the Extended Limited Duty assignment or invoke the fitness for duty process outlined in Texas Local Government Code 143.081.
   (a) If a sworn employee is not approved for a Limited Duty or Extended Limited Duty assignment and is designated not physically or mentally fit for duty by the process outlined in Texas Local Government Code 143.081, employment may be terminated. Prior to termination the employee can be referred to the Return to Work (RTW) Program if the below conditions are met:
      1. **Compensable on-duty injury or illness** will automatically qualify the employee for the RTW program. If the sworn employee elects to participate and is enrolled into the City of Austin RTW Program, the first 90 days shall be for placement within the Department. If no Departmental placement is found, the second 90 days shall be for placement in other city departments. If no placement is found, employment may be terminated
      2. **Off-duty injury or illness** requires an ADA Committee review - If the sworn employee is eligible and elects to participate in the City of Austin RTW Program, enrollment will be for the designated days allowed by the COA RTW policy for this classification of injury/illness. If no placement is found, employment may be terminated.

### 958.3.2 CIVILIAN EMPLOYEES

All Limited Duty assignments for civilian personnel shall adhere to the following guidelines:



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(a) Civilian employees shall be notified in writing of any approved, modified or canceled Limited Duty assignment.

(b) **On-Duty Injury and Illness**

1. All Limited Duty assignments for on-duty injury and illness shall be coordinated through the APD Workers' Compensation Office.

   (a) Civilian employees may be entered into the Return to Work Program for an on-duty injury and illness for a total of 180 days.

      1. The first 90 days shall be under the APD Return to Work Program for placement within the Department.

      2. If no placement is found, the second 90 days shall be under the City of Austin Return to Work Program for placement within the City of Austin.

   (b) If no placement is found in APD or the City of Austin after 180 days, employment may be terminated.

(c) **Off-Duty Injury and Illness**

1. All Limited Duty assignments for off-duty injury and illness shall be coordinated through APD-HR.

   (a) Assignments shall only be accommodated if one is available in the employee's current work unit and the assignment is within the medical restrictions determined by the physician.

   (b) Civilian employees may remain on Limited Duty status for no more than a cumulative total of 520 hours per off-duty injury and illness.

   (c) Reduced work schedules shall be considered as a Limited Duty assignment for no more than 30 days. Employees unable to return to Full Duty status after 30 days will be placed on No Duty status. Employees on a reduced work schedule may be eligible for FMLA.

   (d) As soon as APD-HR becomes aware that the employee will be unable to return to Full Duty after 8 weeks of being on a Limited Duty status, the employee will be informed of his rights under FMLA, ADA and the City of Austin Return to Work Program as appropriate.

2. If a Limited Duty assignment is not available, employees shall be placed on a No Duty status using their own personal leave (e.g., sick, vacation).

   (a) Employees shall be informed of their rights under ADA and the City of Austin Return to Work Program, as appropriate.

   (b) Employees may be eligible for FMLA.

   (c) Employees are subject to leave restrictions and limitations as outlined in Policy 955 (Attendance and Leave).

## 958.4 EXTENDED LIMITED DUTY ASSIGNMENTS

This section applies only to non-probationary, civil service employees. There is no constitutional or statutory entitlement to an Extended Limited Duty assignment. The Chief of Police has created this policy in recognition of the fact that in many instances, an injured officer may still make a significant contribution to the Department's mission.



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(a) The intention of this policy is to place injured employees in temporary positions with the understanding and expectation that they will return to Full Duty at some future date.

1. Extended Limited Duty assignments are not intended to create a permanent Limited Duty career path.
2. While Extended Limited Duty assignments have no specified time limit, the Chief of Police retains the right to impose one at any time.

(b) Two (2) essential job functions of every Austin Police Officer are the ability to make a forcible arrest and qualify with a firearm. Extended Limited Duty positions waive these specific essential functions as long as the following requirements are met:

1. The employee obtains an exemption from TCLEOSE waiving any State mandated requirements for certification that the employee cannot comply with due to his injury or illness.
2. A copy of the exemption is on file with the Department.

(c) While on Extended Limited Duty, employees are required to have a quarterly medical examination by their own physician to determine whether the employee is physically and mentally capable of returning to Full Duty.

1. For on-duty injuries or illnesses, the employee is responsible for submitting a completed DWC-73 form to the APD Workers' Compensation Office within 24 hours of the appointment.
2. For off-duty injuries or illnesses, the employee is responsible for submitting in a completed *Medical Release to Return to Work* form to the APD Workers' Compensation Office within 24 hours of the appointment.
3. If the Chief of Police questions a physician's report, the Chief may formally invoke the fitness for duty process outlined in Texas Local Government Code Section 143.081.

(d) Extended Limited Duty assignments will be evaluated every six (6) months. The Chief of Police has the authority to invoke the fitness for duty process at any time if a question arises as to whether the employee is sufficiently physically and mentally fit to continue his duties.

(e) The assignment to Extended Limited Duty does not affect an employees entitlement to:

1. A paid leave of absence for an injury or illness that is sustained in the line of duty pursuant to Texas Local Government Code Section 143.073; or
2. Any other form of leave that the employee may be entitled to under Chapter B of the City of Austin Personnel Policies, the Meet and Confer Agreement, and State or Federal law. (e.g., FMLA).

### 958.4.1 APPLYING FOR AN EXTENDED LIMITED DUTY ASSIGNMENT

A sworn employee who has been on Limited Duty status a cumulative total in excess of 1,040 hours may be placed on Extended Limited Duty as provided for in this policy and only with the approval of the Chief or an assistant chief.

(a) At least thirty (30) days before the expiration of a cumulative total of 1,040 hours of Limited Duty, the employees' physician must submit a written report to the APD Workers' Compensation Office indicating a reasonable anticipated date to return to Full Duty.



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1. If the physician determines the employee will not be able to return to Full Duty by the expiration of a cumulative total of 1040 hours of Limited Duty, the officer may, within ten (10) days of the expiration of the 1040 hours, submit a written request for an Extended Limited Duty assignment to the Chief of Police through the APD Workers' Compensation office.
2. The Chief of Police has the authority to deny an officer placement in an Extended Limited Duty assignment if the Chief determines that such placement is not in the best interest of the Department.

(b) Preferences for Extended Limited Duty assignments shall be given to employees with a compensable on-duty injury or illness, as well as employees with a qualifying disability as outlined below.

### 958.4.2 QUALIFYING DISABILITY

(a) If a condition qualifies as a disability under State or Federal law, the employee with the qualifying disability shall have preference for an Extended Limited Duty assignment provided:

1. The employee can perform the essential functions of the Extended Limited Duty assignment; and
2. The Chief of Police determines it is in the best interest of the Department to place the employee in that assignment.

(b) Employees claiming to have a qualifying disability must submit sufficient supporting medical documentation from their physician in order to have preference in the selection process.

### 958.4.3 REVISION OR REVOCATION OF THIS POLICY

The Chief of Police has the authority to discontinue or amend any part of this policy at any time when it is determined to be in the best interest of the Department.

(a) In the event the Chief of Police should rescind or amend this policy, employees in Extended Limited Duty assignments must obtain a release to Full Duty from their physician within 90 days of being notified the assignment will be eliminated.

(b) If any or all Extended Limited Duty positions are eliminated and an employee is unable to return to Full Duty within 90 days, every effort will be made to locate alternate placement within the Department.

(c) If alternative placement within the Department is not successful, employees who have suffered a compensable injury or illness shall be referred to the City of Austin Return to Work Program. If placement through this program is not successful, employment shall be terminated.

## 958.5 PREGNANCY

This section outlines:

(a) The method of reporting pregnancy.

(b) The guidelines for reassignment to a Limited Duty assignment.

(c) The type of leave available to pregnant employees.

(d) The guidelines for returning to Full Duty.



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### 958.5.1 NOTIFICATION OF PREGNANCY AND REASSIGNMENT

(a) An employee should notify her commander/manager that she is pregnant when she feels she can no longer perform one or more of the essential functions of her normal duties.

1. Upon receiving such notification from an employee, a commander/manager has the discretion to place the employee on Special Assignment to an appropriate position without the documentation of a physician.
2. The employee shall not be considered on Limited Duty due to the lack of medical documentation.

(b) An employee shall notify her commander/manager if her physician believes she can no longer perform one or more of the essential functions of her normal duties.

1. The employee shall submit to her commander/manager a written request for reassignment to a Limited Duty position within the Department.
2. The physician's opinion shall be attached to such request, together with the physician's recommendation on restrictions and limitations of duties.
3. The commander/manager shall forward a copy of the request to the APD Risk Management Unit for the employee's confidential medical file.
4. Reassignment to a Limited Duty position shall be handled by the APD Risk Management Unit and should be made in accordance with a physician's recommended restrictions and limitations necessitated by the employee's changing physical condition.
5. The duration of such reassignment shall include the time prescribed by the physician.

(c) A supervisor in an employee's chain-of-command may place the employee on Special Assignment if reasons can be articulated as to why the employee is no longer able to perform one or more of the essential functions of her duties.

1. The supervisor may request the employee to provide medical documentation from her physician regarding her ability or inability to perform the essential functions of her job.
2. If the medical documentation indicates the employee has:
   (a) No restrictions and/or limitations, the employee shall only be placed on Special Assignment if requested as outlined in (a).
   (b) Restrictions and/or limitations, the chain-of-command shall follow the procedures for placing the employee on Limited Duty as outlined in (b).

### 958.5.2 GRIEVANCE PROCEDURES

If an employee's physician has requested the employee be assigned to a Limited Duty position and the physician feels that the Department is not providing proper reassignment, the employee may file a grievance in writing to her commander/manager.

(a) The employee shall be required to present a copy of the following:

1. The physician's original request for reassignment; and
2. The recommended restrictions and limitations of the employee; and
3. A written statement listing the reason(s) the employee believes the assignment is inappropriate.



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### 958.5.3 REQUESTING FMLA OR LEAVE OF ABSENCE WHILE PREGNANT

(a) Employees eligible for Family Medical Leave (FMLA) shall be granted up to 12 weeks each calendar year for the birth of a child.

1. Employees who request FMLA must submit a completed *Request for Family and Medical Leave* form and *Certification of Health Care Provider* form to APD-HR at least thirty (30) days prior to the estimated delivery date.

(b) Employees not eligible for FMLA, or who have exhausted FMLA leave, may request a leave of absence as outlined in City of Austin Policies.

1. Employees requesting a leave of absence must make the request in writing.
2. The request shall include the anticipated date of return and any other documentation the employee feels is necessary to support the request.
3. The request shall be submitted to APD-HR.

(c) While on leave, employees may be paid by using approved personal leave time in accordance with City Personnel Policies.

### 958.5.4 RETURNING TO DUTY

Before returning to work the employee must provide a *Medical Release to Return to Work* form to her supervisor indicating the anticipated return to a Limited Duty or Full Duty status.

(a) If the employee returns on a Limited Duty status, the form shall include any restrictions and an anticipated date the employee will return to Full Duty.

(b) If the employee requires an extension of her Limited Duty status beyond the anticipated return to Full Duty date, the employee must obtain an additional *Medical Release to Return to Work* form. The form shall include any restrictions and a new anticipated date to return to Full Duty.

## 958.6 SWORN PROBATIONARY EMPLOYEES

Sworn probationary employees who are assigned to a temporary Limited Duty assignment shall have their probation extended by a period of time equal to the employee's Limited Duty assignment.

## 958.7 MAINTENANCE OF CERTIFICATION AND TRAINING

(a) Employees assigned to any Limited Duty assignment shall maintain all certification, training, and qualifications appropriate to both their regular and temporary duties provided the certification, training, or qualifications are not in conflict with any limitations or restrictions.

(b) Employees assigned to a Limited Duty assignment shall inform their supervisor of any inability to maintain any certification, training, or qualifications.

## 958.8 PROMOTION OF CIVIL SERVICE EMPLOYEES

Provided the Chief of Police does not have a valid reason for a promotional bypass, sworn employees on Limited Duty or Extended Limited Duty are eligible for promotion under the following circumstances:

(a) The employee obtains a release to Full Duty from his personal physician prior to the effective date of the promotion; or



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(b) An Extended Limited Duty assignment is approved and available in the rank the employee would be promoting to.

## 958.9 RESTRICTIONS WHILE ON LIMITED DUTY AND EXTENDED LIMITED DUTY

While on Limited Duty or Extended Limited Duty, employees shall not engage in conduct that could possibly hinder their own recovery or safety or the safety of others.

(a) No sworn or civilian employees shall:

1. Drive a City-owned vehicle without supervisor approval.
2. Utilize a take home vehicle without supervisor approval.
3. Participate in activities that could possibly hinder recovery (e.g., strenuous athletic activity).
4. Work any secondary employment that is inconsistent with any medical limitations or restrictions.
5. Work any secondary law enforcement related employment (LERE).

(b) Sworn employees may request to work Department overtime and Non-LERE secondary employment by completing the *Request for Departmental OT/Non-LERE Employment* form (PD0143) and submitting it to the Professional Standards commander at least 7 days prior to the assignment.

1. The form shall specify the duration and duties being performed during the overtime assignment; and
2. The Professional Standards commander shall determine if the duties of the assignment are within the medical limitations or restrictions; and, submit a written response to the requesting employee granting approval or denial of the overtime assignment.

(c) In addition to the above guidelines, sworn employees shall not:

1. Wear any part of the APD police uniform.
2. Enforce any laws of the United States, State of Texas, or Ordinances of the City of Austin.
3. Take law enforcement action or make arrests.
4. Carry a firearm unless:
   (a) It is concealed; and
   (b) There are no medical limitations or restrictions which would prevent employees from using the weapon in an authorized manner.
5. Display their police badge or identification card, either on-duty or off-duty, in a manner that may identify them as a police officer.
   (a) This provision does not supersede the requirement that all Department employees must display Department issued identification while on Department premises.



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# Restricted Duty

## 959.1 PURPOSE AND SCOPE

The purpose of this policy is to outline when and how an employee is placed on Restricted Duty.

## 959.2 RESTRICTED DUTY

Employees involved in serious, critical, or traumatic incidents, not limited to shootings or fatality crashes, may be placed on Restricted Duty status to restrict their authorities and/or work functions. This may be done at any point during an investigation when maintaining regular duties may compromise the integrity or general order of the Department.

(a) Employees will be placed on Restricted Duty when their actions or use of force in an official capacity result in death or serious bodily injury to another person.

(b) Employees may be placed on Restricted Duty based on any of the following factors:

1. A compelling reason to believe the employee poses a threat to someone; or
2. An allegation of serious misconduct; or
3. The employee represents an increased potential liability to the Department; or
4. Physical violence was involved in a violation; or
5. The employee is pending physical, drug or psychological testing.

## 959.3 DUTY RESTRICTIONS

(a) Officers placed on restricted duty may be assigned to clerical duties at an APD site or at their residence and may have full, limited, or no police authority.

(b) Civilian employees may be placed on administrative leave.

(c) Any restriction placed upon an employee on Restricted Duty status will be listed on the written direct order given placing the employee on restricted duty.

1. A Restricted Duty order may restrict employees from:
   - (a) Enforcing any laws or ordinances.
   - (b) Working any Law Enforcement Related Secondary Employment.
   - (c) Accessing information contained in APD files or computer systems.
   - (d) Carrying any firearm on City or APD facilities.
   - (e) Carrying any firearm off-duty unless the employee holds a Concealed Handgun License (CHL).
2. In addition, a Restricted Duty order may require employees to:
   - (a) Report to a designated supervisor at specified times.
   - (b) Remain at their designated work station (e.g., on-site, at home) during duty hours unless on approved leave. Employees must report to their designated supervisor if they leaves the designated work station for more than reasonable breaks.
   - (c) Furnish a phone number where they can be reached at 24 hours a day to their designated supervisor and Internal Affairs.



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## 959.4 PLACEMENT PROCEDURES

An employee's commander/manager or, in the event of an emergency, the Duty Commander, may place an employee on Restricted Duty status. When practical, these procedures will take place in private with only the employee, the employee's supervisor, and, if requested, IA present. Upon request, IA will assist supervisors with completing the proper paperwork to place an employee on Restricted Duty.

(a) The following steps are used to place employees on Restricted Duty:

1. Employees will be issued a written direct order immediately placing them on Restricted Duty and listing all restrictions being placed upon the employee.
2. Employees will acknowledge the order by signing their name.
3. Employees should be assigned to daytime hours to maintain accessibility for the investigator.
4. Supervisors may request the employee's APD computer access be suspended.
5. If required to do so, employees will turn in to their supervisor any Department issued equipment (e.g., badge, APD identification, building access cards, and Department issued firearms).
   (a) Employees will receive a receipt for all property turned in.
   (b) The property may be retained by the employee's supervisor or stored in Police Equipment.

(b) The Chief will be notified of the placement as soon as practical.

(c) The Restricted Duty status and related paperwork will become part of the IA investigative file.

(d) While on any type of Restricted Duty status or suspension, other than an indefinite suspension, employees must maintain TCLEOSE licensing requirements for annual qualification and mandatory training.

1. When employees are suspended or restricted from carrying their firearm on police facilities and the TCLEOSE annual weapon's qualification requirement might be violated, they will notify their supervisor so approved arrangements might be made for weapons qualification.
2. Employees are ultimately responsible for ensuring their compliance with all TCLEOSE mandated licensing requirements.

## 959.5 RETURN TO FULL DUTY STATUS

(a) Employees may be returned to Full Duty status only upon:

1. The conclusion of the investigation or suspension.
2. By order of a court or Civil Service Proceeding.
3. By order of the Chief or designee.
4. When applicable for civilian employees by order of the City Manager.

(b) Employees will be returned to Full Duty status by their commander/manager, with concurrence of the appropriate assistant chief.

(c) Employees will be given written documentation to reflect the change in status which will be made part of the IA investigative file. Employees will acknowledge the documentation with their signature and will be given a copy of the signed form.

(d) Supervisors will:



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1. Ensure any APD equipment and property is returned to the employee; and
2. Request the employee's access to APD computer systems be reinstated if it was restricted.



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# Employee Speech, Expression, and Social Networking

## 972.1 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 legitimate needs of the Department.

Nothing in this policy is intended to prohibit or infringe upon any employee's communication, speech or expression that has been clearly established as protected or privileged.

### 972.1.1 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, email, file transfer, remote computer access, news services, social networking, social media, instant messaging, blogs, forums, video and other file-sharing sites.

## 972.2 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 Austin 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.

## 972.3 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 Austin 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 expected to compromise the safety or privacy of any employee, an employee's family or associates.

## 972.4 PROHIBITED SPEECH, EXPRESSION AND CONDUCT

To meet the Department's safety, performance, and public-trust needs, the following is prohibited:

(a) Speech or expression made pursuant to an official duty that tends to compromise or damage the mission, function, reputation or professionalism of the Austin 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 Austin Police Department and tends to compromise or damage the mission, function, reputation or professionalism of the Austin Police Department or its employees.



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(c) Speech or expression that could reasonably be foreseen as creating 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 creating a negative impact on the safety of the employees of the Department. For example, a statement on a blog that provides specific details as to how and when prisoner transportations are made could reasonably be foreseen as potentially jeopardizing employees by informing criminals of details that could facilitate an escape or attempted escape.

(e) Speech or expression that is contrary to the canons of the Law Enforcement Code of Ethics as adopted by the Austin 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 expressed authorization of the Chief of Police or designee (Tex. Penal Code § 39.06(a)(1)).

(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 Austin Police Department on any personal or social networking or other website or web page, without the express written permission of the Chief of Police.

(h) Failure to take reasonable and prompt action to remove any content that is in violation of this policy and/or posted by others from any web page or website maintained by the employee (e.g., social or personal website).

### 972.4.1 UNAUTHORIZED ENDORSEMENTS AND ADVERTISEMENTS

Unless specifically authorized by the Chief of Police, employees may not represent the Austin Police Department or identify themselves in any way as being affiliated with the Austin Police Department in order to do any of the following (Tex. Local Gov't Code § 556.004(c) and (d)):

(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 individual capacity or through some unofficial group or organization (e.g. bargaining group), is affiliated with this department the employee shall give a specific disclaiming statement that any such speech or expression is not representative of the Austin Police Department.

Employees retain their right to vote as they choose, to support candidates of their choice and to express their opinions 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 U.S.C. § 1502)).



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## 972.5 PRIVACY EXPECTATION

Employees forfeit any expectation of privacy with regard to anything published or maintained through file-sharing software or any Internet site open to public view (e.g., Facebook, MySpace).

Additional guidelines on privacy expectations are outlined in:

(a) Policy 1000 (Department Technology Use); and

(b) Policy 1002 (Electronic Mail (Email) Communications).



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# Chapter 10 - General Policies

# Department Technology Use

## 1000.1 PURPOSE AND SCOPE

Operation of all Department computers, software, and systems will be in accordance with City of Austin Communications and Technology (CTM) policies. This policy provides guidance on the use of Department computers, software, and systems and is not meant to supersede established CTM policies. Questions on this policy should be referred to a supervisor or the Police Technology Unit.

### 1000.1.1 PRIVACY POLICY

Any employee utilizing any computer, electronic storage device or media, Internet service, phone service, information conduit, system or other wireless service provided by or funded by the Department expressly acknowledges and agrees that the use of such service, whether for business or personal use, shall remove any expectation of privacy the employee, sender, and recipient of any communication utilizing such service might otherwise have, including as to the content of any such communication.

(a) The Department expressly reserves the right to access and audit any and all data, communications, and Internet usage, including content that is sent, received, and stored through the use of Department systems. Periodic audits may be conducted by the:

1. Police Technology Unit (PTU).
2. CTM.
3. Internal Affairs/Risk Management Division.

(b) All data, communications, and Internet usage by employees may be saved for an indefinite period and may be retrieved and reviewed without notice as needed.

## 1000.2 DEFINITIONS

The following definitions relate to terms used within this policy:

**Department Technology -** Includes all computers (on-site and portable), Internet, email, hardware, software, and resources owned, leased, rented or licensed by the Austin Police Department or City of Austin which are provided for official use by employees.

**Hardware** - Includes, but is not limited to, computers, computer terminals, network equipment, modems, or any other tangible computer device generally understood to comprise hardware.

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

(a) **Freeware Software** - Software freely obtained from public sources.

(b) **Shareware Software** - Proprietary software that is provided to users without payment on a trial basis and is often limited by a combination of functionality, availability, or convenience.



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## 1000.3 GENERAL DEPARTMENT TECHNOLOGY GUIDELINES

These policies apply to all employees of the Austin Police Department using any Department Technology. Use of these systems implies that employees agree to comply with all applicable laws, guidelines, and Department and CTM policies.

(a) The Police Technology Unit is responsible for maintaining and approving new technology.

(b) Employees are responsible for their own network account regardless of who actually uses it. Employees will log off the network upon completion of computer activity or take reasonable precautions (e.g., lock the computer screen) when stepping away from a computer.

(c) Employees must use their own login and password to access the network. Disclosure of login and password, access codes, or other authentication devices to others must be kept to an absolute minimum and done only when approved by a supervisor.

(d) Employees are responsible for taking reasonable precautions to avoid introducing viruses to Department computer systems.

1. Files obtained from any source outside the Department (e.g., computers, thumb drives, CD's, Internet, email attachments) may contain dangerous computer viruses.
2. Employees should never use non-Department devices/sources, download Internet files, or accept email attachments from unknown sources without first scanning the material with Department-installed virus software.
3. If a user suspects that a virus has been introduced into the Department network, the user should notify their supervisor and CTM through the Help Desk.
4. Employees should regularly scan their Department computer for viruses. Report any viruses that the computer is not able to repair itself to CTM through the Help Desk. CTM has scheduled a virus scan for all networked computers on a regular basis.

(e) Employees who become aware of any computer system security breach, whether internal or external, will immediately notify their supervisor, the Help Desk, and the Police Technology Unit.

(f) Employees will notify their supervisor if they observe someone using Department Technology inappropriately . The supervisor receiving such information will review it and take appropriate action.

### 1000.3.1 PROHIBITED USES OF DEPARTMENT TECHNOLOGY

Prohibited uses of any Department Technology include, but are not limited to, the following:

(a) Use for private gain or profit, or to solicit for political, religious, or other non-business purposes.

(b) Engaging in discriminatory or harassing behavior, including sexual harassment.

(c) Downloading or installing any hardware or software without approval from the Police Technology Unit.

(d) Creating an unauthorized copy of Department software.

(e) Violating or invading the privacy of others by posting information on the Internet about another employee or unnecessarily viewing another employee's files or email. Employees must be sensitive to the fact that Internet news group postings, email



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messages, web sites, and various other communications on the Internet may be public information.

(f) Placing any Department material (e.g., internal memos, bulletins) onto the Internet without prior approval of the Chief of Police or designee.

(g) Interfering with or disrupting any Department network, Internet user, program, or equipment.

1. Disruptions include but are not limited to:
   (a) Propagation of computer worms, viruses, or other debilitating programs;
   (b) Using the Department network to make unauthorized entry to any other machine accessible by the network or Internet.
2. Deliberate attempts to degrade or disrupt system performance may be considered criminal activity with possible prosecution under applicable state and federal laws.

(h) Deliberately accessing pornographic or Internet gambling web sites without prior authorization from a supervisor.

(i) Streaming of audio/video media from the Internet for non-business related purposes without approval of a supervisor.

## 1000.4 EMPLOYEE COMPUTER ACCESS GUIDELINES

(a) **New Employee, Employee Transfers, Employee Separation from Department**

1. Supervisors are responsible for completing the appropriate request form to create, transfer, or delete computer access for new employees, employee transfers, and when an employee separates from the Department.
2. Forms can be found in the *Approved APD Forms* folder under *Computer Security Access Related Forms* or the web based forms located on APD net.
   (a) Completed forms will be sent to the Help Desk.
   (b) A help ticket will be generated and sent to the Police Technology Unit for approval.

(b) **Employee Suspensions**

1. Supervisors needing to have an employee's computer access suspended or deleted should send an email to the Police Technology Unit Lieutenant or Sergeant.
2. The Police Technology Unit will not suspend or delete an account for employee suspensions of five (5) days or less. This does not prevent the employee's chain-of-command from ordering the employee not to access the APD computer system during the suspension period.

### 1000.4.1 SUPPORT PERSONNEL REMOTE ACCESS

CTM personnel may have to access employee computers from time to time for support reasons.

(a) When CTM personnel remotely connect into a computer, a small square notification announcement will pop up in the bottom right of the computer screen to indicate that someone has connected to the computer. This notice will contain that person's user name and the remote computer they are using.



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(b) It is the employee's responsibility to close down any applications or documents that contain confidential or sensitive data prior to allowing any support personnel to connect to the computer.

(c) Employees who observe a remote session and believe it is not appropriate or authorized will report this session to the Police Technology Unit immediately.

(d) If a virus or other potentially harmful program is detected and CTM personnel are required to shut down a computer, they are authorized to remote into that computer immediately without first contacting the user. This can occur when time is a factor or when the primary computer user is not known. Employees should keep this in mind when leaving work at the end of the day and should shut down all sensitive or confidential software applications.

## 1000.5 DEPARTMENT HARDWARE AND SOFTWARE

Employees wishing to have any piece of hardware or software installed on a Department computer will get approval from the Police Technology Unit prior to it being installed.

(a) Upon approval of any hardware/software request or change, the Police Technology Unit will notify CTM for installation.

(b) When required for legal compliance, all software installed on Department computers will be registered or licensed with the software manufacturer. Copies of the registration and/or license agreement will be forwarded and maintained by CTM or designee.

(c) Shareware software will not be used on Department computers for a time period in excess of that allowed by the manufacturer for trial purposes unless it has been purchased and properly registered.

(d) Freeware software will only be installed on Department computers when it has been ascertained that such software is usable by government organizations free of charge.

### 1000.5.1 PRIVATELY OWNED COMPUTER USE

Employees with proper authorization may utilize privately owned personal computer equipment for Department business.

(a) Employees will adhere to Department and CTM policies when using privately owned computers for Department business.

(b) Privately owned computers will not be connected directly to the Department network.

(c) Personal hardware components (e.g., printers, external modems, external drives) will not be connected to Department equipment.

(d) Technical support on privately owned computers for Department business will be considered on a case by case basis.

## 1000.6 REMOTE ACCESS GUIDELINES

The Austin Police Department has the capability to grant remote access to APD and City of Austin computer systems for employees that need access when not at a normal work location.

Mobile Office is one form of remote access that enables employees to access a remote computer from any computer (i.e., Tough book, Home PC, or another department computer.) This remote computer includes the employees group folders, Versadex, Paging, Printers



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and other services only accessible from a city computer. Remote access users shall comply with CJIS requirements to ensure that CJIS data cannot be viewed by the general public.

### 1000.6.1 REQUESTING AND GAINING REMOTE ACCESS

(a) All employees have been granted remote access to APD Citrix. Employees needing other types of remote access such as GoToMyPC or VPN must have approval from the employee's Lieutenant or equivalent civilian manager.

(b) Some factors that should be considered when granting remote access to GoToMyPC or a VPN:

1. The necessity for remote access
   - (a) Can the employee use Mobile Office instead?
   - (b) Is the employee on Emergency call back or when an employee is home sick for an extended period of time?
   - (c) Is the unit budgeted to pay for the licenses needed for GoToMyPc or VPN access?
2. Is the employee a non-exempt employee?
   - (a) Non-exempt employee access must be in the City's best interest. Work done while using remote access is considered productive time
   - (b) Non-exempt employees working remotely should be compensated for any time that is beyond their normal 40 hours.

(c) The supervisor approving any remote access request except Mobile Office will open a Help Desk ticket that will be routed to APD Data Control to determine if a license is required and available.

1. If a license is required but not available, the employee will be placed on a "stand by" list for the next available license. This list will be used during budget planning to determine whether to purchase more licenses.
2. The requesting employee must then complete the CTM Telework Request Form. The completed form must be faxed to the Help Desk. The Help Desk will generate a Help Desk ticket and send it to APD Data Control to verify authorization. Once confirmed, the Help Desk will contact the requester to complete the set up process.

### 1000.6.2 COMPLIANCE WITH CTM POLICIES AND REMOTE ACCESS TRAINING

As part of the APD readiness program all employees will complete CTM Remote Access Training for Police. This will ensure that during an unplanned event, employees will be able to access a city computer from home or other remote location if directed by a supervisor. It will also ensure that that employees and supervisors are aware of the requirements for tele-working (i.e., reporting for time and attendance, overtime usage, computer security etc.)

(a) Cadets will complete the training during the Police Academy and prior to any ride out.

(b) Civilian personnel will complete the training within the first 90 days of being hired.

(c) Employees will not access any computer remotely, including Mobile Office without having completed the CTM Telework Training.



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### 1000.6.3 HOME ACCESS

(a) Employees that remotely access a City Computer, including Mobile Office from Home or another personal computer are considered to be "tele-working":

1. CTM requires that virus and firewall protection be installed an employee's personal computer. It is the responsibility of the employee to keep this software up to date on security patches (The City provides free downloads of Antivirus and Firewall software)
2. Employees will comply with the City of Austin Tele-work Personnel Procedures and agrees to the duties, obligations, responsibilities and conditions for remote access described in that document.
3. Tele-work access must be scheduled in advance and approved by the employee's immediate supervisor (lieutenants are exempt from this requirement.)
4. If technical difficulties occur employees must report those issues to the Help Desk (974 HELP)
5. If employees cannot access the COA network, and do not have sufficient work tasks to accomplish without this access, they may be required to come into the office to complete the workday.
6. Employees will code their time sheet with TLC for hours worked while tele-working.
7. Employees will not use COA equipment for personal use as outlined in the Prohibited Uses of Department Technology section of APD Policy.

(b) Accessing Mobile Office from home requires supervisor and APD Data Control approval.

(c) The department is limited on the number of concurrent users logged on at any one time Once that limit is reached, additional user access requests will be denied. Patrol personnel have priority, and to insure access all personnel using the system should log off as immediately upon task completion.

(d) Personnel should not use the system to simply check their email. Employees should check email via pswebmail.com

## 1000.7 INTERNET USAGE

Internet access is only authorized for official Department business and users are expected to know the tools, rules, and etiquette of the Internet.

Employees must use the Internet in accordance with all applicable laws and regulations. This includes compliance with copyright and license laws governing programs, as well as data and written materials accessed, obtained, or provided to others via the Internet.

## 1000.8 MANAGEMENT OF STORAGE AND BACKUPS

Electronic storage space limits are set by CTM based on allocated resources and the ability to maintain and back up these files, along with budget constraints.

(a) Employees are allocated limited storage space and are responsible for managing the amount of data collected and stored.

(b) Group folders have similar constraints set by CTM. Employees should avoid storing electronic data that is already stored elsewhere in another group folder. Employees should use alternate solutions such as links or Sharepoint to share the data.



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(c) Employees are reminded that audio and video files along with photos relating to police cases should only be stored on the network until that information can either be moved to the imaging database (DCMS), Versadex, or to a DVD/CD that is retained in the case jacket. Group folders and personally allocated storage space will not be used to permanently store any case related data.

(d) Employees are reminded that the Department has Records and Retention policies that must be followed when deleting or removing any files.

(e) Data saved on a networked computer drive is automatically backed-up (copied). However, employees are responsible for making their own backup copies to another source (e.g., thumb drive, external drive).

(f) Employees needing to share large amounts of data may use the *Officer to Officer Daily Shared Folder* located on the *Public Data for APD Only* drive. This folder is authorized for the temporary storage of large files and storage time should not exceed 5 days. Items in this folder 7 days or older will be automatically purged.



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# Electronic Mail (Email) Communications

## 1002.1 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., Texas Public Information Act). Messages transmitted over the email system must only involve official business activities and contain information essential to the business, administration, or practices of the Department.

### 1002.1.1 ADMINISTRATIVE GUIDELINES

Use of the email system by any employee implies both understanding and compliance with this policy.

(a) Employees using the email system will do so in an appropriate and professional manner.

1. Employees observing someone using the e-mail system inappropriately, or who receives unusual or inappropriate material, will notify their supervisor.
2. The supervisor receiving such information will review it and take appropriate action.

## 1002.2 EMAIL PROCEDURES

(a) Employees will check email on a regular basis to ensure timely acknowledgment of information.

1. Employees shall adhere to the "Management of Email" section of this policy when dealing with the storage of messages.
2. Employees scheduled to be out of the office exceeding 4 days should use the "Out of Office" reply feature in Outlook to indicate their expected return to work date and alternative contact information such as a coworker or supervisor.

(b) Department employees are encouraged to use email for, but are not limited to:

1. Routine messages, announcements, notices, or other information that previously would have been disseminated by memorandum through the chain-of-command or by inter-department mail.
2. Any message currently being sent by facsimile, telephone, or a paging system.
3. Drafts of reports, projects, or proposals.
4. Certain non-confidential Department documents such as job vacancies, Department memoranda, or Special Orders.

### 1002.2.1 EMAIL RIGHT OF PRIVACY

All email messages, including any attachments, that are transmitted over Department networks are considered Department records and therefore are the property of the Department.



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(a) Employees using the Department email system shall have no expectation of privacy concerning communications transmitted over the system.

(b) 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 without notification to the employee. However, it is a violation of this policy for any user, including the system administrator or supervisor, to access the email system or message of another employee merely to satisfy curiosity about the affairs of others.

(c) The email system is not a confidential system and therefore is not appropriate for confidential communications. If a communication must be confidential, an alternative method to communicate the message should be used instead of email.

## 1002.3 PROHIBITED USE OF EMAIL

(a) Unless approved by the Chief of Police or designee, the email system will not be used for:

1. Disseminating confidential materials or Department sensitive information, official documents that must be retained in their physical form, or documents that require a physical signature to certify receipt.
2. Charitable endeavors.
3. Private business activities.
4. Inappropriate entertainment purposes.

(b) Employees are prohibited from sending derogatory, defamatory, obscene, disrespectful, racist, sexually suggestive and harassing, or any other inappropriate messages via the email system.

(c) Employees are prohibited from sending out email messages addressed to the entire Department or all City employees, or selecting "Reply All" to such messages. Department or City-wide email messages should only be for business-related items that are of particular interest to all users and, as such, are restricted to Command Personnel or designee.

(d) Employees will not send out an email message under another user's name without authorization. Email users that have a need to delegate this function will use email program settings to give access to authorized employees.

## 1002.4 STANDARDIZED EMAIL SIGNATURE

(a) Employees are encouraged to set up an electronic signature block for all new email messages.

(b) Replies do not need to have an electronic signature and if an electronic signature is used it can be shortened from the example below.

(c) Employees will not use use images, stationery, or excessive text in an email signature block.

(d) A suggested signature block would look like:



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Lt. John Doe #1234
Auto Theft Unit
Austin Police Department
(512) 974-xxxx work (512) 802-xxxx pager
Email: john.doe@ci.austin.tx.us

IMPORTANT NOTICE: This email message is intended to be received only by persons entitled to receive the confidential information it may contain. Email messages to the Austin Police Department may contain information that is confidential and legally privileged. Please do not read, copy, forward, or store this message unless you are an intended recipient of it. If you have received this message in error, please forward it to the sender and delete it completely from your computer system.

## 1002.5 MANAGEMENT OF EMAIL

The email system is not designed for long-term retention of messages.

(a) Employees are solely responsible for the management of their email mailbox.

(b) Employees should purge messages at least on a regular basis.

(c) Emails that employees desire to save or that become part of an official record should be printed or stored in another database.

(d) Archive emails (personnel folders inside Outlook) are stored on the employee's network drive and can impact server space that is set up for the employee.

(e) Employees are reminded that the Department has Records and Retention policies that must be followed when deleting or removing any files.



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# Telephone and Mail Protocol

## 1003.1 PURPOSE AND SCOPE

This policy establishes uniform procedures for dealing with telephone inquiries and the use of Department telephone and mail systems.

## 1003.2 TELEPHONE GUIDELINES

Employees should adhere to the following guidelines when using the Department telephone system:

(a) Employees will be professional, polite, civil, and orderly when speaking on the telephone and treat all persons with fairness, dignity and respect.

(b) Telephone calls to Department phones will be answered promptly (within three (3) rings).

(c) Employees should answer the phone with the name of the Department, the work location, and employee name.

(d) When making phone calls on Department business, employees will identify themselves as members of the Department and clearly state the purpose of the call.

(e) Collect telephone calls should not be accepted by employees except in an emergency or with the approval of a supervisor.

### 1003.2.1 HANDLING TELEPHONE CALLS

(a) Depending upon the nature and subject of the request, employees will:

1. Answer the person's request for information or service.
2. Refer persons requesting information outside of the employee's area of responsibility to the best known source within the Department.
3. Route all media requests for information to the Public Information Office (PIO) in accordance with Department policy on Public Information and Media Relations.

(b) If the caller asks for a specific person who is not available, employees will:

1. Ask if they or someone else can help the caller.
2. Ask if the caller wishes to be forwarded to the specific person's voice mail.
3. Ask if the caller wishes to leave a message.

(c) When transferring a call, employees will:

1. Inform the caller of the person and extension number to which the person is being transferred to in case a disconnect occurs.
2. Ensure that someone is on the other end of the line before completing the transfer.
3. Brief the employee on the other end of the line on the nature of the call and the identity of the caller.

(d) Before placing a caller on hold, employees should ask the caller if he is able to hold.

(e) Angry callers will not be hung up on without warning. When dealing with an angry caller employees should:



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1. Keep control of the call by asking appropriate questions.
2. Sympathize with the caller's experience.
3. Offer help where they are able.

(f) Abusive callers using profanity will be dealt with in the following manner:

1. Politely interject (e.g., "Excuse me").
2. Advise the caller you can deal with the problem but abusive language will not be tolerated.
3. Maintain control of the call by immediately asking follow-up questions.

### 1003.2.2 VOICE MAIL

(a) Employees should answer the telephone when at their desk.

(b) If you are on the phone or away from your desk when you receive a phone call, retrieve the message(s) and return calls immediately upon your return.

(c) Employee voice mail greetings should contain:

1. The employees name and assignment; and
2. When callers can expect the employee to return the call; and
3. If the employee is going to be gone for an extended period of time (e.g., vacation), give specific information as to when the employee will be returning to work.

### 1003.2.3 PERSONAL USE OF DEPARTMENT PHONES

(a) Department phones are to be used for Department business, and personal calls should be limited.

(b) Department long-distance phone service should be used for Department business only.

(c) Personal long-distance calls on Department phones should be made only with the use of a personal calling card, if possible.

(d) All personal calls should be limited to breaks and authorized mealtimes unless an emergency exists.

(e) Employees who use Department phones for personal use will reimburse the City for expenses incurred.

(f) Employees will determine the amount of charges for which they are liable and bring cash or a to the Financial Management Division by the tenth day of the month following the month in which the personal call was made. Checks should be made out to City of Austin.

(g) Employees will not make collect phone calls from Department phones except in an emergency or with the approval of a supervisor.

## 1003.3 MAIL GUIDELINES

This section deals with the handling of Department and personal mail.

(a) Intra-office mail envelopes are used for mail staying within the Department.

(b) Inter-office envelopes should be used for correspondence to other City departments.

(c) Both types of envelopes will be clearly labeled with the:



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1. Date sent.
2. Name of the recipient.
3. Physical location of the recipient (e.g., North Substation, Robbery Unit, City of Austin Human Resources).

(d) Employees' personal correspondence received at a police facility will be sorted and delivered to the addressee's Department mailbox.

(e) Employees wishing to mail personal correspondence through the Department's mail system will pay all applicable postage.

### 1003.3.1 PICKUP AND DELIVERY OF DEPARTMENT MAIL

(a) Mail pick-up points have been designated throughout the Department for pickup and delivery.

(b) Personnel receiving mail will determine if the mail pertains to the receiver's Unit or assignment. If it does not, employees are responsible for ensuring it is directed to the appropriate Unit or person.

(c) If the mail is a request for information that could be considered an open records request, the document will be immediately delivered to the APD Legal Advisor or APD PIO.

### 1003.3.2 SPECIAL MAIL SERVICES

Personnel requiring overnight delivery service for documents or other items will:

(a) Contact the Mail Room and have a determination made as to which type of overnight delivery service is to be used.

(b) Obtain necessary forms and packaging from the Mail Room.

(c) Complete forms, including the complete physical address of recipient.

(d) Return packaged item and forms to Mail Room before 2:00 p.m., Monday through Friday.



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# Funeral Procedures

## 1007.1 PURPOSE AND SCOPE

This policy outlines the Department procedures for handling employee deaths, funerals, and the Department Funeral Committee.

### 1007.1.1 EMPLOYEE DEATHS

(a) Upon the death of an employee it will be the responsibility of the employee's Commander/Manager to notify the chairperson of the Funeral Committee.

(b) After receiving notification, the Funeral Committee chairperson will:

1. If practical, have a member of the Funeral Committee accompany the person going to notify the survivors.
2. Contact the Special Events Lieutenant to coordinate the Motorcycle Unit for escort purposes.

### 1007.1.2 BADGE MOURNING BAND

Guidelines for the wearing of a badge mourning band are outlined in Policy 801 (Equipment and Uniform Regulations).

## 1007.2 FUNERAL COMMITTEE

(a) The Department has established a funeral committee composed of a chairperson and eleven other members (commissioned and non-sworn) from within the Department. The total membership may vary from time to time, but efforts will be made to have a representative cross-section of the Department serving on the committee. Two seats on the committee are reserved exclusively for retired sworn members of the Department.

(b) When requested by the survivors of a deceased employee, a committee member will be appointed as Survivors' Assistance Officer (SAO) to assist members of the family. They shall also help as needed until any responsibility of the Department to the surviving family members has been met. This liaison shall coordinate with and work through the committee chairperson. The SAO will be the primary liaison between the survivors and the concerned City, state and/or federal agencies.

(c) In certain instances, when the decedent's family requests assistance in making funeral arrangements from an employee who is not a Funeral Committee member, that employee will work in conjunction with the Funeral Committee's SAO. When under these stressful conditions employees are reminded to be cautious of making statements which might obligate the Department, its resources, or its personnel to family members. Funeral Committee members are authorized by the Department to make these decisions and should be consulted prior to making any commitments to the decedent's family.

### 1007.2.1 RESPONSIBILITIES OF FUNERAL COMMITTEE

Whenever applicable, the Funeral Committee shall have the following responsibilities:

(a) Prepare a notice for Department-wide distribution informing all employees of the death and pending arrangements.



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(b) Contact departmental services for assistance to the family (e.g., Victim Services, Staff Psychological Services).

(c) Assist family of the deceased in making burial arrangements through the funeral director and/or church of choice.

(d) Contact members of the Honor Guard to prepare for any pending memorial services.

(e) Serve as point of contact for Department employees who desire participation in memorial services.

(f) For the death of an officer under honorable conditions:

1. Ensure that Department flags at all Austin police facilities are flown at half-staff from the time of death through the day of burial.
2. In instances where out-of-Austin arrangements are needed, the chairperson of the Funeral Committee will contact the law enforcement agency in the jurisdiction where the APD officer is to be buried to determine if ceremonial or other arrangements will be available. The chairperson will work with the local law enforcement agency to assist with any arrangements.
3. Assist family with obtaining available City, state and federal benefits.

(g) During off-duty hours, members of the Funeral Committee will serve as concerned friends of the family and will not charge overtime or expect compensation except actual, reasonable expenses incurred. However, at times and at the discretion of the Chief of Police, compensation for reasonable amounts of time spent in preparation for services may be approved.

## 1007.3 OFFICER'S DEATH IN THE LINE-OF-DUTY

For purposes of this policy, "under honorable conditions" denotes a status, no matter the cause of death, in which the officer's service before his death has been of good and respectable repute, and the officer was not under the cloud of criminal prosecution at the time of death.

### 1007.3.1 IN-STATE AND LOCAL SERVICES PROVIDED BY THE DEPARTMENT

(a) In cases of a line-of-duty death under honorable conditions, the wishes of the officer's family will hold priority over all other considerations. When the funeral is within the state, subject to the approval of the Chief of Police, the Department will be prepared to provide the following if desired by the family of the deceased:

1. A reasonable number of marked or unmarked police cars to provide transportation for members of the family and/or the Funeral Committee.
2. Motorcycle units for escorts.
   (a) Four (4) police motorcycles. (These units will be trailered when the distance to be traveled is determined to be excessive for the equipment and operator.)
   (b) The number of motorcycle units for funeral services conducted locally or within a reasonable distance of Austin will be determined by the Motorcycle supervisor overseeing the escort requirement, with approval by the affected Commander(s).
3. The officer's duty breast badge and a burial badge, Dress/Ceremonial Uniform (Class A) for the deceased's burial attire, and an entire set of decorations earned during the officer's career.



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(a) In cases of an in-the-line-of-duty death under honorable conditions, a Purple Heart will be presented to the family by the Chief of Police or designee.

(b) The duty badge will be awarded to the survivors.

4. Ceremonial flag to drape the casket.
   (a) The ceremonial flag will be the National colors.
      1. In cases of non-veterans, the ceremonial flag will be provided by the Funeral Committee.
      2. For officers who were veterans, the ceremonial flag will be provided by the United States Government, through the U.S. Postal Service.
5. A detail to serve as pall bearers.
   (a) Honor Guard; or
   (b) Officer's co-workers and/or friends, designated by the family.
      1. Officers selected as pall bearers will wear only the Dress/Ceremonial Uniform (Class A).
6. Volunteer honor guards at the pall when lying in state coordinated through the Honor Guard.
7. Special uniform items for ceremonial details within the funeral.
   (a) Aigulettes (shoulder cords).
   (b) White gloves.
   (c) Ascots.
   (d) Dress buttons.
8. An eight-person firing party, coordinated by the Funeral Committee chairperson.
9. A bugler to sound taps and/or a bagpiper.
10. Actual expenses incurred for food, lodging, and vehicle expenses for personnel assigned to attend the funeral as representatives of the Department.
11. Special assignment to members of the Funeral Committee when reasonably needed to help the family and to make arrangements.
12. During off-duty hours, members of the Funeral Committee will serve as concerned friends of the family, and will not charge overtime or expect compensation except actual, reasonable expenses incurred. However, at times and at the discretion of the Chief of Police, compensation for reasonable amounts of time spent in preparation for services may be approved.

### 1007.3.2 OUT OF STATE OR OUT OF COUNTRY SERVICES PROVIDED BY THE DEPARTMENT

When the funeral is to be out of the State of Texas, a memorial service with all honors will be held in Austin up to the time of departure of the body.

(a) Vehicle and motorcycle escorts may be approved for out-of-state services by the Chief of Police (e.g., marked/un-marked police vehicles and police motorcycles could be used if traveling within a reasonable distance across the state border).

(b) The Committee chairperson will determine the minimum number of Honor Guard members required for the out-of-state service.



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1. These officers will be placed on special assignment.
2. Travel and per-diem will be authorized by the Chief of Police.

(c) At the Department's expense, a member of Command Staff and the deceased officer's immediate supervisory chain-of-command will travel to the out-of-area service.

(d) Any other Department personnel who wish to attend are responsible for their own expenses and for obtaining approved leave.

## 1007.4 OFFICER'S DEATH NOT IN THE LINE-OF-DUTY

Retired and active officers who die under honorable conditions other than while in the actual performance of police duties may be entitled to the following subject to approval of the Chief:

(a) In-state services.

1. Same as outlined for in the line-of-duty deaths except that no firing party is provided.

(b) Out-of-state services.

1. Two assigned Department representatives may attend an officer's funeral on special assignment, at their own expense.

## 1007.5 DEATH OF AUSTIN POLICE DEPARTMENT CADET

For an in-the-line-of-duty death of a police cadet, the Department will provide the same services as for a commissioned officer who died under honorable conditions.

## 1007.6 DEATH UNDER LESS THAN HONORABLE CONDITIONS

In cases of death of a retired officer, active officer, or police cadet under less than honorable conditions, the Department is under no obligation to furnish or provide any assistance or honors for the service, or pay any expenses for any officer desiring to attend the services.

## 1007.7 FUNERAL ATTENDANCE

Employees are reminded that their attendance at functions of this nature is a direct reflection on the Department and should conduct themselves in a professional manner.

(a) Employees desiring to attend any funeral or memorial service are required to obtain authorized special assignment or approved leave before attending.

(b) Employees will adhere to the following dress and decorum at funerals:

1. Sworn Employees

   (a) If a uniform is worn, only the Dress/Ceremonial Uniform (Class A) with the military-style hat is authorized.

   (b) Employees in uniform will render appropriate salutes as directed by the Honor Guard Commander.

   (c) Plainclothes conforming with Policy 801 (Equipment and Uniform Regulations) may be worn in lieu of Class A uniform.

2. Non-Sworn Employees

   (a) Plainclothes conforming with Policy 801 (Equipment and Uniform Regulations) will be worn.



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### 1007.7.1 VISITING OFFICERS ATTENDING APD FUNERALS

In cases where out-of-town officers would be coming to Austin to pay respects to a deceased APD officer, the Austin Police Association shall maintain a sign-up sheet listing the names of APD personnel willing to room and/or board visiting officers.

## 1007.8 OUTSIDE AGENCY FUNERALS

(a) In cases where several officers from this Department wish to represent Austin at the funeral of an out-of-town officer within Texas, the Department will provide a reasonable number of marked police vehicles for the trip.

1. Normally be a maximum of two marked units will be provided.
2. All officers making the trip will do so on their own time unless special assignment has been approved by the appropriate Commander.
3. The Department shall furnish vehicle expenses and per diem for meals.

(b) The number of Motorcycle officers attending will be determined by the Commander of each Motorcycle Unit.

### 1007.8.1 OFFICERS FROM OUTSIDE AGENCIES BEING BURIED IN AUSTIN

The Funeral Committee chairperson will assist and coordinate with APD's Honor Guard and representatives from the outside agency regarding memorial services.



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# Building Security

## 1009.1 PURPOSE AND SCOPE

The size and complexity of APD facilities and the need for visitor access to numerous departmental areas mandate the establishment of a visible visitor and employee recognition system for the security and protection of persons and property. Employees share the responsibility for maintaining standards and attitudes which are conducive to this end. A prerequisite to the success of Department facility security is the total cooperation and commitment of employees and their determination to enforce the required control measures.

## 1009.2 GENERAL SECURITY GUIDELINES

Security of APD facilities is each employee's responsibility. Access cards and keys provide controlled entry to Department facilities and to certain areas within them.

(a) For the purpose of security, areas within Department facilities will be designated as one of the following:

1. **Restricted Access Area** - An area where only authorized personnel or persons under escort are granted access due to the sensitive nature of the work.
2. **Controlled Access Area** - An area where the public is allowed to be after receiving authorization from facility security personnel.
3. **Public Access Area** - An area where the public is authorized to be.

(b) Employees will be issued identification cards (APD ID), access cards, and keys to open doorways into areas for which they have been authorized access.

1. APD ID's are white in color.
2. Officers will have an image of the APD badge adjacent to the officer's photo and their rank preceding the officer's name.
3. Civilian employees will have their photo and will state 'EMPLOYEE' on the front of the ID.
4. Retired employees will state 'RETIRED' in red uppercase text.
5. Temporary, contract, and interns for the Department will display a diagonal red field behind their photo and the APD ID will contain an expiration date.

(c) Visitors having legitimate business at a Department facility will check in with the front desk of the facility and be required to:

1. State the nature of their business or the name of the APD employee or unit with whom they have business.
2. Present picture identification.
3. Sign the appropriate visitor log.
4. Visibly wear the issued visitor ID at all times.
5. Be escorted and under observation while inside a Department facility at all times.

### 1009.2.1 EMPLOYEE RESPONSIBILITIES

(a) Employees shall not:



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1. Change, or cause to be changed, the authorization for their own or another's access card unless the change(s) has been properly authorized; or
2. Loan their access cards or keys to any other person for any reason.

(b) Employees or pre-authorized persons may enter an authorized area by any door which their access card or key opens.

(c) Employees not in uniform will wear their APD ID when on the premises of any APD facility unless working in an official undercover capacity. This applies whether the employee is on or off-duty.

(d) The APD ID will be clipped on the collar, shirt or blouse pocket, attached to a neck chain or neck cord, or displayed in some other conspicuous place on the outermost garment so that it is readily visible.

(e) All packages, parcels and/or briefcases coming into any APD facility shall be subject to inspection for hazardous material and/or weapons at the discretion of the personnel assigned to facility security, or at any time by any employee who becomes suspicious of the item(s).

(f) Any person not visibly displaying an APD ID, badge or a valid visitor's pass will be stopped and an inquiry made as to the nature of their business. Unless authorized, the person will be escorted to the nearest public area and presented to security personnel and interviewed for proper clearance.

(g) Employees shall not access any door or elevator for another person unless they recognize the person to be an APD employee, or the person is displaying an APD ID or APD badge or a valid visitor's pass allowing access to the area.

(h) Employees shall not "prop open" any door, disengage or damage any locking or security mechanisms, or by any means bypass the locking or security mechanisms on any door for the purpose of circumventing the security arrangements of Department facilities.

(i) Stairwells will be utilized during emergency situations which mandate immediate exit from the building, or when the elevator system ceases to function.

(j) Exterior doors shall remain secured at all times and entry will be by card or key access only, except for public access doorways into each facility.

(k) Security procedures may be subject to change with the approval of the Commander responsible for security at each facility.

### 1009.2.2 COMMANDER RESPONSIBILITIES

(a) Responsibility for security plans and authorized access at each Department facility shall belong to the Commander at each facility.

(b) In facilities with more than one Commander, the senior Commander in grade will be responsible for security.

(c) Off-site facilities will be the responsibility of the Commander over the Units assigned to that facility.



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# Purchasing

## 1011.1 PURPOSE AND SCOPE

This document outlines basic information concerning policies and procedures to be followed in procuring goods and services for Department use. It also contains general instructions and descriptions of the solicitation process and is intended to provide procedures to help employees make purchases. The Financial Services Division (FSD) should be contacted for specific information.

## 1011.2 PURCHASING GUIDELINES

The authority to enter into a purchase agreement or contract for the City rests with the City Manager and designee(s). The City Central Purchasing Office has authorized selected departmental personnel to make limited departmental purchases. A properly completed Purchase Order is a legally binding contract and should be treated accordingly.

(a) No individual may obligate the City of Austin to procurement indebtedness, for any goods or services, without prior approval from either APD Procurement & Contract Services or the City Central Purchasing Office.

(b) Purchase Orders are created in APD Procurement & Contract Services or the City Central Purchasing Office following submission of a Purchase Requisition Form (PRF) by the end user or requestor.

(c) Unauthorized personnel who attempt to contract in the name of the City may be subject to disciplinary and legal action, and civil liability.

### 1011.2.1 PURCHASING PROCESS

The single biggest concern expressed about the purchasing process is Processing Time. The single best way to minimize processing time is to contact a buyer at the earliest point in the project that there may be reason to believe that approval will be given for the purchase. The earlier in the process that APD Procurement & Contract Services is involved, the easier it is to cope with constraints within our system and/or the manufacturer's or vendor's supply chain. APD Procurement & Contract Services must be involved in every phase of the project; planning, pre-bid, vendor correspondence, kick off meetings, etc. Our common purpose in the purchasing process should be to maximize our options with vendors in a cooperative effort between the user/requisitioner and the buyer.

(a) All APD purchases require an authorized Purchase Request Form (PRF) be completed and submitted to APD Procurement & Contract Services prior to making a purchase; no purchase will be made without a completed PRF.

1. The end user is responsible for providing and developing all aspects of the specifications or scope of work and ensuring they are correct and appropriate prior to solicitation.
2. APD Procurement & Contract Services' is responsible for pointing out any questionable or unusual specifications, as well as to provide support and guidance to procure products and/or services properly.

(b) A mandatory meeting will be arranged with APD Procurement & Contract Services to discuss the project, scope of work, and specification before a solicitation or order is placed.



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(c) PRFs shall be approved by the appropriate authorizer and will contain all required information; incomplete PRFs will be returned to the requestor.

### 1011.2.2 PURCHASE APPROVAL REQUIREMENTS

Specific approval is required depending on the amount of the purchase and the source of the funds as outlined below. The listed budgetary limits may be changed periodically when increased budget review is required. Purchases made as Sole/Single Source, Professional Services Agreement, GAX exceptions, or through Cooperative Purchasing Agreements are not included in these guidelines.

(a) Purchases may not be made with appropriated City funds without the prior approval of both the appropriate commander/manager/assistant chief and the FSD-Budget Section.

(b) Purchases totaling $2,500 or less must be approved by the commander/manager and do not require solicitation.

(c) Purchases of $2,500.01 to $4,999.99 must be approved by the commander/manager and require a formal solicitation.

(d) Purchases of $5,000.00 or greater must be approved by an assistant chief or the Chief and require formal solicitation.

(e) Purchases requiring City Council approval must be reviewed and approved by the Chief.

(f) Regardless of dollar amount, purchases made using Forfeited Funds require approval of the Chief and City Legal.

## 1011.3 EQUIPMENT DISPOSITIONS

APD equipment will not be loaned, traded, sold, disposed of, or otherwise transferred without the prior written approval of the appropriate commander/manager and the Financial Manager. Equipment will be disposed of in accordance with City policies.

## 1011.4 SALES TAX EXEMPTIONS

The City is not subject to Texas sales tax.

(a) The Tax ID Number is 1-74-6000085-8.

(b) Employees making purchases will assure that vendors do not apply sales tax.

1. It is the employee's responsibility to provide the vendor a tax exemption certificate and ensure that the vendor does not include tax at the time of purchase. Tax exemption certificates are available at the FSD.
2. No reimbursement will be made to employees who pay sales tax when making petty cash purchases.

## 1011.5 PETTY CASH PURCHASES

APD maintains a petty cash fund, which may be utilized for purchases not exceeding $150.

(a) All petty cash transactions will be made in accordance with Administrative Bulletin: Polices and Procedures for Petty Cash No. 93-01.

(b) The purchase must be approved in accordance with this document.

(c) When monies are advanced from petty cash, receipts and overages must be returned to the petty cash custodian within three (3) working days.



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(d) No reimbursement greater than $150 will be made to employees who purchase items in excess of the petty cash limit.

## 1011.6 INVOICES

(a) Invoices should not be sent to the receiving unit's attention. Any invoices received by the requester shall immediately be forwarded to FMD.

(b) Vendors should be instructed to list the purchase order number on their invoice.

(c) Requesters are required to submit all packing slips to FMD and provide authorization to pay upon satisfactory receipt of goods or service.

(d) Employees shall instruct vendors to send all invoices to:

Austin Police Department

Attn: Financial Management

P.O. Box 1629

Austin, Texas 78767-1629

## 1011.7 BIDDING REQUIREMENTS

(a) Purchases totaling more than $2,500 will require APD Procurement & Contract Services to obtain a minimum of three (3) competitive bids.

(b) Purchases under $2,500 will require the requestor to provide or obtain a written quote from the vendor, which will be attached to the Purchase Request Form.

### 1011.7.1 BID SPLITTING PROHIBITED

(a) Purchases should be logically grouped together on a single purchase request.

(b) Purchases are not to be subdivided, staggered, or otherwise separated in order to circumvent approval/purchasing requirements.

(c) Circumventing purchasing procedures is classified as a Class B misdemeanor.

## 1011.8 SOLE/SINGLE SOURCE PURCHASES

(a) A sole source exists if an item or service meeting the following criteria is the only item or service capable of meeting the Department's requirement, and that item or service is only available from the source recommended, based on:

1. Compatibility of equipment, accessories, or replacement parts is an overriding consideration and the goods can only be supplies by one source; or
2. Competition is precluded because the required purchase involves goods that are:
   (a) Patented, copyrighted, that use secret processes, or involve natural monopolies; or
   (b) A purchase of films, manuscripts, or rare books, sole expertise, or purchases of electricity, gas, and water as well as other utility services; or
   (c) A purchase of captive replacement parts or components for equipment.

(b) A single source is the one source among others in a competitive marketplace, which for specific justifiable reasons has predominant qualifications for selection for contract



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award. A single source situation exists if one or more of the following situations prevail:

1. Warranty will be voided if service is provided by other contract vendor.
2. Replacement parts to an existing City owned item.
3. An inter-local agreement or contract exists in which the partner or sub-recipient is willing to bear some of the costs if a specific vendor or contractor is utilized.
4. Time restraints for the urgency for service or repairs to be completed dictate that a particular vendor must be utilized.

(c) When an item is under consideration of a sole or single source for a particular purchase, the requestor must:

1. Prepare a memorandum documenting the reasons that the item or service requested is the only one capable of meeting the business need and/or explaining that no other source exists; and
2. Submit the memo with the approved PRF to the Financial Manager for approval.

(d) If the item/service requested is determined to be a sole or single source by the Financial Manager, sole source documents will be prepared and submitted to Central Purchasing for final review and approval.

## 1011.9 EMERGENCY PURCHASES

Emergency purchase and purchases necessary because of public calamity are defined as emergency purchases that are those procurements which must be made immediately in order to avoid imminent threat or danger to the citizens or to preserve the City's property. City policy outlines specific procedures for making emergency purchases.

(a) Emergency purchases may be made in order to quickly procure material and/or services when required for one of the following conditions:

1. A public calamity such as a tornado, flood, riot, war, etc. to act at once to protect citizens or to preserve the property of the City; or
2. Immediate action is necessary to preserve or protect public health or safety of the citizens; or
3. Immediate repair is necessary because of unforeseen damage to city machinery, equipment, or other property.

(b) When the Department is faced with any of the above conditions:

1. Commanders/managers will advise their assistant chief.
2. Assistant chiefs will advise the Chief of the necessity for an immediate purchase.
3. If the Chief or designee believes that an emergency condition exists, the Financial Manager and City Purchasing Officer (CPO) must be contacted to either assist with the procurement or be advised of steps taken by the Department.
   (a) If an emergency purchase is required outside normal working hours, an attempt must be made to contact the CPO. In the event the CPO cannot be contacted, the Chief should act for the CPO.
4. The procurement process to locate the required item(s) should commence immediately.



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(a) The CPO or designee will insure that the purchase is made in the most expeditious manner.

(b) If the Department already has located and obtained prices, CPO may defer involvement except for processing paperwork.

5. For purchases requiring City Council approval, the CPO will advise the City Manager of recommend award and action taken.

(a) The Chief or designee will be required to sign and submit an affidavit which describes the nature of the emergency as well a memo that describes the events that led to this emergency.

(b) The affidavit can be obtained from the Financial Manager.

## 1011.10 URGENT PURCHASES

An urgent purchase is a purchase made after normal working hours of the Procurement and Contract Services Office or Central Purchasing Office which justifiably requires immediate purchase, and which cannot be telephoned in or emailed to the Procurement and Contract Services Office or Central Purchasing Office to obtain a purchase order number prior to the purchase being made.

(a) All urgent purchase requisitions shall be approved by an assistant chief or Chief.

(b) All urgent expenditures shall be approved by the completion of an *Urgent Purchase Memorandum* which includes a written justification for the purchase and must be completed within 24 hours of the urgent situation.

(c) When the *Urgent Purchase Memorandum* is completed and signed by an assistant chief or Chief, a purchase order or credit card payment will be issued to pay the vendor for the items obtained or services performed. This memorandum must be attached to the PRF as documentation for the expenditure.

(d) Urgent purchases are not to exceed the Department limit of $4,999.99.

## 1011.11 RUSH PURCHASES

Rush purchases are purchases that require immediate attention but do not align with an urgent or emergency purchase. These expenditures are to be expedited as quickly as possible but still must follow standard procurement processes.

(a) A rush purchase is utilized to expedite a purchase that is considered necessary for a special project or program in which the requestor was unable to secure the proper planning.

(b) This method requires that the requestor walk the PRF through the procurement process.

(c) The requestor will be responsible for obtaining the proper authorizations to include chain-of-command, budget, and purchasing approvals, as well as the PRF must be clearly marked as a "RUSH" purchase.

## 1011.12 OFFICE SUPPLIES

Office supplies, business cards and forms are obtained from APD Procurement & Contract Services.

(a) Employees may be set up as requestors to request office supplies through the City's Office Supply contractor; however, APD Procurement & Contract Services will review



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and release orders in order to maintain compliance with the City's Office Supply Contract.

(b) Employees that do not have personnel authorized to issue office supply requests electronically can obtain their supplies through submitting a PRF.



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# Budget

## 1013.1 PURPOSE AND SCOPE

This document establishes fiscal management responsibilities within the Department.

## 1013.2 RESPONSIBILITIES AND AUTHORITY

The Chief has the ultimate authority and responsibility for the fiscal management of the Department.

(a) The Chief has delegated financial administration responsibilities to the financial manager who is responsible for final budget preparation and fiscal management functions of the Department.

(b) The Financial Management Division (FMD) has the responsibilities and authority for the following areas:

1. Budget preparation.
2. Accounting.
3. Accounts receivable.
4. Accounts payable.
5. CIP project management.
6. Purchasing.
7. Revenue collection.
8. Requests for Council action (RCA's).
9. Seized asset management.

(c) The FMD shall:

1. Review all purchases and expenditures to ensure compliance with published purchasing policies and procedures.
2. Process all cash receipts.

(d) The financial manager will:

1. Govern procedures for the conduct of internal audits of the Department's fiscal activities.
2. Review and recommend supplemental or emergency appropriations and fund transfers.
   (a) Requests for the above shall be made in writing to the financial manager by the requesting Commander.
   (b) Additional appropriations or transfers between divisions must be approved by the Chief.
3. Establish an accounting system that includes approval by the Chief of each account and provides for monthly status reports showing:
   (a) Initial appropriation for each account or program; and
   (b) Balances at the beginning of the monthly period; and
   (c) Expenditures and encumbrances made during the period; and



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(d) Unencumbered balances.

4. Make available financial information requested by commanders/managers.

5. Participate in the annual audit of funds as required by the City Controller's office.

(e) Assistant chiefs, commanders, and section supervisors are required to participate in the Department's budget preparation process and are responsible for the efficient utilization of budget appropriations.

(f) Commanders and managers will prepare written budget recommendations annually for the respective units and forward those recommendations to the FMD.

## 1013.3 CASH HANDLING POLICY

Employees and supervisors in units designated to handle cash disbursements or accepting payments on behalf of the Department must follow the cash handling policy contained in City Administrative Bulletin 92-02.

(a) Copies of City and Department policies and procedures will be maintained in each cash handling unit.

(b) The current list of designated cash handling units is available in Financial Management.



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# Grants Management

## 1015.1 PURPOSE AND SCOPE

The processes of applying for and administering grant funded programs require the coordination of personnel and resources in the Department. There are three groups involved in the administration of grants: Research and Planning, Financial Management, and the project-specific administrators. This policy outlines the process for grants management.

## 1015.2 INITIATING A GRANT PROPOSAL

Initiating a grant proposal involves the following steps:

(a) The Grants Coordinator (currently assigned to the Research and Planning Unit):
   1. Monitors funding announcements and online publications that outline available grant funding.
   2. Meets with personnel interested in applying for new or renewal grant funds.
   3. Assists personnel with the completion of a required "Request for Grant Funds" form (RGF).
   4. Confirms chain-of-command approval of all RGFs.
   5. Works with Financial Management to develop a draft project budget.
   6. Presents RGFs and grant renewal information to the APD Budget Committee for approval.

(b) Following RGF approval, Research and Planning:
   1. Counsels prospective project administrators on the initiation of grant-funded projects and
   2. Establishes project-specific workgroups, consisting of the Grant Coordinator, Financial Consultant, the chain-of-command seeking funds, and any additional subject matter experts.

## 1015.3 SUBMITTING A GRANT APPLICATION

Submitting an application for new or renewal grant funds involves the Grants Coordinator/Research and Planning:

(a) Alerting City Hall personnel to upcoming grant application submissions and, in certain instances, submitting requests for City Council action.

(b) Collaborating with the project workgroups to draft all required grant application documents (narratives, timelines, budget, resumes, etc).

(c) Finalizing and submitting the grant proposal to the granting agency.

## 1015.4 MAINTENANCE OF GRANT COMPLIANCE

Maintenance of grant compliance involves the Grants Coordinator/Research and Planning, and Financial Management:

(a) Drafting additional request for Council action paperwork and securing time on the City Council docket.



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(b) Maintaining contact with the workgroup to ensure that timelines are followed and special conditions are met.

(c) Working with the project administrator to ensure the timely purchase of equipment, hiring of personnel, and establishing contracts that meet the rules and requirements of the grant.

(d) Working with the project administrator to ensure successful site visits/audits, as well as the timely submission of progress/financial reports and grant adjustment notices.

## 1015.5 ROLES AND RESPONSIBILITIES

(a) Project administrators will:

1. Serve as the manager for individual grants thereby directing and controlling grant program activity.
2. Work with their chain-of-command to ensure open communication about program activity and sustainability.
3. Work with the Financial Consultant to ensure grant funds are spent in accordance with the grantor-approved budget.
4. Maintain grant performance measure files and forward copies of all correspondence (program and financial) to the Grant Coordinator and Financial Consultant.
5. Timely preparation and submission of data and program information to the Grants Coordinator and Financial Consultant.

(b) Financial Management is the administrative unit responsible for maintaining a full set of copies of all grant materials.

(c) The Grants Coordinator/Research and Planning supervises the administration of Department-wide grants that do not have a designated project administrator. \



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# Gifts and Donations

## 1017.1 PURPOSE AND SCOPE

The guidelines set out in this document establish procedures concerning the solicitation and acceptance of gifts and donations made to the Department.

This policy does not apply to:

(a) Funds, property or services received from the City, through a grant, from another governmental entity under an inter-local agreement or an inter-agency contract, or other lawful method, or for the loan of items from vendors in use for evaluation and testing.

(b) A gift or other benefit conferred on account of kinship or a personal, professional, or business relationship independent of the official status of the recipient.

(c) "Employee discount" programs afforded to all employees of a business where an APD employee happens to have a secondary employment relationship.

## 1017.2 GIFTS AND DONATIONS

(a) Except as noted, the Chief or designee may only accept donations or gifts to the Department if:

1. The gift or donation will further the accomplishment of the Department's goals and duties; and
2. The donor is not a party to a pending criminal or civil case brought by an officer or employee of the Department; and
3. The donor is not subject to Department licensing or regulation, or interested in any contract, purchase, payment, or claim with or against the Department.

(b) The Chief or designee may approve the acceptance of a gift or donation on behalf of the Department notwithstanding the above provisions if he determines that acceptance would provide a significant public benefit and that the acceptance would not influence, or reasonably appear to influence, the Department in the performance of its duties.

## 1017.3 ACCEPTANCE AND SOLICITATION OF GIFTS AND DONATIONS

(a) If a person or entity proposes to make a donation to the Department, that person or entity will be referred to the:

1. APD Liaison for the Greater Austin Crime Commission (GACC), a non-profit organization; or
2. A non-profit corporation administered by the APD Office of Community Liaison (OCL)if the donation or gift is valued at $5000.00 or less.

(b) The Chief or designee may contact the GACC or the OCL non-profit corporation about the Department's needs relating to donations. Unless approved in writing by the Chief or designee, employees will not directly contact the GACC or its members regarding a donation or potential donation.

(c) An employee who is aware of a need that could be met by a donation to the Department is encouraged to bring the matter to the attention of the employee's



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chain-of-command, and, if approved, the matter will be submitted to the Chief or designee.

## 1017.4 PROHIBITED ACCEPTANCE AND SOLICITATION OF GIFTS AND DONATIONS

(a) No employee will solicit or accept donations or loans of property, funds, or services for use by the Department, or in carrying out its duties, except as otherwise provided in this policy.

(b) Employees will not be permitted to use their affiliation with the Department to solicit funds for any purpose without the express approval of the Chief or designee.

(c) Employees shall not accept or solicit any gift or favor that might reasonably tend to influence that individual in the performance of official duties, or that the employee knows or should know has been offered with the intent to influence or reward official conduct.

(d) No employee shall knowingly borrow money, purchase any article, or accept gifts or favors from any person known or reasonably believed to be a habitual violator of the law or anyone who is under arrest, detention or suspected of a crime under investigation by any employee.

1. Employees shall not receive any article whatsoever, either as a gift or as the result of purchase or trade, from suspects, prisoners, persons recently arrested, known gamblers, prostitutes, or other persons of bad character, or professional bondsmen or other persons whose vocation may profit from information obtained from the police or from relatives, employees or associates of any of these persons.

2. Employees will not buy anything from or sell anything to any complainant, suspect, witness, defendant, prisoner, or other person involved in any case which has come to their attention through their employment with the Department, nor can they act as an intermediary in the payment of a reward for the return of stolen property.

3. Employees shall not accept any gift, favor or reward in money for services rendered in the line of duty.

(e) No person shall be allowed on the premises of the Department to sell goods or offer them for sale, or to canvass or solicit for any purpose, without permission from the appropriate Commander/Manager in charge of the premises.

(f) No employee shall participate, either directly or indirectly, in sales promotions, solicitations, fund-raising campaigns, or similar activities, while representing themselves as employees of the Department. Employees shall not authorize others to conduct themselves in a manner that would leave the impression the employee is representing the Department.

(g) Employees shall not solicit the aid of any individual or group outside the Department for assistance in procuring or preventing a duty assignment, promotion, or to mitigate discipline. Nor shall they permit any petition to be circulated for the same on their behalf. Should an employee learn of such a petition being circulated, the employee should immediately bring the matter to his immediate supervisor.

## 1017.5 DISPOSITION OF ACCEPTED GIFTS AND DONATIONS

(a) The donor's request as to the use of the donation will be honored to the extent possible



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(b) Any property donated to the Department will be inventoried through APD's Property Management.



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# Bulletin Boards

## 1019.1 PURPOSE AND SCOPE

In order for the Department to encourage and support the exchange of general information, glass enclosed bulletin boards are installed at strategic locations within APD facilities.

## 1019.2 TYPES OF BULLETIN BOARDS:

The two types of bulletin boards are:

(a) **Department Bulletin Boards** - For posting APD information.

(b) **Austin Police Association (APA) Bulletin Boards** - For posting APA information.

### 1019.2.1 DEPARTMENT BULLETIN BOARDS

Information posted on Department Bulletin Boards is considered important for all employees. Employees should check these Bulletin Boards regularly for new postings.

(a) Department Bulletin Boards will be located at various locations at the Main Headquarters, the Training Academy, and substations, and remote offices.

(b) Control of Posted Materials:

1. The Commander over each facility where the Bulletin Board is located will designate a specific person to post/purge information on Department Bulletin Boards.
2. Each Department Bulletin Board will remain locked to control the materials posted.

(c) Only authorized Department information will be posted on Department Bulletin Boards.

(d) Personal notices are not to be placed in, on, or affixed to Department Bulletin Boards.

### 1019.2.2 APA BULLETIN BOARDS

Pursuant to terms in the Meet and Confer Agreement, the APA may have a bulletin board installed at designated APD facilities. The design and placement of APA Bulletin Boards will be approved by the Chief or designee.

(a) The Agreement includes the following guidelines concerning APA Bulletin Boards:

1. There shall be no personal attacks or inflammatory statements.
2. All materials shall be directed toward dissemination of APA information.
3. Any concerns about the content of posted material shall be brought to the attention of the APA's Executive Board for review and adjustment as soon as the concerns are noticed.
4. The Chief retains the final decision as to whether APA material may be posted on APA Bulletin Boards. At no time shall the APA Bulletin Boards contain any political endorsement, whether at the local, state or federal level.



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# Severe Weather Policy

## 1021.1 PURPOSE AND SCOPE

On occasion, Austin experiences severe weather conditions impacting all or a majority of the city. This includes flooding, icy conditions, or high winds and possible tornado activity. Severe weather conditions create hazards for employees as well as other members of the public.

## 1021.2 ESSENTIAL PERSONNEL

Essential personnel are employees who provide emergency police services to the public.

(a) First Responders are essential personnel.

(b) Personnel assigned to Communications are considered essential personnel unless otherwise designated as nonessential by the Communications SOP.

(c) Supervisors will designate all other officer and civilian employees as either essential or non-essential personnel.

## 1021.3 SEVERE WEATHER SITUATIONS

The provisions of this policy will be invoked only after specific authorization of the City Manager under the City of Austin Bad Weather Policy.

(a) In the event a decision is made by the City Manager that an emergency situation has created hazardous conditions, only essential Department personnel should report for duty or remain on-duty.

(b) All essential personnel will report for duty as normal, or as directed, if an emergency mobilization is declared unless the employee's absence is authorized by a supervisor.



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# Courtesies to the Flag

## 1023.1 PURPOSE AND SCOPE

Employees will render proper respect to the National Colors and the National Anthem when it is both practical and safe to do so. This policy explains how to render the proper courtesy and when it should be rendered.

## 1023.2 MANNER OF EXECUTING A COURTESY TO THE FLAG

There are three (3) distinct manners in which courtesies may be extended, depending upon circumstances.

(a) When in civilian attire, including wearing a non-police uniform, employees will place their right hand over their heart. Employees wearing a hat will remove their hat and hold them at the left shoulder with the hand over the heart.

(b) When in a police uniform and a hand salute is appropriate:

1. Stand at attention, with eyes facing forward.
2. Raise the right hand smartly until the tip of the forefinger touches the lower edge of the brim of the headgear, or, if not wearing a hat/cap, until the forefinger touches the forehead above and slightly to the right of the right eye.
3. The thumb and fingers are held straight and joined, with the palm facing to the left.
4. The upper arm is horizontal, the forearm inclined at 45 degrees, and the hand and wrist are held straight.
5. Complete the salute by returning the arm to its normal position at the side, using a smooth motion.

(c) When in a police uniform and standing at attention is appropriate:

1. Stand erect, with eyes facing forward.
2. Let arms hang by the sides with the thumbs touching the outer trouser seams.

## 1023.3 WHEN COURTESIES ARE RENDERED

When practical and safe to do so personnel will render the proper courtesy, as designated during:

(a) Parade Situations.

(b) Posting of Colors.

(c) Flag Raising/Lowering (Reveille and Retreat).

(d) Playing of the National Anthem.

### 1023.3.1 PARADE SITUATIONS

Render the courtesy when the flag approaches within six paces from the viewer and hold it until the flag has passed two paces beyond.

(a) Officers in uniform come to attention and render the hand salute.

(b) Employees in civilian attire will render courtesy as outlined in this policy.



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### 1023.3.2 POSTING OF THE COLORS

(a) If outdoors, officers in uniform will render the hand salute. Begin the salute when the command "present arms" is given and hold until the command "order arms" is given.

(b) If indoors, officers in uniform will stand at attention. Come to attention as the honor guard begins its entry, and remain at attention until the honor guard exits the posting area (generally the stage or dais area).

(c) Employees in civilian attire will render courtesy as outlined in this policy from entry of the honor guard until it leaves the posting area.

### 1023.3.3 FLAG RAISING/LOWERING (REVEILLE AND RETREAT)

The ceremony of raising or lowering the national flag at police facilities constitutes a dignified homage to it. Begin to render the courtesy when the flag starts its ascent/descent, and end it when the flag has been fully raised/lowered.

(a) Officers in uniform will render the hand salute.

(b) Employees in civilian attire will render courtesy as outlined in this policy.

### 1023.3.4 PLAYING OF THE NATIONAL ANTHEM

Render the courtesy beginning with the first note of the National Anthem and hold until the last note is played.

(a) If outdoors, officers in uniform will render the hand salute.

(b) If indoors, officers in uniform will stand at attention.

(c) Employees in civilian attire will render courtesy as outlined in this policy.



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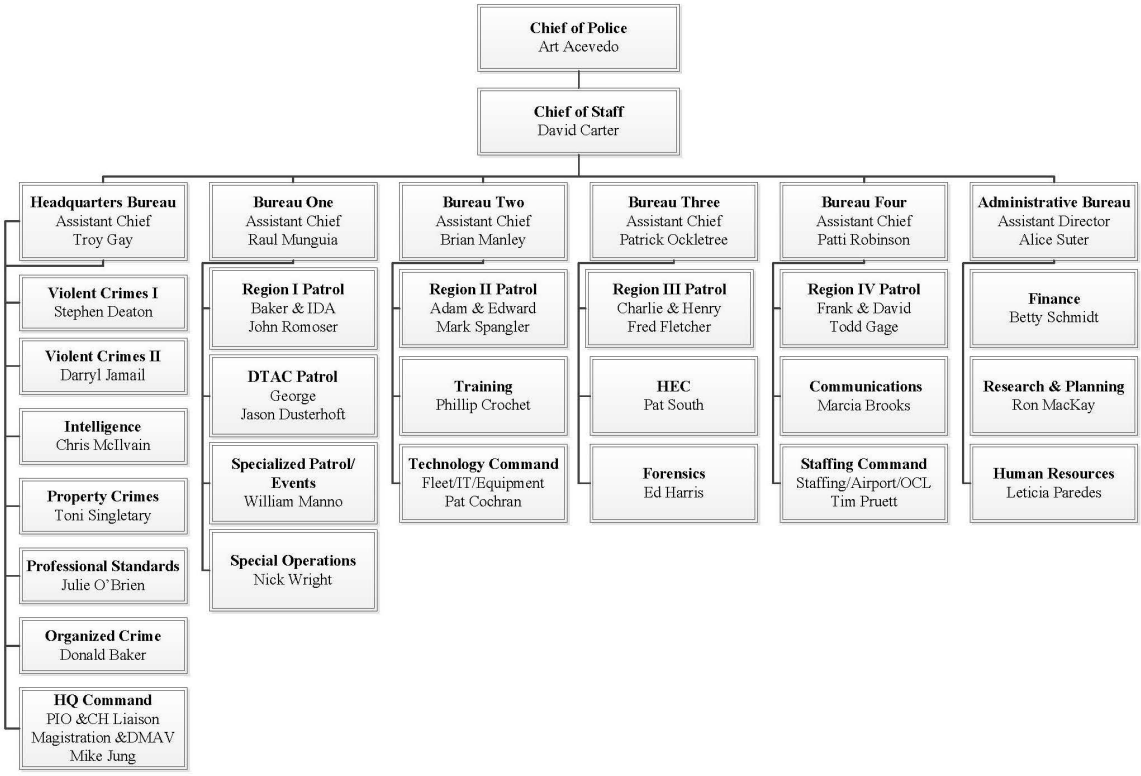
# Organizational Chart




April 2013

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