



# POLICE ADVISORY COMMITTEE

## Final Report

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September 25, 2020

### SUBMITTED BY:

Demitrios Tatum  
Rhonda Batson  
Allen Brooks  
Wil Dean  
Cesar Johnson  
Sharon Jones

Edwin Kainth  
See Lee  
Kari May  
Nellie McGarry  
Robert Morris

Rudy Sanchez  
Al Schaap  
Shane Smith  
Gabriela Spiva  
Moua Thao

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# BACKGROUND

On June 25, 2020, and the one-month anniversary of the death of George Floyd, Mayor Mike Murphy and Council Member Delray Shelton announced the creation of an advisory committee, formally named the Police Advisory Committee, to review the Merced Police Department policies and procedures. Eighteen members of the community were appointed to evaluate operations, training, and policies and procedures as they relate to the use of force and make any recommendations for the City Council's consideration within 90 days.

Mayor Murphy worked with Council member Shelton and other Council members in selecting the committee members.

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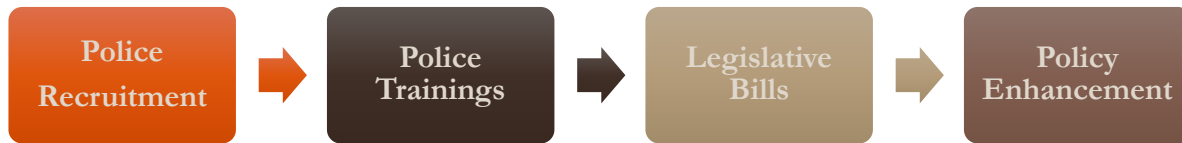
*“Many people on this advisory committee have had both positive and negative experiences with law enforcement. The life experiences of the committee members and the professional experiences of our police officers are both important and necessary parts of this discussion.” - Mayor Murphy*

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Dee Tatum, a retired Chief Executive Officer of Merced County and retired Air Force officer, led the committee as chairperson. The members of the Committee are Rhonda Batson, Allen Brooks, Wil Dean, Cesar “C-Flo” Johnson, Sharon Jones, Edwin Kainth, See Lee, Kari May, Nellie McGarry, Robert Morris, Rudy Sanchez, Al Schaap, Shane Smith, Gabriela Spiva, and Moua Thao. Nailah Hubbard and Tatiana Vizcaino were also appointed, however they were not able to participate in the work of the committee.



The Police Advisory Committee, or PAC, held a series of four meetings to understand the Police Department’s recruitment process, trainings, legislative bills proposed related to the use of force, and where policies could be enhanced within the bounds of California state law.



A kick-off meeting was held on July 9, 2020. City staff worked with Chairman Tatum to create a schedule of meetings and to generate “homework” assignments. Assignments were helpful in running structured meetings and achieving the committee’s goal of producing any recommendations for Council’s consideration within the 90-day timeframe.

Through the meetings of July 23<sup>rd</sup>, August 6<sup>th</sup>, and August 20<sup>th</sup>, PAC members and City staff covered four legislative memos on Assembly Bills 203, 731, 1196, and 1299. They discussed Police Policies 300, 300.2, 300.3.4, 300.4, 300.4.1, 300.5, 409.4, and 430.6 in light of Merced community norms and values, as well as issues highlighted by the #8cantwait campaign. Police Department personnel were present at each meeting to answer questions from the committee. In addition, information was presented to better explain the hiring process and training of officers within the Merced Police Department.



# INTRODUCTION OF THE MEMBERS



**Demitrios (Dee) Tatum** is Chair of the Police Advisory Committee. Mr. Tatum is a former County Executive Officer for Merced County and a retired U.S. Air Force Colonel.



**Kari May** has worked in the Merced community for 25 years and currently serves as a Vice President, Community Relationship Officer for Central Valley Community Bank.



**Wil Dean** is owner of Merced Chevrolet since 2011. Wil previously served on the Board of the United Way and is currently active in Merced Boosters and the Greater Merced Chamber of Commerce.



**See Lee** grew up in Merced. She is a wife and mother of three children.



**Freddie (Rudy) Sanchez** is 57 years old and has lived in Merced since 1998. He is the Senior Pastor at 4 Life Center. Rudy and his family love the City of Merced.



**Allen Brooks** has been a resident of the Central Valley since 2005. He has a master's degree in Communications with a background in Public Administration. Allen is the NAACP local chapter President and a member of the Sunrise Rotary.



**Sharon Jones** is currently employed by Merced County Behavioral Health and Recovery Services serving as the Mental Health Services Act (MHSA) Coordinator and Ethnic Services Manager. She has a work history which includes experience working in residential treatment with children, outpatient services in mental health with children and adults, crisis services for domestic violence and sexual assault, foster care, shelter services for the homeless, adults with disabilities, individuals with physical health problems, LGBTQ plus, inpatient psychiatric hospitalization care.



**Shane Smith** is an attorney with McCormick Barstow LLP who handles federal litigation and intellectual property matters. Shane serves on the Board of Education of the Merced City School District (his daughter's school district), is Vice President of the Merced Symphony Association, and chaired the City of Merced's Charter Review Committee in 2019. He holds degrees from UC Davis (biochemistry '97), cellular and molecular pathology (UCLA '03), and law (UC Berkeley '10).



**Rhonda Batson** is a Special Education Teacher for a local school. She currently serves as the 2nd Vice President of the Merced NAACP Branch. Rhonda is an avid volunteer and a member of several committees within the community. She would like to thank Mayor Mike Murphy and Council Member Delray Shelton for giving her the opportunity to be a part of this committee in hopes of making a difference in our community.



**Moua Thao** works at Golden Valley Health Centers and provides language translation between medical staff and patients; he speaks five languages. Moua also serves on the Merced Lao Family Community Board.



**Edwin A. Kainth** is the Founder of Kainth Hospitality, Inc., owner/developer of premier branded hotels such as Marriott, Hilton, Radisson, HIG, etc., since 1997. As an entrepreneur, Edwin continues to execute his vision for the company through creative financing, asset management, and real estate solution to achieve maximum growth. Edwin is active in several community organizations, lending his expertise through service and extensive philanthropic activities.



**Al Schaap** and his wife, Joelene, have been married for 45 years and have lived in Merced for over 35 years. They have a son and daughter who have married excellent people and have six of the cutest grandkids known to humanity! Gateway Church, where Al is on the staff team, is a church that cares about bringing the love and blessings of God to its community, desiring to make a true difference for good.



**Pastor Robert A. Morris** is the Founding Senior Pastor of Valley Harvest Church of Merced, established March 17, 2002. After 22 years of Merced County employment, on December 31, 2017, Robert retired as Director of the Department of Workforce Investment. Since 2018, Mr. Morris has served as the Executive Director of Harvest Park Educational Center (HPEC After School), which now provides "remote" homework tutorials for at-risk students, Grades K-8.



**Cesar (C-Flo) Johnson** has been encouraging young people for over 20 years. As a recording artist and motivational speaker, he has spoken to countless students about life choices. He currently serves as pastor at Christian Life Center in Merced.



**Nellie McGarry** is a former Merced City Council member and a former Field Representative for 3 State Senators in our County. She is currently a Board member for the Boys & Girls Club of Merced County and member of the Citizens for the Betterment of Merced County and has served on many Boards and Commissions such as the Hispanic Chamber of Commerce, Greater Merced Chamber of Commerce, Workforce Investment Board, Merced County Youth Council, and many more. She and her husband Russell manage Merced Old 99 Realty, Inc.

**Gabriela Spiva** is lead administrator and organizer of Merced People of Color.

# RECOMMENDATION TO COUNCIL

## #8cantwait Campaign Overview

At the initial kick off meeting, the Merced Police Department presented a concentrated look at the policies evaluated in the #8cantwait campaign, a national campaign targeted on the use of force by local police departments. Below is a summary of the department's initial findings provided to the Police Advisory Committee:

- 1. Requires De-escalation:** These prescribed techniques are contained in the MPD policies – Policy 409.4 and 430.6. In addition to these policies, officers receive extensive training in de-escalation techniques as part of monthly perishable skills training. The department has invested in software and associated electronic equipment to accommodate virtual de-escalation training as well.
- 2. Bans Chokeholds and Strangleholds:** Merced Police Department does not authorize the use of chokeholds or strangleholds. Following the Police Officer Standards and Training (POST) standards and adopted legislation AB 1196, officers will no longer be permitted to use the carotid artery restraint.
- 3. Duty to Intervene:** Merced Police officers have a duty to intercede should they witness another officer using unreasonable force. In addition, the unreasonable force shall be promptly reported to a supervisor per Policy 300.2.1.
- 4. Requires Warning Before Shooting:** Merced Police Department Policy 300.4 requires that officers shall, prior to the use of force, make reasonable efforts to identify themselves as a peace officer and to warn that deadly force may be used.
- 5. Ban Shooting at Moving Vehicles:** Merced Police Department Policy 300.4.1 outlines that shooting from a moving vehicle is highly discouraged and is only authorized under a threat of a deadly situation.
- 6. Requires Comprehensive Reporting:** Merced Police Department requires law enforcement actions to be fully documented. In addition, Policy 300.5 outlines an extensive use of force review process that each incident will undergo.
- 7. Requires Exhausting Other Means Before Shooting:** Merced Police Department Policy 300.4 states that if an objectively reasonable officer would consider it safe and feasible to do so under the totality of the circumstances, officers should evaluate the use of other reasonably available resources and techniques when determining whether to use deadly force.



- 8. Has Use of Force Continuum:** Merced Police Department Policy requires that officers to use only that amount of force that reasonably appears necessary given the facts and totality of the circumstances.

After an extensive review of Merced Police Department Policy directly related to uses of force, the Police Advisory Committee formally recommended the following modifications be made to the Merced Police Department Policies:

Policy 300 – Use of Force

Significant discussion occurred around the need to retain the constraint procedure described in Section 300.3.4 under limited, exceptional circumstances due to this being a lessor use of force than the discharge of a firearm. Although this was the official consensus of the group, AB 1196 – Carotid Artery Restraints was passed by the California State Legislature on September 4, 2020 and is currently awaiting approval by the Governor. As a result of this action, this section will be removed from Policy 300.

Edit Section 300.5.1 to include the following:

- (i) An individual was tackled

Policy 301 – Deadly Force Review

No recommended changes.

Police 302 – Handcuffing and Restraints

No recommended changes.

Policy 303 – Handcuffing Procedures

No recommended changes.

Policy 304 – Control Devices and Techniques

No recommended changes.

Policy 305 – Conducted Energy Device

No recommended changes.

Policy 306 – Officer Involved Shootings and Deaths

No recommended changes.

Policy 307 – Firearms

No recommended changes.

Policy 310 - Canines

No recommended changes.

Policy 313 – High-Risk Missions

No recommended changes.

Policy 321 – Hate Crimes

No recommended changes.

Policy 401 – Bias-Based Policing

No recommended changes.

Policy 407 – Hostage and Barricade Incidents

No recommended changes.

Policy 409 – Mental Illness Commitments

No recommended changes.



#### Policy 419 – Contacts and Temporary Detentions

No recommended changes.

#### Policy 423 – Portable Audio/Video Recorders

No recommended changes.

#### Policy 430 – Crisis Intervention Incidents

No recommended changes.

In addition to the aforementioned policies, the Police Advisory Committee also recommended the following positions be taken on proposed legislation by the City Council:

1. Assembly Bill 1196 seeks to eliminate the use of chokeholds and carotid artery restraints statewide by law enforcement – SUPPORT
2. Assembly Bill 1299 will require law enforcement agencies to notify POST if an officer leaves an agency with a complaint – SUPPORT
3. Senate Bill 203 would require youth under the age of 18 to consult with legal counsel before they waive their constitutional rights – SUPPORT
4. Senate Bill 731 would increase accountability for law enforcement officers that commit serious misconduct and illegally violate a person's civil rights and creates a statewide process to automatically revoke the certification of a peace officer following the conviction of certain serious crimes – REMAIN NEUTRAL

## MEMBER COMMENTS

Dee Tatum (Comment Submitted 8/20/20):

I want to first thank Stephanie Dietz and Nancy Lee for the support that the two of you provided during the life of this committee. It would have been much harder without you. Also, a special thanks to the Chief and his command staff for the exquisite job of educating us all. Merced Police Department is well represented.

Al Schaap (Comment Submitted 8/20/20):

Thank you, Stephanie Dietz and all those leading this effort, for all of your work! I have been so impressed with the amount of training being required of officers to achieve and continue their levels of preparedness. I'm very impressed with MPD's policies quality that, not only meet the requirements of the state, but go considerably beyond them. I also appreciate the level of cooperation evidenced by members of the MPD!

Kari May (Comment Submitted 8/21/20):

I mirror Pastor Al's thoughts and I am thoroughly impressed by the Chief and our Merced PD. I have a high-level of respect for what they do and it's important to me that they have the tools they need to keep our community safe as well as themselves. In my opinion they are risking their lives every day for us, and they too deserve to go home to their families safe and sound after each shift. I would like to thank Mayor Murphy, Councilman Shelton, Merced Police Department and all participants who made this committee possible. This was a great learning experience and it was wonderful to come together for the betterment of our community. Thank you all!

Nellie McGarry (Comment Submitted 9/2/20):

I was honored to help the Mayor on this committee. I learned a lot and was happy to see that our Police Department is working hard to ensure our police officers are safe, our community is safe, and that those who are in custody can and should be treated with dignity and humanity. While we all were very concerned about the Use of Force, we also determined that as police officers, they need the necessary tools to allow them to do their job. The protocols that we approved will determine how they use "Use of Force" and how this Department is seen through the public eye. I would recommend that we continue to educate our officers regarding

implicit basis and elicit the support of the community through UC Merced Dr. Nigel Hatton or Dr. Mary Jones to offer training. I am also happy to see more partnerships like Merced County Mental Health to support the Police Department I do realize we do not want them to be trained officers, but to merely support our PD when it comes to mentally challenged persons. I would recommend that folks take part in the Citizen's Academy which will really give an idea of what our Police force has to endure.

Sharon Jones (Comment Submitted 9/9/20):

I was very impressed that a diversity of individuals from different backgrounds and disciplines came together and worked in an authentic way to move progress forward in a positive manner.

Shane Smith (Comment Submitted 9/25/20):

The Merced community should know that our Committee diligently reviewed all policies bearing on police use of force with the benefit of patient counsel from Police Department leaders and our collective experience. Having engaged in that process over several weeks, I am confident that those policies reflect Mercedians' deep respect for one another and the value of human life.

Mayor Murphy and Council Member Shelton's Comments:

All Mercedians should be grateful for the work of the Police Advisory Committee and the willingness of these residents to serve on this committee at such a critical time for our nation, our state, and our city. The way that our police department interacts with us is important to both our safety and our quality of life. We all want to be safe from crime and have confidence that our police officers are well trained, courteous, and responsive to public needs.

The PAC examined the use of force policies of the Merced Police Department very seriously and took the time to be educated on the issues and provide candid feedback. Each member of this group brought an important life story and perspective to the discussion. Their insight and direction were invaluable in this process. I would like to thank Chairman Dee Tatum and each of the members of the PAC for their work.

I would also like to thank Interim City Manager Stephanie Dietz, Interim Police Chief Tom Cavallero, and their very talented staffs, including Nancy Lee for supporting the work of the PAC. They made sure that the PAC was provided with the information that it needed to be

informed on the workings of the Merced Police Department and followed up on questions that were raised.

The collaboration and hard work exhibited by the PAC demonstrates that Merced is a City on the Rise.

# APPENDICES

## APPENDIX I – POLICIES

- Policy 300 – Use of Force
- Policy 301 – Deadly Force Review
- Policy 302 – Handcuffing and Restraints
- Policy 303 – Handcuffing Procedures
- Policy 304 – Control Devices and Techniques
- Policy 305 – Conducted Energy Device
- Policy 306 – Officer Involved Shootings and Deaths
- Policy 307 – Firearms
- Policy 310 – Canines
- Policy 313 – High-Risk Missions
- Policy 321 – Hate Crimes
- Policy 401 – Bias-Based Policing
- Policy 407 – Hostage and Barricade Incidents
- Policy 409 – Mental Illness Commitments
- Policy 419 – Contacts and Temporary Detentions
- Policy 423 – Portable Audio/Video Recorders
- Policy 430 – Crisis Intervention Incidents

# Use of Force

## 300.1 PURPOSE AND SCOPE

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

### 300.1.1 DEFINITIONS

Definitions related to this policy include:

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

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

## 300.2 POLICY

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

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

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

### 300.2.1 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 unreasonable force. An officer who observes another employee use force that exceeds the degree of force permitted by law should promptly report these observations to a supervisor.

## 300.3 USE OF FORCE

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

The reasonableness of force will be judged from the perspective of a reasonable officer on the scene at the time of the incident. Any evaluation of reasonableness must allow for the fact that officers are often forced to make split-second decisions about the amount of force that reasonably

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appears necessary in a particular situation, with limited information and in circumstances that are tense, uncertain, and rapidly evolving.

Given that no policy can realistically predict every possible situation an officer might encounter, officers are entrusted to use well-reasoned discretion in determining the appropriate use of force in each incident.

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

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

#### 300.3.1 USE OF FORCE TO EFFECT AN ARREST

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

#### 300.3.2 FACTORS USED TO DETERMINE THE REASONABLENESS OF FORCE

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

- (a) The apparent immediacy and severity of the threat to officers or others (Penal Code § 835a).
- (b) The conduct of the individual being confronted, as reasonably perceived by the officer at the time.
- (c) Officer/subject factors (age, size, relative strength, skill level, injuries sustained, level of exhaustion or fatigue, the number of officers available vs. subjects).
- (d) The conduct of the involved officer (Penal Code § 835a).
- (e) The effects of drugs or alcohol.
- (f) The individual's apparent mental state or capacity (Penal Code § 835a).
- (g) The individual's apparent ability to understand and comply with officer commands (Penal Code § 835a).

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- (h) Proximity of weapons or dangerous improvised devices.
- (i) The degree to which the subject has been effectively restrained and his/her ability to resist despite being restrained.
- (j) The availability of other reasonable and feasible options and their possible effectiveness (Penal Code § 835a).
- (k) Seriousness of the suspected offense or reason for contact with the individual.
- (l) Training and experience of the officer.
- (m) Potential for injury to officers, suspects, and others.
- (n) Whether the person appears to be resisting, attempting to evade arrest by flight, or is attacking the officer.
- (o) The risk and reasonably foreseeable consequences of escape.
- (p) The apparent need for immediate control of the subject or a prompt resolution of the situation.
- (q) Whether the conduct of the individual being confronted no longer reasonably appears to pose an imminent threat to the officer or others.
- (r) Prior contacts with the subject or awareness of any propensity for violence.
- (s) Any other exigent circumstances.

#### 300.3.3 PAIN COMPLIANCE TECHNIQUES

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

- (a) The degree to which the application of the technique may be controlled given the level of resistance.
- (b) Whether the person can comply with the direction or orders of the officer.
- (c) Whether the person has been given sufficient opportunity to comply.

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

#### 300.3.4 CAROTID CONTROL HOLD

The proper application of the carotid control hold may be effective in restraining a violent or combative individual. However, due to the potential for injury, the use of the carotid control hold is subject to the following:

- (a) The officer shall have successfully completed department-approved training in the use and application of the carotid control hold.



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- (b) The carotid control hold may only be used when circumstances perceived by the officer at the time indicate that such application reasonably appears necessary to control a person in any of the following circumstances:
  - 1. The subject is violent or physically resisting.
  - 2. The subject, by words or actions, has demonstrated an intention to be violent and reasonably appears to have the potential to harm officers, him/herself or others.
- (c) The application of a carotid control hold on the following individuals should generally be avoided unless the totality of the circumstances indicates that other available options reasonably appear ineffective, or would present a greater danger to the officer, the subject or others, and the officer reasonably believes that the need to control the individual outweighs the risk of applying a carotid control hold:
  - 1. Females who are known to be pregnant
  - 2. Elderly individuals
  - 3. Obvious juveniles
  - 4. Individuals who appear to have Down syndrome or who appear to have obvious neck deformities or malformations, or visible neck injuries
- (d) Any individual who has had the carotid control hold applied, regardless of whether he/she was rendered unconscious, shall be promptly examined by paramedics or other qualified medical personnel and should be monitored until examined by paramedics or other appropriate medical personnel.
- (e) The 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 carotid control hold and whether the subject lost consciousness as a result.
- (f) Any officer attempting or applying the carotid control hold shall promptly notify a supervisor of the use or attempted use of such hold.
- (g) The use or attempted use of the carotid control hold shall be thoroughly documented by the officer in any related reports.

### 300.3.5 USE OF FORCE TO SEIZE EVIDENCE

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

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### **300.4 DEADLY FORCE APPLICATIONS**

If an objectively reasonable officer would consider it safe and feasible to do so under the totality of the circumstances, officers should evaluate the use of other reasonably available resources and techniques when determining whether to use deadly force. The use of deadly force is only justified in the following circumstances (Penal Code § 835a):

- (a) An officer may use deadly force to protect him/herself or others from what he/she reasonably believes is an imminent threat of death or serious bodily injury to the officer or another person.
- (b) An officer may use deadly force to apprehend a fleeing person for any felony that threatened or resulted in death or serious bodily injury, if the officer reasonably believes that the person will cause death or serious bodily injury to another unless immediately apprehended. Where feasible, the officer shall, prior to the use of force, make reasonable efforts to identify themselves as a peace officer and to warn that deadly force may be used, unless the officer has objectively reasonable grounds to believe the person is aware of those facts.

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

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

#### **300.4.1 SHOOTING AT OR FROM MOVING VEHICLES**

Shots fired at or from a moving vehicle are rarely effective. Officers should move out of the path of an approaching vehicle instead of discharging their firearm at the vehicle or any of its occupants. An officer should only discharge a firearm at a moving vehicle or its occupants when the officer reasonably believes there are no other reasonable means available to avert the threat of the vehicle, or if deadly force other than the vehicle is directed at the officer or others.

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

### **300.5 REPORTING THE USE OF FORCE**

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

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### **300.5.1 NOTIFICATION TO SUPERVISORS**

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

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

### **300.5.2 REPORTING TO CALIFORNIA DEPARTMENT OF JUSTICE**

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

### **300.6 MEDICAL CONSIDERATION**

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

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

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

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

### **300.7 SUPERVISOR RESPONSIBILITY**

When a supervisor is able to respond to an incident in which there has been a reported application of force, the supervisor is expected to:

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

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

#### **300.7.1 SHIFT SUPERVISOR RESPONSIBILITY**

The designated Captain shall review each use of force by any personnel within his/her command to ensure compliance with this policy and to address any training issues.

#### **300.8 TRAINING**

Officers will receive periodic training on this policy and demonstrate their knowledge and understanding.

#### **300.9 USE OF FORCE ANALYSIS**

At least annually, the designated Captain should prepare an analysis report on use of force incidents. The report should be submitted to the Chief of Police. The report should not contain the names of officers, suspects or case numbers, and should include:

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

# Deadly Force Review

## 301.1 PURPOSE AND SCOPE

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

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

## 301.2 POLICY

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

## 301.3 REMOVAL FROM LINE DUTY ASSIGNMENT

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

## 301.4 REVIEW BOARD

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

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

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

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

### 301.4.1 COMPOSITION OF THE BOARD

The Captain should select five Use of Force Review Board members from the following, as appropriate:

- Representatives of each Division
- Captain in the involved member's chain of command

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

The senior ranking command representative who is not in the same Division as the involved employee will serve as chairperson.

#### 301.4.2 RESPONSIBILITIES OF THE BOARD

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

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

The board does not have the authority to recommend discipline.

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

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

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

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

The board shall make one of the following recommended findings:

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

A recommended finding requires a majority vote of the board. The board may also recommend additional investigations or reviews, such as disciplinary investigations, training reviews to

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consider whether training should be developed or revised, and policy reviews, as may be appropriate. The board chairperson will submit the written recommendation to the Chief of Police.

The Chief of Police shall review the recommendation, make a final determination as to whether the employee's actions were within policy and procedure and will determine whether any additional actions, investigations or reviews are appropriate. The Chief of Police's final findings will be forwarded to the involved employee's Captain for review and appropriate action. If the Chief of Police concludes that discipline should be considered, a disciplinary process will be initiated.

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



# Handcuffing and Restraints

## 302.1 PURPOSE AND SCOPE

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

## 302.2 POLICY

The Merced Police Department authorizes the use of restraint devices in accordance with this policy, the Use of Force Policy, and department training. Restraint devices shall not be used to punish, to display authority, or as a show of force.

## 302.3 USE OF RESTRAINTS

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

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

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

### 302.3.1 RESTRAINT OF DETAINEES

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

### 302.3.2 RESTRAINT OF PREGNANT PERSONS

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

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

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

### **302.3.3 RESTRAINT OF JUVENILES**

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

### **302.3.4 NOTIFICATIONS**

Whenever an officer transports a person with the use of restraints other than handcuffs, the officer shall inform the jail staff upon arrival at the jail that restraints were used. This notification should include information regarding any other circumstances the officer reasonably believes would be potential safety concerns or medical risks to the person (e.g., prolonged struggle, extreme agitation, impaired respiration) that may have occurred prior to, or during, transportation to the jail.

### **302.4 APPLICATION OF HANDCUFFS OR PLASTIC CUFFS**

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

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

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

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

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

### **302.5 APPLICATION OF SPIT HOODS**

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

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

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

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

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

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

### **302.6 APPLICATION OF AUXILIARY RESTRAINT DEVICES**

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

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

### **302.7 APPLICATION OF LEG RESTRAINT DEVICES**

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

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

- (a) Whether the officer or others could be exposed to injury due to the assaultive or resistant behavior of a person.
- (b) Whether it is reasonably necessary to protect the person from his/her own actions (e.g., hitting his/her head against the interior of the patrol vehicle, running away from the arresting officer while handcuffed, kicking at objects or officers).
- (c) Whether it is reasonably necessary to avoid damage to property (e.g., kicking at windows of the patrol vehicle).

#### **302.7.1 GUIDELINES FOR USE OF LEG RESTRAINTS**

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

- (a) If practicable, officers should notify a supervisor of the intent to apply the leg restraint device. In all cases, a supervisor shall be notified as soon as practicable after the application of the leg restraint device.
- (b) Once applied, absent a medical or other emergency, restraints should remain in place until the officer arrives at the jail or other facility or the person no longer reasonably appears to pose a threat.

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

### **302.8 REQUIRED DOCUMENTATION**

If a person is restrained and released without an arrest, the officer shall document the details of the detention and the need for handcuffs or other restraints.

If a person is arrested, the use of handcuffs or other restraints shall be documented in the related report.

Officers should document the following information in reports, as appropriate, when restraints other than handcuffs are used on a person:

- (a) The factors that led to the decision to use restraints.
- (b) Supervisor notification and approval of restraint use.
- (c) The types of restraint used.
- (d) The amount of time the person was restrained.
- (e) How the person was transported and the position of the person during transport.
- (f) Observations of the person's behavior and any signs of physiological problems.
- (g) Any known or suspected drug use or other medical problems.

### **302.9 TRAINING**

Subject to available resources, the Chief of Police or his designee should ensure that officers receive periodic training on the proper use of handcuffs and other restraints, including:

- (a) Proper placement and fit of handcuffs and other restraint devices approved for use by the Department.
- (b) Response to complaints of pain by restrained persons.
- (c) Options for restraining those who may be pregnant without the use of leg irons, waist chains, or handcuffs behind the body.
- (d) Options for restraining amputees or those with medical conditions or other physical conditions that may be aggravated by being restrained.

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# Handcuffing Procedures

## 303.1 PURPOSE AND SCOPE

Standardized methods of employing handcuffs and/or restraints on persons arrested or taken into custody by members of the department have been developed to protect officers, suspects and citizens. This Policy will describe those methods and establishes them as the standard operating procedure for all members of the department.

## 303.2 POLICY

Adult persons arrested or taken into custody by members of Merced Police Department shall be handcuffed unless an exception outlined in the Procedure Section of this Policy exists. Juvenile persons arrested or taken into custody by members of the Merced Police Department will be handcuffed when circumstances indicate those persons present a risk to officers, citizens, other suspects or themselves.

- (a) All persons arrested on a charge requiring incarceration shall be handcuffed as soon as possible after the arrest.
- (b) Handcuffs shall be applied with the subject's hands behind their back.
- (c) At the officer's discretion, the following persons may be exempted from handcuffing.
  - 1. Sick, injured or disabled to an extent whereby handcuffing would aggravate the person's condition.
  - 2. Elderly
  - 3. Visibly pregnant
  - 4. Young juveniles when the crime and circumstances so indicate.

## 303.3 PROCEDURES

When an arrested person resists arrest, threatens to commit or commits an assault, maintains a threatening demeanor or poses a threat to officers or other personnel, he/she shall remain handcuffed during questioning and booking procedures.

### 303.3.1 HANDCUFFING TO PHYSICAL OBJECTS

- (a) The handcuffing of any arrested person or suspect to any physical object (door, chair, etc.), is expressly forbidden except when the secure bench is utilized at the police department's central station. Adult prisoners may be secured to the handcuffing bar.
- (b) An exception to § 306.31(a) is authorized when an officer is in a field situation and unusual circumstances dictate a person in custody be temporarily secured while the officer conducts more urgent actions.

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#### 303.3.2 HANDCUFFING TECHNIQUE

- (a) One suspect - the Merced Police Department recognized and approved technique for cuffing one suspect will be behind the back.
- (b) Multiple suspects - the Merced Police Department approved technique for handcuffing suspects together will be left arm of one suspect to the right arm of the other suspect. If there are more than two suspects this technique shall be applied unless there are sufficient handcuffs available to cuff each suspect individually.

#### 303.3.3 USE OF RESTRAINT STRAP ON ANKLES

- (a) The use of restraint straps around the ankles is recommended for use on persons who are extremely combative, or present a threat to other persons and cannot be controlled through persuasion or command.
- (b) The strap used to secure a subject's feet shall be placed around the ankles, the trailing end secured by closing the nearest door.
- (c) For further information regarding use of restraint devices, see policy § 306.

#### 303.3.4 TRANSPORTATION VIA COMMERCIAL AIR OR LONG DISTANCES

- (a) When a prisoner is being transported a long distance or via commercial air, officers will use transportation belts and handcuffs. This equipment shall not be removed until the prisoner is in the confines of the department, a jail facility, or unless dictated by airline regulations.
- (b) Disposable Handcuffs: Department issued disposable handcuffs are authorized for use when multiple arrests occur. They are not authorized for routine use in place of regular issue metal handcuffs.
- (c) Whenever disposable handcuffs are utilized, officers should use care in securing a subject's wrists and make certain the cuffs are not significantly restricting the flow of blood to the hands.
- (d) Officers should remain aware of the fact that disposable cuffs do not afford the degree of reliability of restraint as regular handcuffs, and therefore should exercise greater caution when transporting or handling prisoners secured with disposable handcuffs.

## Control Devices and Techniques

### 304.1 PURPOSE AND SCOPE

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

### 304.2 POLICY

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

### 304.3 ISSUING, CARRYING AND USING CONTROL DEVICES

Control devices described in this policy may be carried and used by members of this department only if the device has been issued by the Department or approved by the Chief of Police or the authorized designee.

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

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

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

### 304.4 RESPONSIBILITIES

#### 304.4.1 WATCHCOMMANDER RESPONSIBILITIES

The Shift Supervisor may authorize the use of a control device by selected personnel or members of specialized units who have successfully completed the required training.

#### 304.4.2 ARCON RESPONSIBILITIES

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

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

### 304.5 BATON GUIDELINES

The need to immediately control a suspect must be weighed against the risk of causing serious injury. The head, neck, throat, spine, heart, kidneys and groin should not be intentionally targeted



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except when the officer reasonably believes the suspect poses an imminent threat of serious bodily injury or death to the officer or others.

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

### **304.6 TEAR GAS GUIDELINES**

Tear gas may be used for crowd control, crowd dispersal or against barricaded suspects based on the circumstances. Only the Shift Supervisor, Incident Commander or SWAT Unit Commander may authorize the delivery and use of tear gas, and only after evaluating all conditions known at the time and determining that such force reasonably appears justified and necessary.

When practicable, fire personnel should be alerted or summoned to the scene prior to the deployment of tear gas to control any fires and to assist in providing medical aid or gas evacuation if needed

### **304.7 OLEORESIN CAPSICUM (OC) GUIDELINES**

As with other control devices, oleoresin capsicum (OC) spray and pepper projectiles may be considered for use to bring under control an individual or groups of individuals who are engaging in, or are about to engage in violent behavior. Pepper projectiles and OC spray should not, however, be used against individuals or groups who merely fail to disperse or do not reasonably appear to present a risk to the safety of officers or the public.

#### **304.7.1 OC SPRAY**

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

#### **304.7.2 TREATMENT FOR OC SPRAY EXPOSURE**

Persons who have been sprayed with or otherwise affected by the use of OC should be promptly provided with clean water to cleanse the affected areas. Those persons who complain of further severe effects shall be examined by appropriate medical personnel.

### **304.8 POST-APPLICATION NOTICE**

Whenever tear gas or OC has been introduced into a residence, building interior, vehicle or other enclosed area, officers should provide the owners or available occupants with notice of the possible presence of residue that could result in irritation or injury if the area is not properly cleaned. Such notice should include advisement that clean up will be at the owner's expense. Information regarding the method of notice and the individuals notified should be included in related reports.

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### **304.9 KINETIC ENERGY PROJECTILE GUIDELINES**

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

#### **304.9.1 DEPLOYMENT AND USE**

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

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

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

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

#### **304.9.2 DEPLOYMENT CONSIDERATIONS**

Before discharging projectiles, the officer should consider such factors as:

- (a) Distance and angle to target.
- (b) Type of munitions employed.
- (c) Type and thickness of subject's clothing.
- (d) The subject's proximity to others.
- (e) The location of the subject.
- (f) Whether the subject's actions dictate the need for an immediate response and the use of control devices appears appropriate.

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

Officers should keep in mind the manufacturer's recommendations and their training regarding effective distances and target areas. However, officers are not restricted solely to use according to

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manufacturer recommendations. Each situation must be evaluated on the totality of circumstances at the time of deployment.

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

### **304.9.3 SAFETY PROCEDURES**

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

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

When it is not deployed, the shotgun will be unloaded and properly and securely stored in the vehicle. When deploying the kinetic energy projectile shotgun, the officer shall visually inspect the kinetic energy projectiles to ensure that conventional ammunition is not being loaded into the shotgun.

Absent compelling circumstances, officers who must transition from conventional ammunition to kinetic energy projectiles will employ the two-person rule for loading. The two-person rule is a safety measure in which a second officer watches the unloading and loading process to ensure that the weapon is completely emptied of conventional ammunition.

### **304.10 TRAINING FOR CONTROL DEVICES**

The Division Captain shall ensure that all personnel who are authorized to carry a control device have been properly trained and certified to carry the specific control device and are retrained or recertified as necessary.

- (a) Proficiency training shall be monitored and documented by a certified, control-device weapons or tactics instructor.
- (b) All training and proficiency for control devices will be documented in the officer's training file.
- (c) Officers who fail to demonstrate proficiency with the control device or knowledge of this agency's Use of Force Policy will be provided remedial training. If an officer cannot demonstrate proficiency with a control device or knowledge of this agency's Use of Force Policy after remedial training, the officer will be restricted from carrying the control device and may be subject to discipline.

### **304.11 REPORTING USE OF CONTROL DEVICES AND TECHNIQUES**

Any application of a control device or technique listed in this policy shall be documented in the related incident report and reported pursuant to the Use of Force Policy.

## Conducted Energy Device

### 305.1 PURPOSE AND SCOPE

This policy provides guidelines for the issuance and use of TASER devices.

### 305.2 POLICY

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

### 305.3 ISSUANCE AND CARRYING EMDTDEVICES

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

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

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

Members carrying the TASER device should perform a spark test on the unit prior to every shift.

When carried while in uniform officers shall carry the TASER device in a weak-side holster on the side opposite the duty weapon.

- (a) All TASER devices shall be clearly and distinctly marked to differentiate them from the duty weapon and any other device.
- (b) Whenever practicable, officers should carry two or more cartridges on their person when carrying the TASER device.
- (c) Officers shall be responsible for ensuring that their issued TASER device is properly maintained and in good working order.
- (d) Officers should not hold both a firearm and the TASER device at the same time.

### 305.4 VERBAL AND VISUAL WARNINGS

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

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

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

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

### **305.5 USE OF THE EMDTDEVICE**

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

#### **305.5.1 APPLICATION OF THE EMDTDEVICE**

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

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

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

#### **305.5.2 SPECIAL DEPLOYMENT CONSIDERATIONS**

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

- (a) Individuals who are known to be pregnant.
- (b) Elderly individuals or obvious juveniles.
- (c) Individuals with obviously low body mass.
- (d) Individuals who are handcuffed or otherwise restrained.

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- (e) Individuals who have been recently sprayed with a flammable chemical agent or who are otherwise in close proximity to any known combustible vapor or flammable material, including alcohol-based oleoresin capicum (OC) spray.
- (f) Individuals whose position or activity may result in collateral injury (e.g., falls from height, operating vehicles).

Because the application of the TASER device in the drive-stun mode (i.e., direct contact without probes) relies primarily on pain compliance, the use of the drive-stun mode generally should be limited to supplementing the probe-mode to complete the circuit, or as a distraction technique to gain separation between officers and the subject, thereby giving officers time and distance to consider other force options or actions.

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

### 305.5.3 TARGETING CONSIDERATIONS

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

### 305.5.4 MULTIPLE APPLICATIONS OF THE EMDTDEVICE

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

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

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

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

### 305.5.5 ACTIONS FOLLOWING DEPLOYMENTS

Officers shall notify a supervisor of all TASER device discharges. Confetti tags should be collected and the expended cartridge, along with both probes and wire, should be submitted into evidence.

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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.

### **305.5.6 DANGEROUS ANIMALS**

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

### **305.5.7 OFF-DUTY CONSIDERATIONS**

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

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

## **305.6 DOCUMENTATION**

Officers shall document all TASER device discharges in the related arrest/crime report and the TASER device report form. Notification shall also be made to a supervisor in compliance with the Use of Force Policy. Unintentional discharges, pointing the device at a person, laser activation and arcing the device will also be documented on the report form.

### **305.6.1 EMDT DEVICE FORM**

Items that shall be included in the TASER device report form are:

- (a) The type and brand of TASER device and cartridge and cartridge serial number.
- (b) Date, time and location of the incident.
- (c) Whether any display, laser or arc deterred a subject and gained compliance.
- (d) The number of TASER device activations, the duration of each cycle, the duration between activations, and (as best as can be determined) the duration that the subject received applications.
- (e) The range at which the TASER device was used.
- (f) The type of mode used (probe or drive-stun).
- (g) Location of any probe impact.
- (h) Location of contact in drive-stun mode.
- (i) Description of where missed probes went.
- (j) Whether medical care was provided to the subject.
- (k) Whether the subject sustained any injuries.
- (l) Whether any officers sustained any injuries.

The Captain should periodically analyze the report forms to identify trends, including deterrence and effectiveness. The Captain should also conduct audits of data downloads and reconcile

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TASER device report forms with recorded activations. TASER device information and statistics, with identifying information removed, should periodically be made available to the public.

### **305.6.2 REPORTS**

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

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

### **305.7 MEDICAL TREATMENT**

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

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

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

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

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



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### **305.8 SUPERVISOR RESPONSIBILITIES**

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

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

### **305.9 TRAINING**

Personnel who are authorized to carry the TASER device shall be permitted to do so only after successfully completing the initial department-approved training. Any personnel who have not carried the 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.

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

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

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

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

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

The Captain should ensure that all training includes:

- (a) A review of this policy.
- (b) A review of the Use of Force Policy.
- (c) Performing weak-hand draws or cross-draws to reduce the possibility of unintentionally drawing and firing a firearm.
- (d) Target area considerations, to include techniques or options to reduce the unintentional application of probes near the head, neck, chest and groin.
- (e) Handcuffing a subject during the application of the TASER device and transitioning to other force options.

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- (f) De-escalation techniques.
- (g) Restraint techniques that do not impair respiration following the application of the TASER device.

# Officer-Involved Shootings and Deaths

## 306.1 PURPOSE AND SCOPE

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

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

## 306.2 TYPES OF INVESTIGATIONS

Officer-involved shootings and deaths involve several separate investigations. The investigations may include:

- A criminal investigation of the suspect's actions.
- A criminal investigation of the involved officer's actions.
- An administrative investigation as to policy compliance by involved officers.
- A civil investigation to determine potential liability.

## 306.3 CONTROL OF INVESTIGATIONS

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

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

### 306.3.1 CRIMINAL INVESTIGATION OF SUSPECT ACTIONS

The investigation of any possible criminal conduct by the suspect is controlled by the agency in whose jurisdiction the suspect's crime occurred. For example, the Merced Police Department would control the investigation if the suspect's crime occurred in Merced.

If multiple crimes have been committed in multiple jurisdictions, identification of the agency that will control the investigation may be reached in the same way as with any other crime. The investigation may be conducted by the agency in control of the criminal investigation of the involved officer, at the discretion of the Chief of Police and with concurrence from the other agency.

### 306.3.2 CRIMINAL INVESTIGATION OF OFFICER ACTIONS

The control of the criminal investigation into the involved officer's conduct during the incident will be determined by the employing agency's protocol. When an officer from this department is involved, the criminal investigation will be handled according to the Criminal Investigation section of this policy.

## *Officer-Involved Shootings and Deaths*

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

### **306.3.3 ADMINISTRATIVE AND CIVIL INVESTIGATION**

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

### **306.4 INVESTIGATION PROCESS**

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

#### **306.4.1 UNINVOLVED OFFICER RESPONSIBILITIES**

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

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

#### **306.4.2 SHIFT SUPERVISOR RESPONSIBILITIES**

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

All outside inquiries about the incident shall be directed to the Shift Supervisor.

#### **306.4.3 NOTIFICATIONS**

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

- Chief of Police
- Investigation Division Captain
- Officer-Involved Shooting rollout team
- Outside agency investigator (if appropriate)
- Internal Affairs Unit supervisor
- Civil liability response team
- Psychological/peer support personnel
- Chaplain

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### *Officer-Involved Shootings and Deaths*

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- Coroner (if necessary)
- Involved officer's agency representative (if requested)
- Public Information Officer

#### 306.4.4 SUPERVISOR RESPONSIBILITIES

Upon arrival at the scene, the first uninvolved MPD supervisor should ensure completion of the duties as outlined above, plus:

- (a) Attempt to obtain a brief overview of the situation from any uninvolved officers.
  1. In the event that there are no uninvolved officers who can supply adequate overview, the supervisor should attempt to obtain a brief voluntary overview from one involved officer.
- (b) If necessary, the supervisor may administratively order any MPD officer to immediately provide public safety information necessary to secure the scene, identify injured parties and pursue suspects.
  1. Public safety information shall be limited to such things as outstanding suspect information, number and direction of any shots fired, perimeter of the incident scene, identity of known or potential witnesses and any other pertinent information.
  2. The initial on-scene supervisor should not attempt to order any involved officer to provide any information other than public safety information.
- (c) Provide all available information to the Shift Supervisor and the Communications Center. If feasible, sensitive information should be communicated over secure networks.
- (d) Take command of and secure the incident scene with additional MPD members until properly relieved by another supervisor or other assigned personnel or investigator.
- (e) As soon as practicable, ensure that involved officers are transported (separately, if feasible) to a suitable location for further direction.
  1. Each involved MPD officer should be given an administrative order not to discuss the incident with other involved officers or MPD members pending further direction from a supervisor.
  2. When an involved officer's weapon is taken or left at the scene for other than officer-safety reasons (e.g., evidence), ensure that he/she is provided with a comparable replacement weapon or transported by other officers.

#### 306.4.5 INVOLVED OFFICERS

The following shall be considered for the involved officer:

- (a) Any request for legal or union representation will be accommodated.
  1. Involved MPD officers shall not be permitted to meet collectively or in a group with an attorney or any representative prior to providing a formal interview or report.

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2. Requests from involved non-MPD officers should be referred to their employing agency.
- (b) Discussions with licensed attorneys will be considered privileged as attorney-client communications.
- (c) Discussions with agency representatives/employee groups will be privileged only as to the discussion of non-criminal information (Government Code § 3303(i)).
- (d) A licensed psychotherapist shall be provided by the Department to each involved MPD officer. A licensed psychotherapist may also be provided to any other affected MPD members, upon request.
  1. Interviews with a licensed psychotherapist will be considered privileged.
  2. An interview or session with a licensed psychotherapist may take place prior to the member providing a formal interview or report. However, involved members shall not be permitted to consult or meet collectively or in a group with a licensed psychotherapist prior to providing a formal interview or report.
  3. A separate fitness-for-duty exam may also be required (see the Fitness for Duty Policy).
- (e) Peer counselors are cautioned against discussing the facts of any incident with an involved or witness officer (Government Code § 8669.4).

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

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

### **306.5 CRIMINAL INVESTIGATION**

The District Attorney's Office is responsible for the criminal investigation into the circumstances of any officer-involved shooting or death.

If available, investigative personnel from this department may be assigned to partner with investigators from outside agencies or the District Attorney's Office to avoid duplicating efforts in related criminal investigations.

Once public safety issues have been addressed, criminal investigators should be given the opportunity to obtain a voluntary statement from involved officers and to complete their interviews. The following shall be considered for the involved officer:

- (a) MPD supervisors and Internal Affairs Unit personnel should not participate directly in any voluntary interview of MPD officers. This will not prohibit such personnel from monitoring interviews or providing the criminal investigators with topics for inquiry.
- (b) If requested, any involved officer will be afforded the opportunity to consult individually with a representative of his/her choosing or an attorney prior to speaking with criminal

## *Officer-Involved Shootings and Deaths*

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investigators (Government Code § 3303(i)). However, in order to maintain the integrity of each involved officer's statement, involved officers shall not consult or meet with a representative or an attorney collectively or in groups prior to being interviewed.

- (c) If any involved officer is physically, emotionally or otherwise not in a position to provide a voluntary statement when interviewed by criminal investigators, consideration should be given to allowing a reasonable period for the officer to schedule an alternate time for the interview.
- (d) Any voluntary statement provided by an involved officer will be made available for inclusion in any related investigation, including administrative investigations. However, no administratively coerced statement will be provided to any criminal investigators unless the officer consents.

### 306.5.1 REPORTS BY INVOLVED MPD OFFICERS

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

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

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

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

### 306.5.2 WITNESS IDENTIFICATION AND INTERVIEWS

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

- (a) Identification of all persons present at the scene and in the immediate area.
  - 1. When feasible, a recorded statement should be obtained from those persons who claim not to have witnessed the incident but who were present at the time it occurred.
  - 2. Any potential witness who is unwilling or unable to remain available for a formal interview should not be detained absent reasonable suspicion to detain or

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probable cause to arrest. Without detaining the individual for the sole purpose of identification, officers should attempt to identify the witness prior to his/her departure.

- (b) Witnesses who are willing to provide a formal interview should be asked to meet at a suitable location where criminal investigators may obtain a recorded statement. Such witnesses, if willing, may be transported by a member of the Department.
  - 1. A written, verbal or recorded statement of consent should be obtained prior to transporting a witness. When the witness is a minor, consent should be obtained from the parent or guardian, if available, prior to transportation.
- (c) Promptly contacting the suspect's known family and associates to obtain any available and untainted background information about the suspect's activities and state of mind prior to the incident.

#### **306.5.3 INVESTIGATIVE PERSONNEL**

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

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

#### **306.6 ADMINISTRATIVE INVESTIGATION**

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

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

- (a) Any officer involved in a shooting or death may be requested or administratively compelled to provide a blood sample for alcohol/drug screening. Absent consent from the officer, such compelled samples and the results of any such testing shall not be disclosed to any criminal investigative agency.
- (b) If any officer has voluntarily elected to provide a statement to criminal investigators, the assigned administrative investigator should review that statement before proceeding with any further interview of that involved officer.
  - 1. If a further interview of the officer is deemed necessary to determine policy compliance, care should be taken to limit the inquiry to new areas with minimal, if



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any, duplication of questions addressed in the voluntary statement. The involved officer shall be provided with a copy of his/her prior statement before proceeding with any subsequent interviews.

- (c) In the event that an involved officer has elected to not provide criminal investigators with a voluntary statement, the assigned administrative investigator shall conduct an administrative interview to determine all relevant information.
  - 1. Although this interview should not be unreasonably delayed, care should be taken to ensure that the officer's physical and psychological needs have been addressed before commencing the interview.
  - 2. If requested, the officer shall have the opportunity to select an uninvolved representative to be present during the interview. However, in order to maintain the integrity of each individual officer's statement, involved officers shall not consult or meet with a representative or attorney collectively or in groups prior to being interviewed (Government Code § 3303(i)).
  - 3. Administrative interviews should be recorded by the investigator. The officer may also record the interview (Government Code § 3303(g)).
  - 4. The officer shall be informed of the nature of the investigation. If an officer refuses to answer questions, he/she should be given his/her *Lybarger* or *Garrity* rights and ordered to provide full and truthful answers to all questions. The officer shall be informed that the interview will be for administrative purposes only and that the statement cannot be used criminally.
  - 5. The Internal Affairs Unit shall compile all relevant information and reports necessary for the Department to determine compliance with applicable policies.
  - 6. Regardless of whether the use of force is an issue in the case, the completed administrative investigation shall be submitted to the Use of Force Review Board, which will restrict its findings as to whether there was compliance with the Use of Force Policy.
  - 7. Any other indications of potential policy violations shall be determined in accordance with standard disciplinary procedures.

### **306.7 AUDIO AND VIDEO RECORDINGS**

Any officer involved in a shooting or death may be permitted to review available Mobile Audio/Video (MAV), body-worn video, or other video or audio recordings prior to providing a recorded statement or completing reports.

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

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

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#### **306.8 CIVIL LIABILITY RESPONSE**

A member of this department may be assigned to work exclusively under the direction of the legal counsel for the Department to assist in the preparation of materials deemed necessary in anticipation of potential civil litigation.

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

#### **306.9 DEBRIEFING**

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

##### **306.9.1 CRITICAL INCIDENT/STRESS DEBRIEFING**

A critical incident/stress debriefing should occur as soon as practicable. The Administration Division Captain is responsible for organizing the debriefing. Notes and recorded statements should not be taken because the sole purpose of the debriefing is to help mitigate the stress-related effects of a traumatic event.

The debriefing is not part of any investigative process. Care should be taken not to release or repeat any communication made during a debriefing unless otherwise authorized by policy, law, or a valid court order.

Attendance at the debriefing shall only include those members of the Department directly involved in the incident, which can include support personnel (e.g., dispatchers, other non-sworn personnel). Family or other support personnel may attend with the concurrence of those involved in the incident. The debriefing shall be closed to the public and should be closed to all other members of the Department, including supervisory and Internal Affairs Unit personnel.

##### **306.9.2 TACTICAL DEBRIEFING**

A tactical debriefing should take place to identify any training or areas of policy that need improvement. The Chief of Police should identify the appropriate participants. This debriefing should not be conducted until all involved members have provided recorded or formal statements to criminal and/or administrative investigators.

#### **306.10 MEDIA RELATIONS**

Any media release shall be prepared with input and concurrence from the supervisor and department representative responsible for each phase of the investigation. Releases will be available to the Shift Supervisor, Investigation Division Captain and Public Information Officer in the event of inquiries from the media.

The Department shall not subject any involved MPD officer to visits by the media (Government Code § 3303(e)). No involved MPD officer shall make any comment to the media unless he/she is authorized by the Chief of Police or a Division Captain. Department members receiving inquiries regarding officer-involved shootings or deaths occurring in other jurisdictions shall refrain

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from public comment and will direct those inquiries to the agency having jurisdiction and primary responsibility for the investigation.

#### **306.11 REPORTING**

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

## Firearms

### 307.1 PURPOSE AND SCOPE

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

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

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

### 307.2 POLICY

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

### 307.3 AUTHORIZED FIREARMS, AMMUNITION AND OTHER WEAPONS

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

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

#### 307.3.1 HANDGUNS

The authorized department-issued handgun is the Smith & Wesson, M&P, 9mm.

#### 307.3.2 SHOTGUNS

The authorized department-issued shotgun is the Remington 870 or the Tactical 12GA FNH.

When not deployed, the shotgun shall be properly secured consistent with department training in a locking weapons rack in the patrol vehicle.

#### 307.3.3 PATROL RIFLES

The authorized department-issued patrol rifle is the Colt AR-15 type.

Members may deploy the patrol rifle in any circumstance where the member can articulate a reasonable expectation that the rifle may be needed.

## Firearms

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When not deployed, the patrol rifle shall be properly secured consistent with department training in a locking weapons rack in the patrol vehicle.

### 307.3.4 PERSONALLY OWNED DUTY FIREARMS

Members desiring to carry an authorized but personally owned duty firearm must receive written approval from the Chief of Police or the authorized designee. Once approved, personally owned duty firearms are subject to the following restrictions:

- (a) The firearm shall be in good working order and on the department list of approved firearms.
- (b) The firearm shall be inspected by the Rangemaster prior to being carried and thereafter shall be subject to inspection whenever it is deemed necessary.
- (c) Prior to carrying the firearm, members shall qualify under range supervision and thereafter shall qualify in accordance with the department qualification schedule. Members must demonstrate proficiency and safe handling, and that the firearm functions properly.
- (d) Members shall provide written notice of the make, model, color, serial number and caliber of the firearm to the Rangemaster, who will maintain a list of the information.

### 307.3.5 AUTHORIZED SECONDARY HANDGUN

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

- (a) The handgun shall be in good working order and on the department list of approved firearms.
- (b) Only one secondary handgun may be carried at a time.
- (c) The purchase of the handgun and ammunition shall be the responsibility of the member unless the handgun and ammunition are provided by the Department.
- (d) The handgun shall be carried concealed at all times and in such a manner as to prevent unintentional cocking, discharge or loss of physical control.
- (e) The handgun shall be inspected by the Rangemaster prior to being carried and thereafter shall be subject to inspection whenever it is deemed necessary.
- (f) Ammunition shall be the same as department issue. If the caliber of the handgun is other than department issue, the Chief of Police or the authorized designee shall approve the ammunition.
- (g) Prior to carrying the secondary handgun, members shall qualify under range supervision and thereafter shall qualify in accordance with the department qualification schedule. Members must demonstrate proficiency and safe handling, and that the handgun functions properly.
- (h) Members shall provide written notice of the make, model, color, serial number and caliber of a secondary handgun to the Rangemaster, who will maintain a list of the information.

## Firearms

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### 307.3.6 AUTHORIZED OFF-DUTY FIREARMS

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

- (a) The member may use his/her duty firearm or may use a personally owned firearm that is carried and inspected in accordance with the Personally Owned Duty Firearms requirements in this policy. A member carrying his/her duty firearm will be deemed to have complied with (c), (d) and (e) of this section.
  - 1. The purchase of the personally owned firearm and ammunition shall be the responsibility of the member.
- (b) The firearm shall be carried concealed at all times and in such a manner as to prevent accidental unintentional cocking, discharge or loss of physical control.
- (c) It will be the responsibility of the member to submit the firearm to the Rangemaster for inspection prior to being personally carried. Thereafter the firearm shall be subject to periodic inspection by the Rangemaster.
- (d) Prior to carrying any off-duty firearm, the member shall demonstrate to the Rangemaster that he/she is proficient in handling and firing the firearm and that it will be carried in a safe manner.
- (e) The member will successfully qualify with the firearm prior to it being carried.
- (f) Members shall provide written notice of the make, model, color, serial number and caliber of the firearm to the Rangemaster, who will maintain a list of the information.
- (g) If a member desires to use more than one firearm while off-duty, he/she may do so, as long as all requirements set forth in this policy for each firearm are met.
- (h) Members shall only carry department-authorized ammunition.
- (i) When armed, officers shall carry their badges and Merced Police Department identification cards under circumstances requiring possession of such identification.

### 307.3.7 AMMUNITION

Members shall carry only department-authorized ammunition. Ammunition shall be the same brand as department issue. If the caliber of the handgun is other than department issue, the Chief of Police or the authorized designee shall approve the ammunition. Members shall be issued fresh duty ammunition in the specified quantity for all department-issued firearms during the member's firearms qualification. Replacements for unserviceable or depleted ammunition issued by the Department shall be dispensed by the Rangemaster when needed, in accordance with established policy.

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

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### **307.4 EQUIPMENT**

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

#### **307.4.1 REPAIRS OR MODIFICATIONS**

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

Firearms that are the property of the Department or personally owned firearms that are approved for department use may be repaired or modified only by a person who is department-approved and certified as an armorer or gunsmith in the repair of the specific firearm. Such modification or repair must be authorized in advance by the Rangemaster.

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

#### **307.4.2 HOLSTERS**

Only department-approved holsters shall be used and worn by members. Members shall periodically inspect their holsters to make sure they are serviceable and provide the proper security and retention of the handgun.

#### **307.4.3 TACTICAL LIGHTS**

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

#### **307.4.4 OPTICS OR LASER SIGHTS**

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

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

### **307.5 SAFE HANDLING, INSPECTION AND STORAGE**

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

- (a) Members shall not unnecessarily display or handle any firearm.
- (b) Members shall be governed by all rules and regulations pertaining to the use of the range and shall obey all orders issued by the Rangemaster. Members shall not dry fire or practice quick draws except as instructed by the Rangemaster or other firearms training staff.

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- (c) Members shall not clean, repair, load or unload a firearm anywhere in the Department, except where clearing barrels are present.
- (d) Shotguns or rifles removed from vehicles or the equipment storage room shall be loaded and unloaded in the parking lot and outside of the vehicle, using clearing barrels.
- (e) Members shall not place or store any firearm or other weapon on department premises except where the place of storage is locked. No one shall carry firearms into the jail section or any part thereof when securing or processing an arrestee, but shall place all firearms in a secured location. Members providing access to the jail section to persons from outside agencies are responsible for ensuring firearms are not brought into the jail section.
- (f) Members shall not use any automatic firearm, heavy caliber rifle, gas or other type of chemical weapon or firearm from the armory, except with approval of a supervisor.
- (g) Any firearm authorized by the Department to be carried on- or off-duty that is determined by a member to be malfunctioning or in need of service or repair shall not be carried. It shall be promptly presented to the Department or a Rangemaster approved by the Department for inspection and repair. Any firearm deemed in need of repair or service by the Rangemaster will be immediately removed from service. If the firearm is the member's primary duty firearm, a replacement firearm will be issued to the member until the duty firearm is serviceable.

#### 307.5.1 INSPECTION AND STORAGE

Rifles shall be inspected at the beginning of the shift by the member to whom the weapon is issued. The member shall ensure that the firearm is carried in the proper condition and loaded with approved ammunition. Inspection of the shotgun and rifle shall be done while standing outside of the patrol vehicle. All firearms shall be pointed in a safe direction or into clearing barrels.

Personally owned firearms may be safely stored in lockers at the end of the shift. Department-owned firearms shall be stored in the appropriate equipment storage room. Handguns may remain loaded if they are secured in an appropriate holster. Shotguns and rifles shall be unloaded in a safe manner outside the building and then stored in the appropriate equipment storage room.

#### 307.5.2 STORAGE AT HOME

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

#### 307.5.3 ALCOHOL AND DRUGS

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



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### 307.5.4 STORAGE IN VEHICLES

When leaving a handgun in an unattended vehicle, members shall ensure that it is locked in the trunk, or in a locked container that is placed out of view, or in a locked container that is permanently affixed to the vehicle's interior and not in plain view, or in a locked toolbox or utility box permanently affixed to the vehicle (Penal Code § 16850; Penal Code § 25140; Penal Code § 25452).

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

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

### 307.6 FIREARMS TRAINING AND QUALIFICATIONS

All members who carry a firearm while on-duty are required to successfully complete training quarterly with their duty firearms. In addition to quarterly training, all members will qualify at least annually with their duty firearms. Members will qualify with off-duty and secondary firearms at least twice a year. Training and qualifications must be on an approved range course.

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

#### 307.6.1 NON-CERTIFICATION OR NON-QUALIFICATION

If any member fails to meet minimum standards for firearms training or qualification for any reason, including injury, illness, duty status or scheduling conflict, that member shall submit a memorandum to his/her immediate supervisor prior to the end of the required training or qualification period.

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

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

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

### 307.7 FIREARM DISCHARGE

Except during training or recreational use, any member who discharges a firearm intentionally or unintentionally, on- or off-duty, shall make a verbal report to his/her supervisor as soon as

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circumstances permit. If the discharge results in injury or death to another person, additional statements and reports shall be made in accordance with the Officer-Involved Shootings and Deaths Policy. If a firearm was discharged as a use of force, the involved member shall adhere to the additional reporting requirements set forth in the Use of Force Policy.

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

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

### 307.7.1 DESTRUCTION OF ANIMALS

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

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

### 307.7.2 WARNING AND OTHER SHOTS

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

## 307.8 RANGEMASTER DUTIES

The range will be under the exclusive control of the Rangemaster. All members attending will follow the directions of the Rangemaster. The Rangemaster will maintain a roster of all members attending the range and will submit the roster to the Chief of Police or his designee after each range date. Failure of any member to sign in and out with the Rangemaster may result in non-qualification.

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

The Rangemaster has the responsibility of making periodic inspection, at least once a year, of all duty firearms carried by members of this department to verify proper operation. The Rangemaster has the authority to deem any department-issued or personally owned firearm unfit for service. The member will be responsible for all repairs to his/her personally owned firearm and it will not be returned to service until inspected by the Rangemaster.

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

The Rangemaster shall complete and submit to the Chief of Police or his designee documentation of the training courses provided. Documentation shall include the qualifications of each instructor who provides the training, a description of the training provided and, on a form that has been approved by the Department, a list of each member who completes the training. The Rangemaster should keep accurate records of all training shoots, qualifications, repairs, maintenance or other records as directed by the Chief of Police or his designee.

#### **307.9 FLYING WHILE ARMED**

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

- (a) Officers wishing to fly while armed must be flying in an official capacity, not for vacation or pleasure, and must have a need to have the firearm accessible, as determined by the Department based on the law and published TSA rules.
- (b) Officers must carry their Merced Police Department identification card, bearing the officer's name, a full-face photograph, identification number, the officer's signature and the signature of the Chief of Police or the official seal of the Department and must present this identification to airline officials when requested. The officer should also carry the standard photo identification needed for passenger screening by airline and TSA officials (e.g., driver license, passport).
- (c) The Merced Police Department must submit a National Law Enforcement Telecommunications System (NLETS) message prior to the officer's travel. If approved, TSA will send the Merced Police Department an NLETS message containing a unique alphanumeric identifier. The officer must present the message on the day of travel to airport personnel as authorization to travel while armed.
- (d) An official letter signed by the Chief of Police authorizing armed travel may also accompany the officer. The letter should outline the officer's need to fly armed, detail his/her itinerary, and include that the officer has completed the mandatory TSA training for a law enforcement officer flying while armed.
- (e) Officers must have completed the mandated TSA security training covering officers flying while armed. The training shall be given by the department-appointed instructor.
- (f) It is the officer's responsibility to notify the air carrier in advance of the intended armed travel. This notification should be accomplished by early check-in at the carrier's check-in counter.
- (g) Any officer flying while armed should discreetly contact the flight crew prior to take-off and notify them of his/her assigned seat.

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- (h) Discretion must be used to avoid alarming passengers or crew by displaying a firearm. The officer must keep the firearm concealed on his/her person at all times. Firearms are not permitted in carry-on luggage and may not be stored in an overhead compartment.
- (i) Officers should try to resolve any problems associated with flying armed through the flight captain, ground security manager, TSA representative or other management representative of the air carrier.
- (j) Officers shall not consume alcoholic beverages while aboard an aircraft, or within eight hours prior to boarding an aircraft.

### **307.10 CARRYING FIREARMS OUT OF STATE**

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

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

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

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

# Canines

## 310.1 PURPOSE AND SCOPE

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

## 310.2 POLICY

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

### 310.2.1 WARNINGS GIVEN TO ANNOUNCE THE USE OF A CANINE

Unless it would otherwise increase the risk of injury or escape, a clearly audible warning to announce that a canine will be released if the person does not come forth, shall be made prior to releasing a canine. The canine handler, when practical, shall first advise the supervisor of his/her decision if a verbal warning is not given prior to releasing the canine. In the event of an apprehension, the handler shall document in any related report whether or not a verbal warning was given and, if none was given, the reasons why.

When K-9's are deployed with the intention of suspect location/apprehension, multiple K-9 announcements shall be given. The announcements should be loud enough to be heard throughout a building or across any open field or area in which the K-9 will be searching. If necessary, the announcements shall be given periodically throughout a search (i.e., moving from yard to yard, moving from floor to floor, or moving through a large open field). When it is known or suspected that the sought after suspect speaks another language, and does not speak English, then a reasonable effort should be made to make, or have made, an announcement in the appropriate language in addition to the English announcement.

### Consideration should be given to:

- (a) Placing personnel on the opposite side of the area to be searched so that they can verify that the announcement was loud enough to be heard
- (b) Providing adequate time for anyone within the search area to make themselves known and give up/come out
- (c) Having announcements made by a different officer at a different location so as not to compromise the K-9's position
- (d) Utilization of public address systems (car or helicopter); and
- (e) Giving several announcements, speaking slowly and clearly enough to be understood

### Sample announcement:

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"ATTENTION IN THE BUILDING/AREA. MERCED POLICE K-9. MAKE YOURSELF KNOWN AND COME OUT NOW OR THE DOG WILL BE SENT TO FIND YOU. WHEN THE DOG FINDS YOU HE MAY BITE YOU." (Have the K-9 bark)

After making the final announcement, close the announcement with, "THIS IS YOUR LAST AND FINAL WARNING. MAKE YOURSELF KNOWN AND COME OUT NOW OR YOU MAY BE BITTEN."

It is understood that handlers may need to tailor the announcements to the conditions present. It should only be in extremely rare and plainly justifiable cases when an announcement is not given. Handlers are required to e-mail the K-9 Unit Supervisor at the conclusion of the event and provide information of the event and reasoning for no announcements when the decision is made not to give them.

### **310.3 ASSIGNMENT**

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

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

### **310.4 CANINE COORDINATOR**

The canine coordinator shall be appointed by and directly responsible to the Patrol Division or the authorized designee.

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

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

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#### **310.5 REQUESTS FOR CANINE TEAMS**

Patrol Division members are encouraged to request the use of a canine. Requests for a canine team from department units outside of the Patrol Division shall be reviewed by the Shift Supervisor.

##### **310.5.1 OUTSIDE AGENCY REQUEST**

All requests for canine assistance from outside agencies must be approved by the Shift Supervisor and are subject to the following:

- (a) Canine teams shall not be used for any assignment that is not consistent with this policy.
- (b) The canine handler shall have the authority to decline a request for any specific assignment that he/she deems unsuitable.
- (c) Calling out off-duty canine teams is discouraged.
- (d) It shall be the responsibility of the canine handler to coordinate operations with agency personnel in order to minimize the risk of unintended injury.
- (e) It shall be the responsibility of the canine handler to complete all necessary reports or as directed.

##### **310.5.2 PUBLIC DEMONSTRATION**

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

##### **310.5.3 RULES OF CONDUCT WHILE IN THE PRESENCE OF CANINES**

The following rules of conduct apply to all Department personnel and violations are subject to appropriate corrective or disciplinary action.

#### **DO's**

- Treat the canine as you would a dog owned by a friend. Be friendly but do not pet the canine without permission of the canine handler.
- Respect the handler's wishes with respect to the canine.
- Stay away from the canine during training unless assisting the handler.
- Stand still if you are bitten or think you are about to be bitten.
- Avoid furtive or sudden movements in the presence of the canine.

#### **DONT'S**

- Don't tease the canine.
- Don't try to entice the canine to break away or disobey commands.
- Don't use any command you have heard the handler use.

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- Don't try to agitate the canine while in the police vehicle or elsewhere.
- Don't feed the canine without permission of the handler.
- Don't engage in violent or simulated violent behavior with the handler in the canine's presence.
- Don't bring another canine around the canine vehicle.
- Don't enter the canine vehicle unless there is an emergency, or at the direction of the handler.
- Don't stare intensely at the canine.

### 310.5.4 UNSAFE CANINE BEHAVIOR

Any field supervisor observing grossly inappropriate canine behavior shall direct the handler to remove the canine from operational duty status until such time as the Canine Unit Coordinator/Trainer can evaluate the behavior.

The field supervisor shall notify the Canine Unit Lieutenant and Unit Coordinator in writing of the above removal from duty status and shall attempt to notify the Canine Unit Lieutenant and Unit Coordinator as soon as possible via telephone or personal contact.

### 310.5.5 INJURED SUSPECT PROCEDURES

When the canine in any way injures a suspect, the suspect must be taken to Dignity Health Mercy Medical Center and treated prior to being booked into jail. While at MMC photographs of the suspect's injuries shall be taken.

The on-duty supervisor shall continue the investigation (per policy section 300.7(c)) by questioning the suspect about his/her apprehension through use of a canine. It is suggested that no Miranda Rights be given to the suspect during this questioning. Information given by the suspect might not be used in a criminal trial, however, can be used in a civil trial. A recording of the conversation shall be made and maintained by the handler. **Relevant questions may include:**

- Did you hear the canine warning before the search was started? If so, why didn't you give up?
- What did you do as the canine approached you?
- Why did you fight when you knew a canine was nearby?

Based on circumstances present at the time of arrest, handlers are authorized to have blood drawn to test for the presence of controlled substance and/or alcohol. Complete copies of all reports (unusual, crime, follow-up, canine utilization) shall be forwarded by the handler to the Canine Unit Lieutenant as soon as practical after the incident. Any delays in documentation shall be approved by the on-duty supervisor prior to the end of shift along with an anticipated completion date. The Unit Lieutenant shall be notified of all applications of the K-9, by e-mail, prior to the end of the shift in which the application occurred. Basic facts such as crime, extent and location of injuries, age of suspect, and case number shall be provided in the e-mail.



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### 310.6 APPREHENSION GUIDELINES

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

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

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

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

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

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

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

#### 310.6.1 PREPARATION FOR DEPLOYMENT

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

- (a) The nature and seriousness of the suspected offense.
- (b) Whether violence or weapons were used or are anticipated.
- (c) The degree of resistance or threatened resistance, if any, the suspect has shown.
- (d) The suspect's known or perceived age.
- (e) The potential for injury to officers or the public caused by the suspect if the canine is not utilized.

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- (f) Any potential danger to the public and/or other officers at the scene if the canine is released.
- (g) The potential for the suspect to escape or flee if the canine is not utilized.

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

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

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

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

#### 310.6.2 WARNINGS AND ANNOUNCEMENTS

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

If a warning is not to be given, the canine handler, when practicable, should first advise the supervisor of his/her decision before releasing the canine. In the event of an apprehension, the handler shall document in any related report how the warning was given and, if none was given, the reasons why.

#### 310.6.3 REPORTING DEPLOYMENTS, BITES, AND INJURIES

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

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

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

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

### **310.7 NON-APPREHENSION GUIDELINES**

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

- (a) Absent a change in circumstances that presents an imminent threat to officers, the canine, or the public, such applications should be conducted on-leash or under conditions that minimize the likelihood the canine will bite or otherwise injure the individual, if located.
- (b) Unless otherwise directed by a supervisor, assisting members should take direction from the handler in order to minimize interference with the canine.
- (c) Throughout the deployment, the handler should periodically give verbal assurances that the canine will not bite or hurt the individual and encourage the individual to make him/herself known.
- (d) Once the individual has been located, the handler should place the canine in a down-stay or otherwise secure it as soon as reasonably practicable.

#### **310.7.1 ARTICLE DETECTION**

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

#### **310.7.2 NARCOTICS DETECTION**

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

- (a) The search of vehicles, buildings, bags, and other articles.
- (b) Assisting in the search for narcotics during a search warrant service.
- (c) Obtaining a search warrant by using the narcotics-detection trained canine in support of probable cause.

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

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### **310.7.3 BOMB/EXPLOSIVE DETECTION**

Because of the high risk of danger to the public and officers when a bomb or other explosive device is suspected, the use of a canine team trained in explosive detection may be considered. When available, an explosive-detection canine team may be used in accordance with current law and under certain circumstances, including:

- (a) Assisting in the search of a building, structure, area, vehicle, or article where an actual or suspected explosive device has been reported or located.
- (b) Assisting with searches at transportation facilities and vehicles (e.g., buses, airplanes, trains).
- (c) Preventive searches at special events, VIP visits, official buildings, and other restricted areas. Searches of individuals should remain minimally intrusive and shall be strictly limited to the purpose of detecting explosives.
- (d) Assisting in the search of scenes where an explosion has occurred and an explosive device or secondary explosive device is suspected.

At no time will an explosive-detection trained canine be used to render a suspected device safe or clear.

### **310.7.4 FAILURE TO PARTICIPATE/ATTEND/OR FOLLOW TRAINER DIRECTION AT TRAINING SESSIONS**

Failure to actively participate as directed at scheduled training, unjustified absences, or failure to annually certify to POST guidelines may result in temporary restrictions related to handler/canine status, disciplinary action and/or removal from the Unit.

### **310.7.5 FAILURE TO RESPOND TO TRAINING**

Failure to respond to training may result in removal from the Unit. Failure to respond to training includes, but is not limited to:

- (a) A handler's failure to correct deficient or incorrect handling habits.
- (b) A handler's failure to provide proper direction to his/her assigned canine; and/or
- (c) A handler's failure to maintain proper control over his/her assigned canine.

## **310.8 HANDLER SELECTION**

The minimum qualifications for the assignment of canine handler include:

- (a) An officer who is currently off probation.
- (b) Residing in an adequately fenced single-family residence (minimum 5-foot-high fence with locking gates).
- (c) A garage that can be secured and can accommodate a canine vehicle.
- (d) Living within 30 minutes travel time from the Merced City limits.
- (e) Agreeing to be assigned to the position for a minimum of three years.

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### **310.9 HANDLER RESPONSIBILITIES**

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

The canine handler will be responsible for the following:

- (a) Except as required during appropriate deployment, the handler shall not expose the canine to any foreseeable and unreasonable risk of harm.
- (b) The handler shall maintain all department equipment under his/her control in a clean and serviceable condition.
- (c) When not in service, the handler shall maintain the canine vehicle in a locked garage, away from public view.
- (d) When a handler is off-duty for an extended number of days, the assigned canine vehicle should be stored at the Merced Police Department facility.
- (e) Handlers shall permit the canine coordinator to conduct spontaneous on-site inspections of affected areas of their homes as well as their canine vehicles to verify that conditions and equipment conform to this policy.
- (f) Any changes in the living status of the handler that may affect the lodging or environment of the canine shall be reported to the canine coordinator as soon as possible.
- (g) When off-duty, the canine shall be in a kennel provided by the City at the home of the handler. When a canine is kenneled at the handler's home, the gate shall be secured with a lock. When off-duty, the canine may be let out of the kennel while under the direct control of the handler.
- (h) The canine should be permitted to socialize in the home with the handler's family for short periods of time and under the direct supervision of the handler.
- (i) Under no circumstances will the canine be lodged at another location unless approved by the canine coordinator or Shift Supervisor.
- (j) When off-duty, the handler shall not involve the canine in any law enforcement activity or official conduct unless approved in advance by the canine coordinator or Shift Supervisor.
- (k) Whenever a canine handler is off-duty for an extended number of days, it may be necessary to temporarily relocate the canine. In those situations, the handler shall give reasonable notice to the canine coordinator so that appropriate arrangements can be made.

#### **310.9.1 CANINE IN PUBLIC AREAS**

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

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

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

### **310.10 HANDLER COMPENSATION**

The canine handler shall be available for call-out under conditions specified by the canine coordinator.

The canine handler shall be compensated for time spent in the care, feeding, grooming, and other needs of the canine in accordance with the Fair Labor Standards Act (FLSA), and according to the terms of the collective bargaining agreement (29 USC § 207).

### **310.11 CANINE INJURY AND MEDICAL CARE**

In the event that a canine is injured, or there is an indication that the canine is not in good physical condition, the injury or condition will be reported to the canine coordinator or Shift Supervisor as soon as practicable and appropriately documented.

All medical attention shall be rendered by the designated canine veterinarian, except during an emergency where treatment should be obtained from the nearest available veterinarian. All records of medical treatment shall be maintained in the handler's personnel file.

### **310.12 TRAINING**

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

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

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

#### **310.12.1 CONTINUED TRAINING**

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

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

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- (b) Canine handlers are encouraged to engage in additional training with approval of the canine coordinator.
- (c) To ensure that all training is consistent, no handler, trainer, or outside vendor is authorized to train to a standard that is not reviewed and approved by the Department.

#### 310.12.2 FAILURE TO SUCCESSFULLY COMPLETE TRAINING

Any canine team failing to graduate or obtain certification shall not be deployed in the field for tasks the team is not certified to perform until graduation or certification is achieved. When reasonably practicable, pending successful certification, the canine handler shall be temporarily reassigned to regular patrol duties.

#### 310.12.3 TRAINING RECORDS

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

#### 310.12.4 TRAINING AIDS

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

#### 310.12.5 CONTROLLED SUBSTANCE TRAINING AIDS

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

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

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

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

#### 310.12.6 CONTROLLED SUBSTANCE PROCEDURES

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

- (a) All controlled substance training samples shall be weighed and tested prior to dispensing to the individual canine handler or trainer.
- (b) The weight and test results shall be recorded and maintained by this department.

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- (c) Any person possessing controlled substance training samples pursuant to court order or DEA registration shall maintain custody and control of the controlled substances and shall keep records regarding any loss of, or damage to, those controlled substances.
- (d) All controlled substance training samples will be inspected, weighed, and tested quarterly. The results of the quarterly testing shall be recorded and maintained by the canine coordinator with a copy forwarded to the dispensing agency.
- (e) All controlled substance training samples will be stored in locked, airtight, and watertight cases at all times, except during training. The locked cases shall be secured in the trunk of the canine handler's assigned patrol vehicle during transport and stored in an appropriate locked container. There are no exceptions to this procedure.
- (f) The canine coordinator shall periodically inspect every controlled substance training sample for damage or tampering and take any appropriate action.
- (g) Any unusable controlled substance training samples shall be returned to the Property and Evidence Section or to the dispensing agency.
- (h) All controlled substance training samples shall be returned to the dispensing agency upon the conclusion of the training or upon demand by the dispensing agency.

#### 310.12.7 EXPLOSIVE TRAINING AIDS

Officers may possess, transport, store, or use explosives or destructive devices in compliance with state and federal laws (Penal Code § 18800; 18 USC § 842; 27 CFR 555.41).

Explosive training aids designed specifically for canine teams should be used whenever feasible. Due to the safety concerns in the handling and transportation of explosives, inert or non-hazardous training aids should be employed whenever feasible. The use of explosives or destructive devices for training aids by canine teams is subject to the following:

- (a) All explosive training aids, when not in use, shall be properly stored in a secure facility appropriate for the type of materials.
- (b) An inventory ledger shall be maintained to document the type and quantity of explosive training aids that are stored.
- (c) The canine coordinator shall be responsible for verifying the explosive training aids on hand against the inventory ledger once each quarter.
- (d) Only members of the canine team shall have access to the explosive training aids storage facility.
- (e) A primary and secondary custodian will be designated to minimize the possibility of loss of explosive training aids during and after the training. Generally, the handler will be designated as the primary custodian while the trainer or authorized second person on-scene will be designated as the secondary custodian.
- (f) Any lost or damaged explosive training aids shall be promptly reported to the canine coordinator, who will determine if any further action will be necessary. Any loss of explosives will be reported to the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF).



## High-Risk Missions

### 313.1 PURPOSE AND SCOPE

The purpose of this Policy is to establish procedures that will enable personnel to plan and execute high risk missions that will result in the least possible threat of harm to human life. Additionally, this Policy establishes mid-management or executive review and approval prior to the execution of a high risk mission.

- (a) High-risk missions may include, but are not limited to:
  - 1. Service of search warrants;
  - 2. Service of arrest warrants;
  - 3. Probation and Parole searches; and/or
  - 4. An operation where there is a probability for a violent confrontation.

### 313.2 POLICY

- (a) The tactics used to accomplish these missions will be formulated on an individual, case by case basis, based upon the known, verified facts of each case based upon the totality of the circumstances not upon stereotypes of similar cases.
- (b) The tactics used, number of personnel involved and level of force will be commensurate with the seriousness of the crime, the perceived potential for violent resistance and risk of harm to officers, suspects and innocent bystanders.
- (c) Forced entry into any occupied premises may be used when other options have been considered/attempted and failed or are precluded.
- (d) Tactics that would encourage or are likely to provoke violent resistance should be avoided.
- (e) Arrests, when possible, should be made outside of or away from the home or premises prior to conducting a search.
- (f) If possible, plan arrests and searches when family members, children and innocent citizens would not be present.
- (g) All personnel involved in the mission who will potentially come into contact with suspects, bystanders, or other civilians who are not in uniform shall be clearly identifiable from both the front and rear as peace officers.
- (h) There must be a consideration of the necessity for the chosen option:
  - 1. That it is necessary for officer or public safety; or
  - 2. That it promotes the purposes of order and public tranquility; or

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3. That it will most likely increase the current level of prosecution by adding more serious criminal filings.
- (i) The decision process follows the arranged order of the Risk Assessment Matrix.

### **313.3 PROCEDURES**

- (a) Use a Tactical Operations Checklist in preparation for the operation that documents review of data bases such as DMV, name and address indexes, premise history files, case reports, location surveillance and other sources to attempt to:
  1. Verify the identity of the suspect.
  2. Verify the location to be searched and the nexus of the suspect to the location.
  3. Determine to the extent possible the likelihood of children or innocent bystanders being present.
  4. Research the suspect's and associate's prior criminal history and propensity for flight or to resort to violence or use of weapons.
  5. Attempt to gain as much intelligence data as possible to ensure that the tactical plan has accounted for as many safety factors and tactical options as possible.
- (b) Prepare a Tactical Operations Plan
  1. A Tactical Operations Checklist and Tactical Operations Plan shall be prepared in advance and reviewed and approved by a Captain or higher rank prior to implementation of the plan.
  2. The author of the Tactical Operations Plan is accountable for intelligence information contained in the plan. Terms such as "armed and dangerous," "escape risk," or "will resist arrest" must be based upon articulable facts stated in the plan. No crime type, suspect or location information can be given a stereotypical label such as "usual crack house security systems" unless that fact has been verified.
  3. The Tactical Operations Checklist and Tactical Operations Plan shall be maintained as a part of a separate intelligence file. Operational Plans that contain pager numbers, phone numbers or other confidential personnel information or identity of informants or other normally protected information shall not be included in the permanent case file.

### **313.4 OUTSIDE LAW ENFORCEMENT AGENCY REQUEST**

If an outside law enforcement agency comes to Merced to serve an arrest warrant, search warrant or perform some other law enforcement duty, the following procedures will be followed:

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- (a) If the agency prefers to conduct its activity without any assistance from the Merced Police Department, it may do so. However, the outside agency will be provided a copy of this Policy with a request that while within the city of Merced they follow the provisions of this Policy.
- (b) If the agency requests the Merced Police Department help in serving an arrest warrant, search warrant or performing some other enforcement activity, all the provisions above shall be followed prior to the use of Merced Police personnel. The Merced Police Department will not perform a separate investigation to reassess the efficiency of the warrant.
- (c) If the requesting agency does not have a search or arrest warrant signed by a magistrate, all the provisions above shall be followed prior to the use Merced Police personnel. Additionally, the review by a Captain or higher rank shall also ascertain that the level of reasonable suspicion or probable cause being used by the requesting agency meets the standards of the Merced Police Department which will be at the individual discretion of the reviewing authority.
- (d) Merced Police Department personnel engaged in mutual aid operations are expected to abide by the policies and principles set forth in this Policy.

### **313.5 CRIMES IN PROGRESS**

- (a) The provisions of this Policy are intended for operations that are long term in nature, or where several hours, or one or more days, will elapse before the operation will be conducted and time allows for careful planning.
- (b) This Policy is not intended for routine traffic stops, field interviews or enforcement action associated with day to day response to 9-1-1 calls for service.
- (c) This Policy is not intended to be used for crimes in progress, exigent circumstances or rapidly developing investigations of a hot pursuit nature.

# Hate Crimes

## 321.1 PURPOSE AND SCOPE

This policy is designed to assist in identifying and handling crimes motivated by hate or other bias toward individuals and groups with legally defined protected characteristics, to define appropriate steps for assisting victims, and to provide a guide to conducting related investigations. It outlines the general policy framework for prevention, response, accessing assistance, victim assistance and follow-up, and reporting as related to law enforcement's role in handling hate crimes. It also serves as a declaration that hate crimes are taken seriously and demonstrates how the Merced Police Department may best use its resources to investigate and solve an offense, in addition to building community trust and increasing police legitimacy (Penal Code § 13519.6).

### 321.1.1 DEFINITION AND LAWS

In accordance with Penal Code § 422.55; Penal Code § 422.56; Penal Code § 422.6; and Penal Code § 422.87, for purposes of all other state law, unless an explicit provision of law or the context clearly requires a different meaning, the following shall apply:

**Bias motivation** - Bias motivation is a pre-existing negative attitude toward actual or perceived characteristics referenced in Penal Code § 422.55. Depending on the circumstances of each case, bias motivation may include but is not limited to hatred, animosity, resentment, revulsion, contempt, unreasonable fear, paranoia, callousness, thrill-seeking, desire for social dominance, desire for social bonding with those of one's "own kind," or a perception of the vulnerability of the victim due to the victim being perceived as being weak, worthless, or fair game because of a protected characteristic, including but not limited to disability or gender.

**Disability** - Disability includes mental disability and physical disability as defined in Government Code § 12926, regardless of whether those disabilities are temporary, permanent, congenital, or acquired by heredity, accident, injury, advanced age, or illness.

**Disability bias** - In recognizing suspected disability-bias hate crimes, officers should consider whether there is any indication that the perpetrator was motivated by hostility or other bias, occasioned by factors such as but not limited to dislike of persons who arouse fear or guilt, a perception that persons with disabilities are inferior and therefore "deserving victims," a fear of persons whose visible traits are perceived as being disturbing to others, or resentment of those who need, demand, or receive alternative educational, physical, or social accommodations.

In recognizing suspected disability-bias hate crimes, officers should consider whether there is any indication that the perpetrator perceived the victim to be vulnerable and, if so, if this perception is grounded, in whole or in part, in anti-disability bias. This includes but is not limited to situations where a perpetrator targets a person with a particular perceived disability while avoiding other vulnerable-appearing persons, such as inebriated persons or persons with perceived disabilities different from those of the victim. Such circumstances could be evidence that the perpetrator's motivations included bias against persons with the perceived disability of the victim and that the crime must be reported as a suspected hate crime and not a mere crime of opportunity.

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**Gender** - Gender means sex and includes a person's gender identity and gender expression.

**Gender expression** - Gender expression means a person's gender-related appearance and behavior, whether or not stereotypically associated with the person's assigned sex at birth.

**Gender identity**- Gender identity means each person's internal understanding of their gender, or the perception of a person's gender identity, which may include male, female, a combination of male and female, neither male nor female, a gender different from the person's sex assigned at birth, or transgender (2 CCR § 11030).

**Hate crime** - "Hate crime" includes but is not limited to a violation of Penal Code § 422.6, and means a criminal act committed, in whole or in part, because of one or more of the following actual or perceived characteristics of the victim:

- (a) Disability
- (b) Gender
- (c) Nationality
- (d) Race or ethnicity
- (e) Religion
- (f) Sexual orientation
- (g) Association with a person or group with one or more of these actual or perceived characteristics:
  - 1. "Association with a person or group with these actual or perceived characteristics" includes advocacy for, identification with, or being on the ground owned or rented by, or adjacent to, any of the following: a community center, educational facility, family, individual, office, meeting hall, place of worship, private institution, public agency, library, or other entity, group, or person that has, or is identified with people who have, one or more of those characteristics listed in the definition of "hate crime" under paragraphs 1 to 6, inclusive, of Penal Code § 422.55(a).

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

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

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

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

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

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

**Nationality** - Nationality includes citizenship, country of origin, and national origin.

**Race or ethnicity** - Race or ethnicity includes ancestry, color, and ethnic background.

**Religion** - Religion includes all aspects of religious belief, observance, and practice and includes agnosticism and atheism.

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

**Victim** - Victim includes but is not limited to:

- Community center
- Educational facility
- Entity
- Family
- Group
- Individual
- Office
- Meeting hall
- Person
- Place of worship
- Private institution
- Public agency

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- Library
- Other victim or intended victim of the offense

### **321.2 POLICY**

It is the policy of this department to safeguard the rights of all individuals irrespective of their disability, gender, nationality, race or ethnicity, religion, sexual orientation, and/or association with a person or group with one or more of these actual or perceived characteristics. Any acts or threats of violence, property damage, harassment, intimidation, or other crimes motivated by hate or bias should be viewed very seriously and given high priority.

This department will employ reasonably available resources and vigorous law enforcement action to identify and arrest hate crime perpetrators. Also, recognizing the particular fears and distress typically suffered by victims, the potential for reprisal and escalation of violence, and the far-reaching negative consequences of these crimes on the community, this department should take all reasonable steps to attend to the security and related concerns of the immediate victims and their families as feasible.

All officers are required to be familiar with the policy and use reasonable diligence to carry out the policy unless directed by the Chief of Police or other command-level officer to whom the Chief of Police formally delegates this responsibility.

### **321.3 PLANNING AND PREVENTION**

In order to facilitate the guidelines contained within this policy, department members will continuously work to build and strengthen relationships with the community, engage in dialogue, and provide education to the community about this policy. Department personnel are also encouraged to learn about the inherent issues concerning their communities in relation to hate crimes.

Although hate incidents are not criminal events, they can be indicators of, or precursors to, hate crimes. Hate incidents should be investigated and documented as part of an overall strategy to prevent hate crimes.

#### **321.3.1 HATE CRIMES COORDINATOR**

A department member appointed by the Chief of Police or the authorized designee will serve as the Hate Crimes Coordinator. The responsibilities of the Hate Crimes Coordinator should include but not be limited to (Penal Code § 422.87):

- (a) Meeting with residents in target communities to allay fears; emphasizing the department's concern over hate crimes and related incidents; reducing the potential for counter-violence; and providing safety, security, and crime-prevention information. Cultural diversity education and immersion programs (if available) could facilitate this process.
- (b) Finding, evaluating, and monitoring public social media sources to identify possible suspects in reported hate crimes; to identify suspects or suspect groups in future hate

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crimes or hate incidents affecting individuals, groups, or communities that may be victimized; and to predict future hate-based events.

- (c) Providing direct and referral assistance to the victim and the victim's family.
- (d) Conducting public meetings on hate crime threats and violence in general.
- (e) Establishing relationships with formal community-based organizations and leaders.
- (f) Expanding, where appropriate, preventive programs such as hate, bias, and crime-reduction seminars for students.
- (g) Reviewing the Attorney General's latest opinion on hate crime statistics and targets in order to prepare and plan for future crimes, specifically for Arab/Middle Eastern and Muslim communities (Penal Code § 13519.6(b)(8)).
- (h) Providing orientation of and with communities of specific targeted victims such as immigrants, Muslims, Arabs, LGBTQ, black or African-American, Jewish, Sikh, and persons with disabilities.
- (i) Coordinating with the Chief of Police or his designee to include in a training plan recognition of hate crime bias characteristics, including information on general underreporting of hate crimes.
- (j) Verifying a process is in place to provide this policy and related orders to officers in the field; and taking reasonable steps to rectify the situation if such a process is not in place.
- (k) Taking reasonable steps to ensure hate crime data is provided to the Records Division for mandated reporting to the Department of Justice.
- (l) Reporting any suspected multi-mission extremist crimes to the agency Terrorism Liaison Officer, the assigned designee, or other appropriate resource; and verifying that such data is transmitted to the Joint Regional Information Exchange System in accordance with the protocols of the Records Division Policy.
- (m) Maintaining the department's supply of up-to-date hate crimes brochures (Penal Code § 422.92; Penal Code § 422.87).
- (n) Annually assessing this policy, including:
  - 1. Keeping abreast of the Commission on Peace Officer Standards and Training (POST) model policy framework for hate crimes for revisions or additions, including definitions, responsibilities, training resources, and planning and prevention methods.
  - 2. Analysis of the department's data collection as well as the available outside data (e.g., annual California Attorney General's report on hate crime) in preparation for and response to future hate crimes.

#### 321.3.2 RELEASE OF INFORMATION

Establishing a relationship with stakeholders, before any incident occurs, to develop a network and protocol for disclosure often assists greatly in any disclosure.

The benefit of public disclosure of hate crime incidents includes:



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- (a) Dissemination of correct information.
- (b) Assurance to affected communities or groups that the matter is being properly and promptly investigated.
- (c) The ability to request information regarding the commission of the crimes from the victimized community.

Information or records relating to hate crimes subject to public disclosure shall be released as provided by the Records Maintenance and Release Policy or as allowed by law. In accordance with the Media Relations Policy, the supervisor, public information officer, or the authorized designee should be provided with information that can be responsibly reported to the media. When appropriate, the department spokesperson should reiterate that hate crimes will not be tolerated, will be investigated seriously, and will be prosecuted to the fullest extent of the law.

The Department should consider the following when releasing information to the public regarding hate crimes and hate incidents that have been reported within the jurisdiction:

- Inform community organizations in a timely manner when a community group has been the target of a hate crime.
- Inform the community of the impact of these crimes on the victim, the victim's family, and the community, and of the assistance and compensation available to victims.
- Inform the community regarding hate crime law and the legal rights of, and remedies available to, victims of hate crimes.
- Provide the community with ongoing information regarding hate crimes and/or hate incidents.

### **321.4 RESPONSE, VICTIM ASSISTANCE, AND FOLLOW-UP**

#### **321.4.1 INITIAL RESPONSE**

First responding officers should know the role of all department personnel as they relate to the department's investigation of hate crimes and/or incidents. Responding officers should evaluate the need for additional assistance and, working with supervision and/or investigations, access needed assistance if applicable.

At the scene of a suspected hate or bias crime, officers should take preliminary actions reasonably deemed necessary, including but not limited to the following:

- (a) Use agency checklist (per Penal Code § 422.87) to assist in the investigation of any hate crime (see Appendix).
- (b) Stabilize the victims and request medical attention when necessary.
- (c) Properly protect the safety of victims, witnesses, and perpetrators.
  - 1. Assist victims in seeking a Temporary Restraining Order (if applicable).
- (d) Notify other appropriate personnel in the chain of command, depending on the nature and seriousness of the offense and its potential inflammatory and related impact on the community.

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- (e) Properly protect, preserve, and process the crime scene, and remove all physical evidence of the incident as soon as possible after the offense is documented. If evidence of an inflammatory nature cannot be physically removed, the property owner should be contacted to facilitate removal or covering as soon as reasonably possible. Department personnel should follow up with the property owner to determine if this was accomplished in a timely manner.
- (f) Collect and photograph physical evidence or indicators of hate crimes such as:
  - 1. Hate literature.
  - 2. Spray paint cans.
  - 3. Threatening letters.
  - 4. Symbols used by hate groups.
- (g) Identify criminal evidence on the victim.
- (h) Request the assistance of translators or interpreters when needed to establish effective communication with witnesses, victims, or others as appropriate.
- (i) Conduct a preliminary investigation and record pertinent information including but not limited to:
  - 1. Identity of suspected perpetrators.
  - 2. Identity of witnesses, including those no longer at the scene.
  - 3. The offer of victim confidentiality per Government Code § 5264.
  - 4. Prior occurrences in this area or with this victim.
  - 5. Statements made by suspects; exact wording is critical.
  - 6. The victim's protected characteristics and determine if bias was a motivation "in whole or in part" in the commission of the crime.
- (j) Adhere to Penal Code § 422.93, which protects hate crime victims and witnesses from being reported to federal immigration authorities if they have not committed any crime under state law.
- (k) Provide information regarding immigration remedies available to victims of crime (e.g., U-Visa, T-Visa, S-Visa).
- (l) Provide the department's Hate Crimes Brochure (per Penal Code § 422.92) if asked, if necessary, or per policy.
- (m) Utilize proper techniques for interviewing people with disabilities and be aware of and provide appropriate accommodations (e.g., ADA standards, Braille, visuals, translators for the deaf or hard of hearing).
- (n) Document any suspected multi-mission extremist crimes.

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### 321.4.2 INVESTIGATION

Investigators at the scene of, or performing follow-up investigation on, a suspected hate or bias crime or hate incident should take all actions deemed reasonably necessary, including but not limited to the following:

- (a) Consider typologies of perpetrators of hate crimes and incidents, including but not limited to thrill, reactive/defensive, and mission (hard core).
- (b) Utilize investigative techniques and methods to handle hate crimes or hate incidents in a professional manner.
- (c) Utilize proper techniques for interviewing people with disabilities and be aware of and provide appropriate accommodations (e.g., ADA standards, Braille, visuals, translators for the deaf or hard of hearing).
- (d) Properly investigate any report of a hate crime committed under the color of authority per Penal Code § 422.6 and Penal Code § 13519.6.
- (e) Document physical evidence or indicators of hate crimes, in accordance with the provisions of the Property and Evidence Policy, such as:
  - 1. Hate literature.
  - 2. Spray paint cans.
  - 3. Threatening letters.
  - 4. Symbols used by hate groups.
  - 5. Desecration of religious symbols, objects, or buildings.
- (f) Request the assistance of translators or interpreters when needed to establish effective communication.
- (g) Conduct a preliminary investigation and record information regarding:
  - 1. Identity of suspected perpetrators.
  - 2. Identity of witnesses, including those no longer at the scene.
  - 3. Offer of victim confidentiality per Government Code § 5264.
  - 4. Prior occurrences, in this area or with this victim.
  - 5. Statements made by suspects; exact wording is critical.
  - 6. Document the victim's protected characteristics.
- (h) Provide victim assistance and follow-up.
- (i) Canvass the area for additional witnesses.
- (j) Examine suspect's social media activity for potential evidence of bias motivation.
- (k) Coordinate the investigation with department, state, and regional intelligence operations. These sources can provide the investigator with an analysis of any patterns, organized hate groups, and suspects potentially involved in the offense.

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### *Hate Crimes*

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- (l) Coordinate the investigation with the crime scene investigation unit (if applicable) or other appropriate units of the Department.
- (m) Determine if the incident should be classified as a hate crime.
- (n) Take reasonable steps to provide appropriate assistance to hate crime victims, including the following measures:
  - 1. Contact victims periodically to determine whether they are receiving adequate and appropriate assistance.
  - 2. Provide ongoing information to victims about the status of the criminal investigation.
  - 3. Provide victims and any other interested persons the brochure on hate crimes per Penal Code § 422.92 and information on any local advocacy groups (if asked).
- (o) Document any suspected multi-mission extremist crimes.
- (p) Coordinate with other law enforcement agencies in the area to assess patterns of hate crimes and/or hate incidents, and determine if organized hate groups are involved.

#### 321.4.3 SUPERVISION

The supervisor shall confer with the initial responding officer and take reasonable steps to ensure that necessary preliminary actions have been taken. The supervisor shall request any appropriate personnel necessary to accomplish the following:

- (a) Provide immediate assistance to the crime victim by:
  - 1. Expressing the department's official position on the importance of these cases and the measures that will be taken to apprehend the perpetrators.
  - 2. Expressing the department's interest in protecting victims' anonymity (confidentiality forms, Government Code § 6254) to the extent reasonably possible. Allow the victims to convey their immediate concerns and feelings.
  - 3. Identifying individuals or agencies that may provide victim assistance and support. Local victim assistance resources may include family members or close acquaintances, clergy, or a department chaplain, as well as community service agencies that provide shelter, food, clothing, child care, or other related services (per Penal Code § 422.92).
- (b) Take reasonable steps to ensure that all relevant facts are documented on an incident and/or arrest report and make an initial determination as to whether the incident should be classified as a hate crime for federal and state bias-crimes reporting purposes.
- (c) Notify other appropriate personnel in the chain of command, depending on the nature and seriousness of the offense and its potential inflammatory and related impact on the community.
- (d) In cases of large-scale hate crime waves, or in circumstances where the potential exists for subsequent hate crimes or incidents, consider directing resources to protect vulnerable sites (such as assigning an officer to specific locations that could become targets).

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### *Hate Crimes*

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- (e) Verify hate crimes are being properly reported, including reporting to the Department of Justice, pursuant to Penal Code § 13023.
- (f) Verify adherence to Penal Code § 422.93, which protects hate crime victims and witnesses from being reported to federal immigration authorities if they have not committed any crime under state law. Supervisors should also be aware of the immigration remedies available to victims of crime (e.g., U-Visa, T-Visa, S-Visa).
- (g) Respond to and properly initiate an investigation of any reports of hate crimes committed under the color of authority.
- (h) Provide appropriate assistance, including activating the California Department of Justice hate crime rapid response protocol if necessary. For additional information refer to the California Department of Justice website.
- (i) Verify reporting of any suspected multi-mission extremist crimes to the agency Hate Crimes Coordinator.
- (j) Make a final determination as to whether the incident should be classified as a hate crime and forward to the Chief of Police for approval.

#### **321.5 TRAINING**

All members of this department will receive POST-approved training on hate crime recognition and investigation as provided by Penal Code § 13519.6. Training should include (Penal Code § 422.87):

- (a) Recognition of bias motivators such as ranges of attitudes and perceptions toward a specific characteristic or group, including disability bias and gender bias.
- (b) Accurate reporting by officers, including information on the general underreporting of hate crimes.
- (c) Distribution of hate crime brochures.

#### **321.6 APPENDIX**

See attachments:

[Statutes and Legal Requirements.pdf](#)

[Hate Crime Checklist.pdf](#)

## **Attachments**

## **Statutes and Legal Requirements.pdf**

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## Statutes and Legal Requirements

Items listed in this section include sections from the California Penal Code (CPC), Welfare and Institutions Code (WI) and Government Code (GC).

### *Definitions*

CPC 422.55 - Provides general definition of hate crimes in California.

CPC 422.56- Provides definitions of terms included in hate crimes statutes.

GC 12926- Disability-related definitions applicable to some hate crime statutes.

## Felonies

### *Hate Crimes*

CPC 422.7 - Commission of a crime for the purpose of interfering with another's exercise of civil rights.

### *Related Crimes*

CPC 190.2(a)(16) - Homicide penalties related to certain hate crime related acts.

CPC 190.03(a) - Homicide penalties related to certain hate crime related acts.

CPC 288(b)(2) - Sexual assault of dependent person by caretaker

CPC 368(b) - Dependent adult abuse generally - may apply as disability-related hate crime.

CPC 594.3 - Vandalism of places of worship.

CPC 11412 - Causing or attempting to cause other to refrain from exercising religion by threat.

CPC 11413 - Arson or destructive device at place of worship.

## Misdemeanors

### *Hate Crimes*

CPC 422.6 - Use of force, threats, or destruction of property to interfere with another's exercise of civil rights.

CPC 422.77 - Violation of civil order (Bane Act) protecting the exercise of civil rights

### *Related Crimes*

CPC 302 - Disorderly conduct during an assemblage of people gathered for religious worship at a tax-exempt place of worship.

CPC 538(c) - Unauthorized insertion of advertisements in newspapers and redistribution to the public.

CPC 640.2 - Placing handbill, notice of advertisement on a consumer product or product packaged without authorization.

CPC 11411 - Terrorism of owner or occupant of real property. Placement or display of sign, symbol, or other physical impression without authorization, engagement in pattern of conduct, or burning or desecration of religious symbols.



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## Enhancements

**CPC 190.2(a)(16)** - Special circumstances imposing the Death Penalty or Life Without Possibility of Parole, if the victim was intentionally killed because of sexual orientation, gender, or disability.

**CPC 190.3** - Special circumstances imposing LWOP if the victim was intentionally killed because of sexual orientation, gender, or disability.

**CPC 422.75** - Penalty for felony committed because of victim's race, color, religion, nationality, country or origin, ancestry, disability, or sexual orientation shall be enhanced one, two, or three years in prison, if the person acts alone; and two, three, or four years if the person commits the act with another.

**CPC 1170.8** - Enhancement for robbery or assault at a place of worship.

**CPC 1170.85(b)** - Felony assault or battery enhancement due to age or disability.

## Reporting

**CPC 13023**- Requirement for law enforcement agencies to report hate crime data to DOJ.

**WI 15630** – Elder and Dependent Adult Abuse Mandated Reporting (may apply in disability-related hate crimes).

## Training and Policy Requirements

**CPC 422.87** - Hate crimes policy adoption and update requirements (AB 1985, Effective January 1, 2019).

**CPC 13519.6** - Defines hate crime training requirements for peace officers.

**CPC 13519.41** - Training requirements on sexual orientation and gender identity-related hate crimes for peace officers and dispatchers (AB 2504, Effective January 1, 2019).

## Miscellaneous Provisions

**CPC 422.78** - Responsibility for prosecution of stay away order violations.

**CPC 422.86** - Public policy regarding hate crimes.

**CPC 422.89** - Legislative intent regarding violations of civil rights and hate crimes

**CPC 422.92** - Hate crimes victims brochure requirement for law enforcement agencies.

**CPC 422.93** - Protection of victims and witnesses from being reported to immigration authorities.

**GC 6254** - Victim confidentiality.

## **Hate Crime Checklist.pdf**

# HATE CRIME CHECKLIST

Page \_\_\_\_\_ of \_\_\_\_\_

<b>VICTIM</b>	<p style="text-align: center;"><b><u>Victim Type:</u></b></p> <p><input type="checkbox"/> <b>Individual</b> Legal name (Last, First): _____ Other Names used (AKA): _____</p> <p><input type="checkbox"/> <b>School, business or organization</b> Name: _____ Type: _____ <small>(e.g., non-profit, private, public school)</small> Address: _____</p> <p><input type="checkbox"/> <b>Faith-based organization</b> Name: _____ Faith: _____ Address: _____</p>	<p style="text-align: center;"><b><u>Target of Crime (Check all that apply):</u></b></p> <p><input type="checkbox"/> Person    <input type="checkbox"/> Private property    <input type="checkbox"/> Public property</p> <p><input type="checkbox"/> Other _____</p> <p style="text-align: center;"><b><u>Nature of Crime (Check all that apply):</u></b></p> <p><input type="checkbox"/> Bodily injury                      <input type="checkbox"/> Threat of violence</p> <p><input type="checkbox"/> Property damage</p> <p><input type="checkbox"/> Other crime: _____</p> <p>Property damage - estimated value _____</p>
<b>BIAS</b>	<p style="text-align: center;"><b><u>Type of Bias</u></b> <b><u>(Check all characteristics that apply):</u></b></p> <p><input type="checkbox"/> Disability</p> <p><input type="checkbox"/> Gender</p> <p><input type="checkbox"/> Gender identity/expression</p> <p><input type="checkbox"/> Sexual orientation</p> <p><input type="checkbox"/> Race</p> <p><input type="checkbox"/> Ethnicity</p> <p><input type="checkbox"/> Nationality</p> <p><input type="checkbox"/> Religion</p> <p><input type="checkbox"/> Significant day of offense <small>(e.g., 9/11, holy days)</small></p> <p><input type="checkbox"/> Other: _____</p> <p>Specify disability (be specific): _____ _____</p>	<p style="text-align: center;"><b><u>Actual or Perceived Bias – Victim’s Statement:</u></b></p> <p><input type="checkbox"/> Actual bias [Victim actually has the indicated characteristic(s)].</p> <p><input type="checkbox"/> Perceived bias [Suspect believed victim had the indicated characteristic(s)]. <i>If perceived, explain the circumstances in narrative portion of Report.</i></p> <hr/> <p style="text-align: center;"><b><u>Reason for Bias:</u></b></p> <p><b>Do you feel you were targeted based on one of these characteristics?</b> <input type="checkbox"/> Yes    <input type="checkbox"/> No    <i>Explain in narrative portion of Report.</i></p> <p><b>Do you know what motivated the suspect to commit this crime?</b> <input type="checkbox"/> Yes    <input type="checkbox"/> No    <i>Explain in narrative portion of Report.</i></p> <p><b>Do you feel you were targeted because you associated yourself with an individual or a group?</b> <input type="checkbox"/> Yes    <input type="checkbox"/> No    <i>Explain in narrative portion of Report.</i></p> <p><b>Are there indicators the suspect is affiliated with a Hate Group (i.e., literature/tattoos)?</b> <input type="checkbox"/> Yes    <input type="checkbox"/> No    <i>Describe in narrative portion of Report.</i></p> <p><b>Are there Indicators the suspect is affiliated with a criminal street gang?</b> <input type="checkbox"/> Yes    <input type="checkbox"/> No    <i>Describe in narrative portion of Report.</i></p>
	<p style="text-align: center;"><b><u>Bias Indicators (Check all that apply):</u></b></p> <p><input type="checkbox"/> Hate speech                      <input type="checkbox"/> Acts/gestures                      <input type="checkbox"/> Property damage                      <input type="checkbox"/> Symbol used</p> <p><input type="checkbox"/> Written/electronic communication                      <input type="checkbox"/> Graffiti/spray paint                      <input type="checkbox"/> Other: _____</p> <p><i>Describe with exact detail in narrative portion of Report.</i></p>	
<b>HISTORY</b>	<p style="text-align: center;"><b><u>Relationship Between Suspect &amp; Victim:</u></b></p> <p>Suspect known to victim?    <input type="checkbox"/> Yes    <input type="checkbox"/> No</p> <p>Nature of relationship: _____</p> <p>Length of relationship: _____</p> <p><i>If Yes, describe in narrative portion of Report</i></p>	<p><input type="checkbox"/> Prior reported incidents with suspect? Total # _____</p> <p><input type="checkbox"/> Prior unreported incidents with suspect? Total # _____</p> <p>Restraining orders?    <input type="checkbox"/> Yes    <input type="checkbox"/> No</p> <p><i>If Yes, describe in narrative portion of Report</i></p> <p>Type of order: _____    Order/Case# _____</p>
<b>WEAPONS</b>	<p>Weapon(s) used during incident?    <input type="checkbox"/> Yes    <input type="checkbox"/> No    Type: _____</p> <p>Weapon(s) booked as evidence?    <input type="checkbox"/> Yes    <input type="checkbox"/> No</p> <p>Automated Firearms System (AFS) Inquiry attached to Report?    <input type="checkbox"/> Yes    <input type="checkbox"/> No</p>	

# HATE CRIME CHECKLIST

Page \_\_\_\_\_ of \_\_\_\_\_

<b>EVIDENCE</b>	Witnesses present during incident? <input type="checkbox"/> Yes <input type="checkbox"/> No		Statements taken? <input type="checkbox"/> Yes <input type="checkbox"/> No	
	Evidence collected? <input type="checkbox"/> Yes <input type="checkbox"/> No Photos taken? <input type="checkbox"/> Yes <input type="checkbox"/> No Total # of photos: _____ D#: _____ Taken by: _____ Serial #: _____		Recordings: <input type="checkbox"/> Video <input type="checkbox"/> Audio <input type="checkbox"/> Booked Suspect identified: <input type="checkbox"/> Field ID <input type="checkbox"/> By photo <input type="checkbox"/> Known to victim	
<b>OBSERVATIONS</b>	<b><u>VICTIM</u></b>		<b><u>SUSPECT</u></b>	
	<input type="checkbox"/> Tattoos <input type="checkbox"/> Shaking <input type="checkbox"/> Unresponsive <input type="checkbox"/> Crying <input type="checkbox"/> Scared <input type="checkbox"/> Angry <input type="checkbox"/> Fearful <input type="checkbox"/> Calm <input type="checkbox"/> Agitated <input type="checkbox"/> Nervous <input type="checkbox"/> Threatening <input type="checkbox"/> Apologetic <input type="checkbox"/> Other observations: _____		<input type="checkbox"/> Tattoos <input type="checkbox"/> Shaking <input type="checkbox"/> Unresponsive <input type="checkbox"/> Crying <input type="checkbox"/> Scared <input type="checkbox"/> Angry <input type="checkbox"/> Fearful <input type="checkbox"/> Calm <input type="checkbox"/> Agitated <input type="checkbox"/> Nervous <input type="checkbox"/> Threatening <input type="checkbox"/> Apologetic <input type="checkbox"/> Other observations: _____	
	<b><u>ADDITIONAL QUESTIONS (Explain all boxes marked "Yes" in narrative portion of report):</u></b>			
	Has suspect ever threatened you? <input type="checkbox"/> Yes <input type="checkbox"/> No Has suspect ever harmed you? <input type="checkbox"/> Yes <input type="checkbox"/> No Does suspect possess or have access to a firearm? <input type="checkbox"/> Yes <input type="checkbox"/> No Are you afraid for your safety? <input type="checkbox"/> Yes <input type="checkbox"/> No Do you have any other information that may be helpful? <input type="checkbox"/> Yes <input type="checkbox"/> No			
<b><u>Resources offered at scene:</u></b> <input type="checkbox"/> Yes <input type="checkbox"/> No Type: _____				
<b>MEDICAL</b>	<b><u>Victim</u></b> <b><u>Suspect</u></b> <input type="checkbox"/> <input type="checkbox"/> Declined medical treatment <input type="checkbox"/> <input type="checkbox"/> Will seek own medical treatment <input type="checkbox"/> <input type="checkbox"/> Received medical treatment Authorization to Release Medical Information, Form 05.03.00, signed? <input type="checkbox"/> Yes <input type="checkbox"/> No		<b><u>Paramedics at scene?</u></b> <input type="checkbox"/> Yes <input type="checkbox"/> No Unit # _____ Name(s)/ID #: _____ Hospital: _____ Jail Dispensary: _____ Physician/Doctor: _____ Patient #: _____	
	Officer (Name/Rank) _____		Date _____	
Officer (Name/Rank) _____		Date _____		
Supervisor Approving (Name/Rank) _____		Date _____		
95				

## Bias-Based Policing

### 401.1 PURPOSE AND SCOPE

This policy provides guidance to department members that affirms the Merced Police Department's commitment to policing that is fair and objective.

Nothing in this policy prohibits the use of specified characteristics in law enforcement activities designed to strengthen the department's relationship with its diverse communities (e.g., cultural and ethnicity awareness training, youth programs, community group outreach, partnerships).

#### 401.1.1 DEFINITIONS

Definitions related to this policy include:

**Bias-based policing** - An inappropriate reliance on characteristics such as race, ethnicity, national origin, religion, sex, sexual orientation, gender identity or expression, economic status, age, cultural group, disability or affiliation with any non-criminal group (protected characteristics) as the basis for providing differing law enforcement service or enforcement (Penal Code § 13519.4).

### 401.2 POLICY

The Merced Police Department is committed to providing law enforcement services to the community with due regard for the racial, cultural or other differences of those served. It is the policy of this department to provide law enforcement services and to enforce the law equally, fairly, objectively and without discrimination toward any individual or group.

### 401.3 BIAS-BASED POLICING PROHIBITED

Bias-based policing is strictly prohibited.

However, nothing in this policy is intended to prohibit an officer from considering protected characteristics in combination with credible, timely and distinct information connecting a person or people of a specific characteristic to a specific unlawful incident, or to specific unlawful incidents, specific criminal patterns or specific schemes.

#### 401.3.1 CALIFORNIA RELIGIOUS FREEDOM ACT

Members shall not collect information from a person based on religious belief, practice, affiliation, national origin or ethnicity unless permitted under state or federal law (Government Code § 8310.3).

Members shall not assist federal government authorities (Government Code § 8310.3):

- (a) In compiling personal information about a person's religious belief, practice, affiliation, national origin or ethnicity.
- (b) By investigating, enforcing or assisting with the investigation or enforcement of any requirement that a person register with the federal government based on religious belief, practice, or affiliation, or national origin or ethnicity.

## *Bias-Based Policing*

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### **401.4 MEMBER RESPONSIBILITIES**

Every member of this department shall perform his/her duties in a fair and objective manner and is responsible for promptly reporting any suspected or known instances of bias-based policing to a supervisor. Members should, when reasonable to do so, intervene to prevent any biased-based actions by another member.

#### **401.4.1 REASON FOR CONTACT**

Officers contacting a person shall be prepared to articulate sufficient reason for the contact, independent of the protected characteristics of the individual.

To the extent that written documentation would otherwise be completed (e.g., arrest report, field interview (FI) card), the involved officer should include those facts giving rise to the contact, as applicable.

Except for required data-collection forms or methods, nothing in this policy shall require any officer to document a contact that would not otherwise require reporting.

#### **401.4.2 REPORTING TRAFFIC STOPS**

Each time an officer makes a traffic stop, the officer shall report any information required in the Traffic Function and Responsibility Policy.

#### **401.4.3 REPORTING OF STOPS**

Unless an exception applies under 11 CCR 999.227, an officer conducting a stop of a person shall collect the data elements required by 11 CCR 999.226 for every person stopped and prepare a stop data report. When multiple officers conduct a stop, the officer with the highest level of engagement with the person shall collect the data elements and prepare the report (11 CCR 999.227).

If multiple agencies are involved in a stop and the Merced Police Department is the primary agency, the Merced Police Department officer shall collect the data elements and prepare the stop data report (11 CCR 999.227).

The stop data report should be completed by the end of the officer's shift or as soon as practicable (11 CCR 999.227).

### **401.5 SUPERVISOR RESPONSIBILITIES**

Supervisors should monitor those individuals under their command for compliance with this policy and shall handle any alleged or observed violations in accordance with the Personnel Complaints Policy.

- (a) Supervisors should discuss any issues with the involved officer and his/her supervisor in a timely manner.
  - 1. Supervisors should document these discussions, in the prescribed manner.
- (b) Supervisors should periodically review MAV recordings, portable audio/video recordings, Mobile Data Terminal (MDT) data and any other available resource used

# Merced Police Department

## Merced PD Policy Manual

### *Bias-Based Policing*

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to document contact between officers and the public to ensure compliance with the policy.

1. Supervisors should document these periodic reviews.
  2. Recordings or data that capture a potential instance of bias-based policing should be appropriately retained for administrative investigation purposes.
- (c) Supervisors shall initiate investigations of any actual or alleged violations of this policy.
- (d) Supervisors should take prompt and reasonable steps to address any retaliatory action taken against any member of this department who discloses information concerning bias-based policing.

#### **401.6 ADMINISTRATION**

Each year, the Patrol Division Captain should review the efforts of the Department to provide fair and objective policing and submit an annual report, including public concerns and complaints, to the Chief of Police.

The annual report should not contain any identifying information about any specific complaint, member of the public or officers. It should be reviewed by the Chief of Police to identify any changes in training or operations that should be made to improve service.

Supervisors should review the annual report and discuss the results with those they are assigned to supervise.

#### **401.7 TRAINING**

Training on fair and objective policing and review of this policy should be conducted as directed by the Training Division.

- (a) All sworn members of this department will be scheduled to attend Peace Officer Standards and Training (POST)-approved training on the subject of bias-based policing.
- (b) Pending participation in such POST-approved training and at all times, all members of this department are encouraged to familiarize themselves with and consider racial and cultural differences among members of this community.
- (c) Each sworn member of this department who received initial bias-based policing training will thereafter be required to complete an approved refresher course every five years, or sooner if deemed necessary, in order to keep current with changing racial, identity and cultural trends (Penal Code § 13519.4(i)).

#### **401.8 REPORTING TO CALIFORNIA DEPARTMENT OF JUSTICE**

The Internal Affairs Unit Manager shall ensure that all data required by the California Department of Justice (DOJ) regarding complaints of racial bias against officers is collected for required reporting to the DOJ (Penal Code § 13012; Penal Code § 13020).

# Merced Police Department

## Merced PD Policy Manual

### *Bias-Based Policing*

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Effective April 1, 2023, supervisors should ensure that data stop reports are provided to the Records Supervisor for required annual reporting to the DOJ (Government Code § 12525.5) (See Records Bureau Policy).



## Hostage and Barricade Incidents

### 407.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidelines for situations where officers have legal cause to contact, detain or arrest a person, and the person refuses to submit to the lawful requests of the officers by remaining in a structure or vehicle and/or by taking a hostage.

The scope of this policy is not intended to address all variables that officers encounter during their initial response or when a hostage or barricade situation has developed. This policy does not require or purport to recommend specific strategies or tactics for resolution as each incident is a dynamic and rapidly evolving event.

#### 407.1.1 DEFINITIONS

Definitions related to this policy include:

**Barricade situation** - An incident where a person maintains a position of cover or concealment and ignores or resists law enforcement personnel, and it is reasonable to believe the subject is armed with a dangerous or deadly weapon.

**Hostage situation** - An incident where it is reasonable to believe a person is:

- (a) Unlawfully held by a hostage-taker as security so that specified terms or conditions will be met.
- (b) Unlawfully held against his/her will under threat or actual use of force.

### 407.2 POLICY

It is the policy of the Merced Police Department to address hostage and barricade situations with due regard for the preservation of life and balancing the risk of injury, while obtaining the safe release of hostages, apprehending offenders and securing available evidence.

### 407.3 COMMUNICATION

When circumstances permit, initial responding officers should try to establish and maintain lines of communication with a barricaded person or hostage-taker. Officers should attempt to identify any additional subjects, inquire about victims and injuries, seek the release of hostages, identify time-sensitive demands or conditions and obtain the suspect's surrender.

When available, department-authorized negotiators should respond to the scene as soon as practicable and assume communication responsibilities. Negotiators are permitted to exercise flexibility in each situation based upon their training, the circumstances presented, suspect actions or demands and the available resources.

#### 407.3.1 EMERGENCY COMMUNICATIONS

Only an officer who has been designated by the District Attorney or Attorney General may use or authorize the use of an electronic amplifying or recording device to eavesdrop on or record,

## *Hostage and Barricade Incidents*

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or both, oral communication in response to an emergency situation involving a hostage or the barricading of a location, and only when (Penal Code § 633.8(b)):

- (a) The officer reasonably determines an emergency situation exists that involves the immediate danger of death or serious physical injury to any person within the meaning of 18 USC § 2518(7)(a)(i),
- (b) The officer reasonably determines that the emergency situation requires that eavesdropping on oral communication occur immediately, and
- (c) There are grounds upon which an order could be obtained pursuant to 18 USC § 2516(2).
- (d) An application for an order approving the eavesdropping and complying with the requirements of Penal Code § 629.50 is made within 48 hours of the beginning of the eavesdropping.
- (e) The contents of any oral communications overheard are recorded on tape or other comparable device.

### **407.4 FIRST RESPONDER CONSIDERATIONS**

First responding officers should promptly and carefully evaluate all available information to determine whether an incident involves, or may later develop into, a hostage or barricade situation.

The first responding officer should immediately request a supervisor's response as soon as it is determined that a hostage or barricade situation exists. The first responding officer shall assume the duties of the supervisor until relieved by a supervisor or a more qualified responder. The officer shall continually evaluate the situation, including the level of risk to officers, to the persons involved and to bystanders, and the resources currently available.

The handling officer should brief the arriving supervisor of the incident, including information about suspects and victims, the extent of any injuries, additional resources or equipment that may be needed, and current perimeters and evacuation areas.

#### **407.4.1 BARRICADE SITUATION**

Unless circumstances require otherwise, officers handling a barricade situation should attempt to avoid a forceful confrontation in favor of stabilizing the incident by establishing and maintaining lines of communication while awaiting the arrival of specialized personnel and trained negotiators. During the interim the following options, while not all-inclusive or in any particular order, should be considered:

- (a) Ensure injured persons are evacuated from the immediate threat area if it is reasonably safe to do so. Request medical assistance.
- (b) Request additional personnel, resources and equipment as needed (e.g., canine team, air support).
- (c) Evacuate uninjured persons in the immediate threat area if it is reasonably safe to do so.

## *Hostage and Barricade Incidents*

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- (d) Attempt or obtain a line of communication and gather as much information on the subject as possible, including weapons, other involved parties, additional hazards or injuries.
- (e) Evacuate bystanders, residents and businesses as appropriate. Check for injuries, the presence of other involved subjects, witnesses, evidence or additional information.
- (f) Determine the need for and notify the appropriate persons within and outside the Department, such as command officers and the Public Information Officer (PIO).
- (g) Establish a command post.

### **407.4.2 HOSTAGE SITUATION**

Officers presented with a hostage situation should attempt to avoid a forceful confrontation in favor of controlling the incident in anticipation of the arrival of specialized personnel and trained hostage negotiators. However, it is understood that hostage situations are dynamic and can require that officers react quickly to developing or changing threats. The following options, while not all-inclusive or in any particular order, should be considered:

- (a) Ensure injured persons are evacuated from the immediate threat area if it is reasonably safe to do so. Request medical assistance.
- (b) Assist hostages or potential hostages to escape if it is reasonably safe to do so. Hostages should be kept separated if practicable pending further interview.
- (c) Request additional personnel, resources and equipment as needed (e.g., canine team, air support).
- (d) Evacuate uninjured persons in the immediate threat area if it is reasonably safe to do so.
- (e) Attempt to obtain a line of communication and gather as much information about the suspect as possible, including any weapons, victims and their injuries, additional hazards, other involved parties and any other relevant intelligence information.
- (f) Evacuate bystanders, residents and businesses as appropriate. Check for injuries, the presence of other involved subjects, witnesses, evidence or additional information.
- (g) Determine the need for and notify the appropriate persons within and outside the Department, such as command officers and the PIO.

### **407.5 SUPERVISOR RESPONSIBILITIES**

Upon being notified that a hostage or barricade situation exists, the supervisor should immediately respond to the scene, assess the risk level of the situation, establish a proper chain of command and assume the role of Incident Commander until properly relieved. In addition, the following options should be considered:

- (a) Ensure injured persons are evacuated and treated by medical personnel.
- (b) Ensure the completion of necessary first responder responsibilities or assignments.
- (c) Request crisis negotiators, specialized units, additional personnel, resources or equipment as appropriate.

## *Hostage and Barricade Incidents*

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- (d) Establish a command post location as resources and circumstances permit.
- (e) Designate assistants who can help with information and documentation of the incident.
- (f) Ensure adequate law enforcement coverage for the remainder of the City during the incident. The supervisor should direct non-essential personnel away from the scene unless they have been summoned by the supervisor or the Communications Center.
- (g) Identify a media staging area outside the area and have the department Public Information Officer or a designated temporary media representative provide media access in accordance with the Media Relations Policy.
- (h) Identify the need for mutual aid and the transition or relief of personnel for incidents of extended duration.
- (i) Debrief personnel and review documentation as appropriate.

### **407.6 REPORTING**

Unless otherwise relieved by a supervisor or Incident Commander, the handling officer at the scene is responsible for completion and/or coordination of incident reports.

## Mental Illness Commitments

### 409.1 PURPOSE AND SCOPE

This policy provides guidelines for when officers may take a person into custody for psychiatric evaluation and treatment (5150 commitment) (Welfare and Institutions Code § 5150).

### 409.2 POLICY

It is the policy of the Merced Police Department to protect the public and individuals through legal and appropriate use of the 72-hour treatment and evaluation commitment (5150 commitment) process.

### 409.3 AUTHORITY

An officer having probable cause may take a person into custody and place the person in an approved mental health facility for 72-hour treatment and evaluation when the officer believes that, as a result of a mental disorder, the person is a danger to him/herself or others or the person is gravely disabled (Welfare and Institutions Code § 5150; Welfare and Institutions Code § 5585.50).

When determining whether to take a person into custody, officers are not limited to determining the person is an imminent danger and shall consider reasonably available information about the historical course of the person's mental disorder, which may include evidence presented from any of the following (Welfare and Institutions Code § 5150; Welfare and Institutions Code § 5150.05):

- (a) An individual who is providing or has provided mental health treatment or related support services to the person
- (b) A family member
- (c) The person subject to the determination or anyone designated by the person

#### 409.3.1 VOLUNTARY EVALUATION

If an officer encounters an individual who may qualify for a 5150 commitment, he/she may inquire as to whether the person desires to voluntarily be evaluated at an appropriate facility. If the person so desires, the officers should:

- (a) Transport the person to an appropriate facility that is able to conduct the evaluation and admit the person pursuant to a 5150 commitment.
- (b) If at any point the person changes his/her mind regarding voluntary evaluation, officers should proceed with the 5150 commitment, if appropriate.
- (c) Document the circumstances surrounding the individual's desire to pursue voluntary evaluation and/or admission.

### 409.4 CONSIDERATIONS AND RESPONSIBILITIES

Any officer handling a call involving an individual who may qualify for a 5150 commitment should consider, as time and circumstances reasonably permit:

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- (a) Available information that might assist in determining the cause and nature of the person's action or stated intentions.
- (b) Community or neighborhood mediation services.
- (c) Conflict resolution and de-escalation techniques.
- (d) Community or other resources available to assist in dealing with mental health issues.

While these steps are encouraged, nothing in this section is intended to dissuade officers from taking reasonable action to ensure the safety of the officers and others.

Officers should consider a 5150 commitment over arrest when mental health issues appear to be a mitigating factor for people who are suspected of committing minor crimes or creating other public safety issues.

### **409.4.1 SECURING OF PROPERTY**

When a person is taken into custody for evaluation, or within a reasonable time thereafter, and unless a responsible relative, guardian or conservator is in possession of the person's personal property, the officer shall take reasonable precautions to safeguard the individual's personal property in his/her possession or on the premises occupied by the person (Welfare and Institutions Code § 5150).

The officer taking the person into custody shall provide a report to the court that describes the person's property and its disposition in the format provided in Welfare and Institutions Code § 5211, unless a responsible person took possession of the property, in which case the officer shall only include the name of the responsible person and the location of the property (Welfare and Institutions Code § 5150).

### **409.5 TRANSPORTATION**

When transporting any individual for a 5150 commitment, the transporting officer should have the Communications Center notify the receiving facility of the estimated time of arrival, the level of cooperation of the individual and whether any special medical care is needed.

Officers may transport individuals in a patrol unit and shall secure them in accordance with the Handcuffing and Restraints Policy. Should the detainee require transport in a medical transport vehicle and the safety of any person, including the detainee, requires the presence of an officer during the transport, Shift Supervisor approval is required before transport commences.

### **409.6 TRANSFER TO APPROPRIATE FACILITY**

Upon arrival at the facility, the officer will escort the individual into a treatment area designated by a facility staff member. If the individual is not seeking treatment voluntarily, the officer should provide the staff member with the written application for a 5150 commitment and remain present to provide clarification of the grounds for detention, upon request.

Absent exigent circumstances, the transporting officer should not assist facility staff with the admission process, including restraint of the individual. However, if the individual is transported

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and delivered while restrained, the officer may assist with transferring the individual to facility restraints and will be available to assist during the admission process, if requested. Under normal circumstances, officers will not apply facility-ordered restraints.

### **409.7 DOCUMENTATION**

The officer shall complete an application for a 72-Hour detention for evaluation and treatment, provide it to the facility staff member assigned to that patient and retain a copy of the application for inclusion in the case report.

The application shall include the circumstances for officer involvement; the probable cause to believe the person is, as a result of a mental health disorder, a danger to others or him/herself or gravely disabled; and all information used for the determination of probable cause (Welfare and Institutions Code § 5150; Welfare and Institutions Code § 5150.05).

The officer should also provide a verbal summary to any evaluating staff member regarding the circumstances leading to the involuntary detention.

#### **409.7.1 ADVISEMENT**

The officer taking a person into custody for evaluation shall advise the person of:

- (a) The officer's name and agency.
- (b) The fact that the person is not under criminal arrest but is being taken for examination by mental health professionals and the mental health staff will advise him/her of their rights.
- (c) The name of the facility to which the person is being taken.
- (d) If the person is being taken into custody at his/her residence, he/she should also be advised that he/she may take a few personal items, which the officer must approve, and may make a telephone call or leave a note indicating where he/she is being taken. The officer should also ask if the person needs assistance turning off any appliance or water.

The advisement shall be given in a language the person understands. If the person cannot understand an oral advisement, the information shall be provided in writing (Welfare and Institutions Code § 5150).

### **409.8 CRIMINAL OFFENSES**

Officers investigating an individual who is suspected of committing a minor criminal offense and who is being taken on a 5150 commitment should resolve the criminal matter by issuing a warning or a Notice to Appear as appropriate.

When an individual who may qualify for a 5150 commitment has committed a serious criminal offense that would normally result in an arrest and transfer to a jail facility, the officer should:

- (a) Arrest the individual when there is probable cause to do so.

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- (b) Notify the appropriate supervisor of the facts supporting the arrest and the facts that would support the 5150 commitment.
- (c) Facilitate the individual's transfer to jail.
- (d) Thoroughly document in the related reports the circumstances that indicate the individual may qualify for a 5150 commitment.

In the supervisor's judgment, the individual may instead be arrested or booked and transported to the appropriate mental health facility. The supervisor should consider the seriousness of the offense, the treatment options available, the ability of this department to regain custody of the individual, department resources (e.g., posting a guard) and other relevant factors in making this decision.

### **409.9 FIREARMS AND OTHER WEAPONS**

Whenever a person is taken into custody for a 5150 commitment, the handling officers should seek to determine if the person owns or has access to any firearm or other deadly weapon defined in Welfare and Institutions Code § 8100. Officers should consider whether it is appropriate and consistent with current search and seizure law under the circumstances to seize any such firearms or other dangerous weapons (e.g., safekeeping, evidence, consent).

Officers are cautioned that a search warrant may be needed before entering a residence or other place to search, unless lawful, warrantless entry has already been made (e.g., exigent circumstances, consent). A search warrant may also be needed before searching for or seizing weapons

The handling officers shall issue a receipt describing the deadly weapon or any firearm seized, and list any serial number or other identification that is on the firearm. Officers shall advise the person of the procedure for the return of any firearm or other weapon that has been taken into custody (Welfare and Institutions Code § 8102 (b)) (see Property and Evidence Policy).

#### **409.9.1 PETITION FOR RETURN OF FIREARMS AND OTHER WEAPONS**

Whenever the handling officer has cause to believe that the future return of any confiscated weapon might endanger the person or others, the officer shall detail those facts and circumstances in a report. The report shall be forwarded to the Investigative Bureau, which shall be responsible for initiating a petition to the Superior Court for a hearing in accordance with Welfare and Institutions Code § 8102(c), to determine whether the weapon will be returned.

The petition to the Superior Court shall be initiated within 30 days of the release of the individual from whom such weapon has been confiscated, unless the Department makes an ex parte application to the court to extend the time to file such a petition, up to a maximum of 60 days. At the time any such petition is initiated, the Department shall send written notice to the individual informing him/her of the right to a hearing on the issue, that he/she has 30 days to confirm with the court clerk any desire for a hearing and that the failure to do so will result in the forfeiture of any confiscated weapon.



## Contacts and Temporary Detentions

### 419.1 PURPOSE AND SCOPE

The purpose of this policy is to establish guidelines for temporarily detaining but not arresting persons in the field, conducting field interviews (FI) and pat-down searches, and the taking and disposition of photographs.

#### 419.1.1 DEFINITIONS

Definitions related to this policy include:

**Consensual encounter** - When an officer contacts an individual but does not create a detention through words, actions, or other means. In other words, a reasonable individual would believe that his/her contact with the officer is voluntary.

**Field interview** - The brief detainment of an individual, whether on foot or in a vehicle, based on reasonable suspicion for the purpose of determining the individual's identity and resolving the officer's suspicions.

**Field photographs** - Posed photographs taken of a person during a contact, temporary detention, or arrest in the field. Undercover surveillance photographs of an individual and recordings captured by the normal operation of a Mobile Audio Video (MAV) system, body-worn camera, or public safety camera when persons are not posed for the purpose of photographing are not considered field photographs.

**Pat-down search** - A type of search used by officers in the field to check an individual for dangerous weapons. It involves a thorough patting-down of clothing to locate any weapons or dangerous items that could pose a danger to the officer, the detainee, or others.

**Reasonable suspicion** - When, under the totality of the circumstances, an officer has articulable facts that criminal activity may be afoot and a particular person is connected with that possible criminal activity.

**Temporary detention** - When an officer intentionally, through words, actions, or physical force, causes an individual to reasonably believe he/she is required to restrict his/her movement without an actual arrest. Temporary detentions also occur when an officer actually restrains a person's freedom of movement.

### 419.2 POLICY

The Merced Police Department respects the right of the public to be free from unreasonable searches or seizures. Due to an unlimited variety of situations confronting the officer, the decision to temporarily detain a person and complete a field interview (FI), pat-down search, or field photograph shall be left to the officer based on the totality of the circumstances, officer safety considerations, and constitutional safeguards.

## *Contacts and Temporary Detentions*

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### **419.3 FIELD INTERVIEWS**

Based on observance of suspicious circumstances or upon information from investigation, an officer may initiate the stop of a person, and conduct an FI, when there is articulable, reasonable suspicion to do so. A person, however, shall not be detained longer than is reasonably necessary to resolve the officer's suspicion.

Nothing in this policy is intended to discourage consensual contacts. Frequent casual contact with consenting individuals is encouraged by the Merced Police Department to strengthen community involvement, community awareness, and problem identification.

#### **419.3.1 INITIATING A FIELD INTERVIEW**

When initiating the stop, the officer should be able to point to specific facts which, when considered with the totality of the circumstances, reasonably warrant the stop. Such facts include but are not limited to an individual's:

- (a) Appearance or demeanor suggesting that he/she is part of a criminal enterprise or is engaged in a criminal act
- (b) Actions suggesting that he/she is engaged in a criminal activity
- (c) Presence in an area at an inappropriate hour of the day or night
- (d) Presence in a particular area is suspicious
- (e) Carrying of suspicious objects or items
- (f) Excessive clothes for the climate or clothes bulging in a manner that suggest he/she is carrying a dangerous weapon
- (g) Location in proximate time and place to an alleged crime
- (h) Physical description or clothing worn that matches a suspect in a recent crime
- (i) Prior criminal record or involvement in criminal activity as known by the officer

### **419.4 PAT-DOWN SEARCHES**

Once a valid stop has been made, and consistent with the officer's training and experience, an officer may pat a suspect's outer clothing for weapons if the officer has a reasonable, articulable suspicion the suspect may pose a safety risk. The purpose of this limited search is not to discover evidence of a crime, but to allow the officer to pursue the investigation without fear of violence. Circumstances that may establish justification for performing a pat-down search include but are not limited to:

- (a) The type of crime suspected, particularly in crimes of violence where the use or threat of deadly weapons is involved.
- (b) Where more than one suspect must be handled by a single officer.
- (c) The hour of the day and the location or neighborhood where the stop takes place.
- (d) Prior knowledge of the suspect's use of force and/or propensity to carry weapons.
- (e) The actions and demeanor of the suspect.

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- (f) Visual indications which suggest that the suspect is carrying a firearm or other weapon.

Whenever practicable, a pat-down search should not be conducted by a lone officer. A cover officer should be positioned to ensure safety and should not be involved in the search.

### **419.5 FIELD PHOTOGRAPHS**

All available databases should be searched before photographing any field detainee. If a photograph is not located, or if an existing photograph no longer resembles the detainee, the officer shall carefully consider, among other things, the factors listed below.

#### **419.5.1 FIELD PHOTOGRAPHS TAKEN WITH CONSENT**

Field photographs may be taken when the subject being photographed knowingly and voluntarily gives consent. When taking a consensual photograph, the officer should have the individual read and sign the appropriate form accompanying the photograph.

#### **419.5.2 FIELD PHOTOGRAPHS TAKEN WITHOUT CONSENT**

Field photographs may be taken without consent only if they are taken during a detention that is based upon reasonable suspicion of criminal activity, and the photograph serves a legitimate law enforcement purpose related to the detention. The officer must be able to articulate facts that reasonably indicate that the subject was involved in or was about to become involved in criminal conduct. The subject should not be ordered to remove or lift any clothing for the purpose of taking a photograph.

If, prior to taking a photograph, the officer's reasonable suspicion of criminal activity has been dispelled, the detention must cease and the photograph should not be taken.

All field photographs and related reports shall be submitted to a supervisor and retained in compliance with this policy.

#### **419.5.3 DISPOSITION OF PHOTOGRAPHS**

All detainee photographs must be adequately labeled and submitted to the Shift Supervisor with either an associated FI card or other documentation explaining the nature of the contact. If an individual is photographed as a suspect in a particular crime, the photograph should be submitted as an evidence item in the related case, following standard evidence procedures.

If a photograph is not associated with an investigation where a case number has been issued, the Shift Supervisor should review and forward the photograph to one of the following locations:

- (a) If the photograph and associated FI or documentation is relevant to criminal organization/enterprise enforcement, the Shift Supervisor will forward the photograph and documents to the designated criminal intelligence system supervisor. The supervisor will ensure the photograph and supporting documents are retained as prescribed in the Criminal Organizations Policy.
- (b) Photographs that do not qualify for retention in a criminal intelligence system or temporary information file shall be forwarded to the Records Division.

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When a photograph is taken in association with a particular case, the investigator may use such photograph in a photo lineup. Thereafter, the individual photograph should be retained as a part of the case file. All other photographs shall be retained in accordance with the established records retention schedule.

### **419.5.4 SUPERVISOR RESPONSIBILITIES**

While it is recognized that field photographs often become valuable investigative tools, supervisors should monitor such practices in view of the above listed considerations. This is not to imply that supervisor approval is required before each photograph is taken.

Access to, and use of, field photographs shall be strictly limited to law enforcement purposes.

### **419.6 WITNESS IDENTIFICATION AND INTERVIEWS**

Because potential witnesses to an incident may become unavailable or the integrity of their statements compromised with the passage of time, officers should, when warranted by the seriousness of the case, take reasonable steps to promptly coordinate with an on-scene supervisor and/or criminal investigator to utilize available members for the following:

- (a) Identifying all persons present at the scene and in the immediate area.
  - 1. When feasible, a recorded statement should be obtained from those who claim not to have witnessed the incident but who were present at the time it occurred.
  - 2. Any potential witness who is unwilling or unable to remain available for a formal interview should not be detained absent reasonable suspicion to detain or probable cause to arrest. Without detaining the individual for the sole purpose of identification, officers should attempt to identify the witness prior to his/her departure.
- (b) Witnesses who are willing to provide a formal interview should be asked to meet at a suitable location where criminal investigators may obtain a recorded statement. Such witnesses, if willing, may be transported by Merced Police Department members.
  - 1. A written, verbal, or recorded statement of consent should be obtained prior to transporting a witness. When the witness is a minor, consent should be obtained from the parent or guardian, if available, prior to transport.

## Portable Audio/Video Recorders

### 423.1 PURPOSE AND SCOPE

This policy provides guidelines for the use of portable audio/video recording devices by members of this department while in the performance of their duties. Portable audio/video recording devices include all recording systems whether body-worn, hand held or integrated into portable equipment.

This policy does not apply to mobile audio/video recordings, interviews or interrogations conducted at any Merced Police Department facility, authorized undercover operations, wiretaps or eavesdropping (concealed listening devices).

### 423.2 POLICY

The Merced Police Department may provide members with access to portable recorders, either audio or video or both, for use during the performance of their duties. The use of recorders is intended to enhance the mission of the Department by accurately capturing contacts between members of the Department and the public.

### 423.3 MEMBER PRIVACY EXPECTATION

All recordings made by members on any department-issued device at any time, and any recording made while acting in an official capacity for this department, regardless of ownership of the device it was made on, shall remain the property of the Department. Members shall have no expectation of privacy or ownership interest in the content of these recordings.

### 423.4 MEMBER RESPONSIBILITIES

Prior to going into service, each uniformed member will be responsible for making sure that he/she is equipped with a portable recorder issued by the Department, and that the recorder is in good working order. If the recorder is not in working order or the member becomes aware of a malfunction at any time, the member shall promptly report the failure to his/her supervisor and obtain a functioning device as soon as reasonably practicable. Uniformed members should wear the recorder in a conspicuous manner or otherwise notify persons that they are being recorded, whenever reasonably practicable.

Any member assigned to a non-uniformed position may carry an approved portable recorder at any time the member believes that such a device may be useful. Unless conducting a lawful recording in an authorized undercover capacity, non-uniformed members should wear the recorder in a conspicuous manner when in use or otherwise notify persons that they are being recorded, whenever reasonably practicable.

When using a portable recorder, the assigned member shall record his/her name, MPD identification number and the current date and time at the beginning and the end of the shift or other period of use, regardless of whether any activity was recorded. This procedure is not required when the recording device and related software captures the user's unique identification and the date and time of each recording.

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Members should document the existence of a recording in any report or other official record of the contact, including any instance where the recorder malfunctioned or the member deactivated the recording. Members should include the reason for deactivation.

#### **423.4.1 SUPERVISOR RESPONSIBILITIES**

Supervisors should take custody of a portable audio/video recording device as soon as practicable when the device may have captured an incident involving the use of force, an officer-involved shooting or death or other serious incident, and ensure the data is downloaded (Penal Code § 832.18).

#### **423.5 ACTIVATION OF THE PORTABLE RECORDER**

This policy is not intended to describe every possible situation in which the portable recorder should be used, although there are many situations where its use is appropriate. Members should activate the recorder any time the member believes it would be appropriate or valuable to record an incident.

The portable recorder should be activated in any of the following situations:

- (a) All enforcement and investigative contacts including stops and field interview (FI) situations
- (b) Traffic stops including, but not limited to, traffic violations, stranded motorist assistance and all crime interdiction stops
- (c) Self-initiated activity in which a member would normally notify the Communications Center
- (d) Any other contact that becomes adversarial after the initial contact in a situation that would not otherwise require recording

Members should remain sensitive to the dignity of all individuals being recorded and exercise sound discretion to respect privacy by discontinuing recording whenever it reasonably appears to the member that such privacy may outweigh any legitimate law enforcement interest in recording. Requests by members of the public to stop recording should be considered using this same criterion. Recording should resume when privacy is no longer at issue unless the circumstances no longer fit the criteria for recording.

At no time is a member expected to jeopardize his/her safety in order to activate a portable recorder or change the recording media. However, the recorder should be activated in situations described above as soon as reasonably practicable.

#### **423.5.1 SURREPTITIOUS USE OF THE PORTABLE RECORDER**

Members of the Department may surreptitiously record any conversation during the course of a criminal investigation in which the member reasonably believes that such a recording will be lawful and beneficial to the investigation (Penal Code § 633).

Members shall not surreptitiously record another department member without a court order unless lawfully authorized by the Chief of Police or the authorized designee.

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### **423.5.2 CESSATION OF RECORDING**

Once activated, the portable recorder should remain on continuously until the member reasonably believes that his/her direct participation in the incident is complete or the situation no longer fits the criteria for activation. Recording may be stopped during significant periods of inactivity such as report writing or other breaks from direct participation in the incident.

Members shall cease audio recording whenever necessary to ensure conversations are not recorded between a person in custody and the person's attorney, religious advisor or physician, unless there is explicit consent from all parties to the conversation (Penal Code § 636).

### **423.5.3 EXPLOSIVE DEVICE**

Many portable recorders, including body-worn cameras and audio/video transmitters, emit radio waves that could trigger an explosive device. Therefore, these devices should not be used where an explosive device may be present.

### **423.6 PROHIBITED USE OF PORTABLE RECORDERS**

Members are prohibited from using department-issued portable recorders and recording media for personal use and are prohibited from making personal copies of recordings created while on-duty or while acting in their official capacity.

Members are also prohibited from retaining recordings of activities or information obtained while on-duty, whether the recording was created with department-issued or personally owned recorders. Members shall not duplicate or distribute such recordings, except for authorized legitimate department business purposes. All such recordings shall be retained at the Department.

Members are prohibited from using personally owned recording devices while on-duty without the express consent of the Shift Supervisor. Any member who uses a personally owned recorder for department-related activities shall comply with the provisions of this policy, including retention and release requirements, and should notify the on-duty supervisor of such use as soon as reasonably practicable.

Recordings shall not be used by any member for the purpose of embarrassment, harassment or ridicule.

### **423.6.1 PROHIBITED USE OF BIOMETRIC SURVEILLANCE SYSTEM**

The installation, activation, or use of biometric surveillance systems, including facial recognition, in connection with portable recorders is prohibited (Penal Code § 832.19).

### **423.7 IDENTIFICATION AND PRESERVATION OF RECORDINGS**

To assist with identifying and preserving data and recordings, members should download, tag or mark these in accordance with procedure and document the existence of the recording in any related case report.

A member should transfer, tag or mark recordings when the member reasonably believes:

- (a) The recording contains evidence relevant to potential criminal, civil or administrative matters.

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- (b) A complainant, victim or witness has requested non-disclosure.
- (c) A complainant, victim or witness has not requested non-disclosure but the disclosure of the recording may endanger the person.
- (d) Disclosure may be an unreasonable violation of someone's privacy.
- (e) Medical or mental health information is contained.
- (f) Disclosure may compromise an undercover officer or confidential informant.

Any time a member reasonably believes a recorded contact may be beneficial in a non-criminal matter (e.g., a hostile contact), the member should promptly notify a supervisor of the existence of the recording.

#### **423.8 REVIEW OF RECORDED MEDIA FILES**

When preparing written reports, members should review their recordings as a resource (see the Officer-Involved Shootings and Deaths Policy for guidance in those cases). However, members shall not retain personal copies of recordings. Members should not use the fact that a recording was made as a reason to write a less detailed report.

Supervisors are authorized to review relevant recordings any time they are investigating alleged misconduct or reports of meritorious conduct or whenever such recordings would be beneficial in reviewing the member's performance.

Recorded files may also be reviewed:

- (a) Upon approval by a supervisor, by any member of the Department who is participating in an official investigation, such as a personnel complaint, administrative investigation or criminal investigation.
- (b) Pursuant to lawful process or by court personnel who are otherwise authorized to review evidence in a related case.
- (c) By media personnel with permission of the Chief of Police or the authorized designee.
- (d) In compliance with a public records request, if permitted, and in accordance with the Records Maintenance and Release Policy.

All recordings should be reviewed by the Custodian of Records prior to public release (see the Records Maintenance and Release Policy). Recordings that unreasonably violate a person's privacy or sense of dignity should not be publicly released unless disclosure is required by law or order of the court.

#### **423.9 COORDINATOR**

The Chief of Police or the authorized designee shall appoint a member of the Department to coordinate the use and maintenance of portable audio/video recording devices and the storage of recordings, including (Penal Code § 832.18):

- (a) Establishing a system for downloading, storing and security of recordings.



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- (b) Designating persons responsible for downloading recorded data.
- (c) Establishing a maintenance system to ensure availability of operable portable audio/video recording devices.
- (d) Establishing a system for tagging and categorizing data according to the type of incident captured.
- (e) Establishing a system to prevent tampering, deleting and copying recordings and ensure chain of custody integrity.
- (f) Working with counsel to ensure an appropriate retention schedule is being applied to recordings and associated documentation.
- (g) Maintaining logs of access and deletions of recordings.

### **423.10 RETENTION OF RECORDINGS**

Recordings of the following should be retained for a minimum of two years (Penal Code § 832.18):

- (a) Incidents involving use of force by an officer
- (b) Officer-involved shootings
- (c) Incidents that lead to the detention or arrest of an individual
- (d) Recordings relevant to a formal or informal complaint against an officer or the Merced Police Department

Recordings containing evidence that may be relevant to a criminal prosecution should be retained for any additional period required by law for other evidence relevant to a criminal prosecution (Penal Code § 832.18).

All other recordings should be retained for a period consistent with the requirements of the organization's records retention schedule but in no event for a period less than 180 days.

Records or logs of access and deletion of recordings should be retained permanently (Penal Code § 832.18).

#### **423.10.1 RELEASE OF AUDIO/VIDEO RECORDINGS**

Requests for the release of audio/video recordings shall be processed in accordance with the Records Maintenance and Release Policy.

## Crisis Intervention Incidents

### 430.1 PURPOSE AND SCOPE

This policy provides guidelines for interacting with those who may be experiencing a mental health or emotional crisis. Interaction with such individuals has the potential for miscommunication and violence. It often requires an officer to make difficult judgments about a person's mental state and intent in order to effectively and legally interact with the individual.

#### 430.1.1 DEFINITIONS

Definitions related to this policy include:

**Person in crisis** - A person whose level of distress or mental health symptoms have exceeded the person's internal ability to manage his/her behavior or emotions. A crisis can be precipitated by any number of things, including an increase in the symptoms of mental illness despite treatment compliance; non-compliance with treatment, including a failure to take prescribed medications appropriately; or any other circumstance or event that causes the person to engage in erratic, disruptive or dangerous behavior that may be accompanied by impaired judgment.

### 430.2 POLICY

The Merced Police Department is committed to providing a consistently high level of service to all members of the community and recognizes that persons in crisis may benefit from intervention. The Department will collaborate, where feasible, with mental health professionals to develop an overall intervention strategy to guide its members' interactions with those experiencing a mental health crisis. This is to ensure equitable and safe treatment of all involved.

### 430.3 SIGNS

Members should be alert to any of the following possible signs of mental health issues or crises:

- (a) A known history of mental illness
- (b) Threats of or attempted suicide
- (c) Loss of memory
- (d) Incoherence, disorientation or slow response
- (e) Delusions, hallucinations, perceptions unrelated to reality or grandiose ideas
- (f) Depression, pronounced feelings of hopelessness or uselessness, extreme sadness or guilt
- (g) Social withdrawal
- (h) Manic or impulsive behavior, extreme agitation, lack of control
- (i) Lack of fear
- (j) Anxiety, aggression, rigidity, inflexibility or paranoia

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Members should be aware that this list is not exhaustive. The presence or absence of any of these should not be treated as proof of the presence or absence of a mental health issue or crisis.

### **430.4 COORDINATION WITH MENTAL HEALTH PROFESSIONALS**

The Chief of Police should designate an appropriate Division Captain to collaborate with mental health professionals to develop an education and response protocol. It should include a list of community resources, to guide department interaction with those who may be suffering from mental illness or who appear to be in a mental health crisis.

### **430.5 FIRST RESPONDERS**

Safety is a priority for first responders. It is important to recognize that individuals under the influence of alcohol, drugs or both may exhibit symptoms that are similar to those of a person in a mental health crisis. These individuals may still present a serious threat to officers; such a threat should be addressed with reasonable tactics. Nothing in this policy shall be construed to limit an officer's authority to use reasonable force when interacting with a person in crisis.

Officers are reminded that mental health issues, mental health crises and unusual behavior alone are not criminal offenses. Individuals may benefit from treatment as opposed to incarceration.

An officer responding to a call involving a person in crisis should:

- (a) Promptly assess the situation independent of reported information and make a preliminary determination regarding whether a mental health crisis may be a factor.
- (b) Request available backup officers and specialized resources as deemed necessary and, if it is reasonably believed that the person is in a crisis situation, use conflict resolution and de-escalation techniques to stabilize the incident as appropriate.
- (c) If feasible, and without compromising safety, turn off flashing lights, bright lights or sirens.
- (d) Attempt to determine if weapons are present or available.
  - 1. Prior to making contact, and whenever possible and reasonable, conduct a search of the Department of Justice Automated Firearms System via the California Law Enforcement Telecommunications System (CLETS) to determine whether the person is the registered owner of a firearm (Penal Code § 11106.4).
- (e) Take into account the person's mental and emotional state and potential inability to understand commands or to appreciate the consequences of his/her action or inaction, as perceived by the officer.
- (f) Secure the scene and clear the immediate area as necessary.
- (g) Employ tactics to preserve the safety of all participants.
- (h) Determine the nature of any crime.
- (i) Request a supervisor, as warranted.
- (j) Evaluate any available information that might assist in determining cause or motivation for the person's actions or stated intentions.

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- (k) If circumstances reasonably permit, consider and employ alternatives to force.

### **430.6 DE-ESCALATION**

Officers should consider that taking no action or passively monitoring the situation may be the most reasonable response to a mental health crisis.

Once it is determined that a situation is a mental health crisis and immediate safety concerns have been addressed, responding members should be aware of the following considerations and should generally:

- Evaluate safety conditions.
- Introduce themselves and attempt to obtain the person's name.
- Be patient, polite, calm, courteous and avoid overreacting.
- Speak and move slowly and in a non-threatening manner.
- Moderate the level of direct eye contact.
- Remove distractions or disruptive people from the area.
- Demonstrate active listening skills (e.g., summarize the person's verbal communication).
- Provide for sufficient avenues of retreat or escape should the situation become volatile.

Responding officers generally should not:

- Use stances or tactics that can be interpreted as aggressive.
- Allow others to interrupt or engage the person.
- Corner a person who is not believed to be armed, violent or suicidal.
- Argue, speak with a raised voice or use threats to obtain compliance.

### **430.7 INCIDENT ORIENTATION**

When responding to an incident that may involve mental illness or a mental health crisis, the officer should request that the dispatcher provide critical information as it becomes available. This includes:

- (a) Whether the person relies on drugs or medication, or may have failed to take his/her medication.
- (b) Whether there have been prior incidents, suicide threats/attempts, and whether there has been previous police response.
- (c) Contact information for a treating physician or mental health professional.

Additional resources and a supervisor should be requested as warranted.

## *Crisis Intervention Incidents*

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### **430.8 SUPERVISOR RESPONSIBILITIES**

A supervisor should respond to the scene of any interaction with a person in crisis. Responding supervisors should:

- (a) Attempt to secure appropriate and sufficient resources.
- (b) Closely monitor any use of force, including the use of restraints, and ensure that those subjected to the use of force are provided with timely access to medical care (see the Handcuffing and Restraints Policy).
- (c) Consider strategic disengagement. Absent an imminent threat to the public and, as circumstances dictate, this may include removing or reducing law enforcement resources or engaging in passive monitoring.
- (d) Ensure that all reports are completed and that incident documentation uses appropriate terminology and language.
- (e) Conduct an after-action tactical and operational debriefing, and prepare an after-action evaluation of the incident to be forwarded to the Division Captain.

Evaluate whether a critical incident stress management debriefing for involved members is warranted.

### **430.9 INCIDENT REPORTING**

Members engaging in any oral or written communication associated with a mental health crisis should be mindful of the sensitive nature of such communications and should exercise appropriate discretion when referring to or describing persons and circumstances.

Members having contact with a person in crisis should keep related information confidential, except to the extent that revealing information is necessary to conform to department reporting procedures or other official mental health or medical proceedings.

#### **430.9.1 DIVERSION**

Individuals who are not being arrested should be processed in accordance with the Mental Illness Commitments Policy.

### **430.10 NON-SWORN INTERACTION WITH PEOPLE IN CRISIS**

Non-sworn members may be required to interact with persons in crisis in an administrative capacity, such as dispatching, records request, and animal control issues.

- (a) Members should treat all individuals equally and with dignity and respect.
- (b) If a member believes that he/she is interacting with a person in crisis, he/she should proceed patiently and in a calm manner.
- (c) Members should be aware and understand that the person may make unusual or bizarre claims or requests.

If a person's behavior makes the member feel unsafe, if the person is or becomes disruptive or violent, or if the person acts in such a manner as to cause the member to believe that the person

### *Crisis Intervention Incidents*

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may be harmful to him/herself or others, an officer should be promptly summoned to provide assistance.

#### **430.11 EVALUATION**

The Division Captain designated to coordinate the crisis intervention strategy for this department should ensure that a thorough review and analysis of the department response to these incidents is conducted annually. The report will not include identifying information pertaining to any involved individuals, officers or incidents and will be submitted to the Chief of Police through the chain of command.

#### **430.12 TRAINING**

In coordination with the mental health community and appropriate stakeholders, the Department will develop and provide comprehensive education and training to all department members to enable them to effectively interact with persons in crisis.

This department will endeavor to provide Peace Officer Standards and Training (POST)-approved advanced officer training on interaction with persons with mental disabilities, welfare checks and crisis intervention (Penal Code § 11106.4; Penal Code § 13515.25; Penal Code § 13515.27; Penal Code § 13515.30).

## APPENDIX II – ASSEMBLY BILLS

- Assembly Bill 203
- Assembly Bill 731
- Assembly Bill 1196
- Assembly Bill 1299



## SB 203 – Miranda Rights for Youth

### SUMMARY

SB 203 would require youth under the age of 18 to consult with legal counsel before they waive their constitutional rights.

### BACKGROUND

When law enforcement conducts a custodial interrogation, they are required to recite basic constitutional rights to the individual, known as Miranda rights, and secure a waiver of those rights before proceeding. A waiver of these rights must be “knowing, voluntary, and intelligent,” meaning that the person waiving their rights understands them and the effect of giving them up.

In 2017, Governor Brown signed SB 395 (Lara), which prohibits police from interrogating youth under age 16 until the youth has had a chance to talk with an attorney about their rights. This bill ensured that a child in the custody of police is not left alone, and will have an adult who cares about their welfare called before they can be interrogated. This bill will sunset in January of 2025.

### PROBLEM

Studies have demonstrated that youth often do not fully comprehend the consequences of waiving their rights. They are also much more likely than adults to waive their rights and confess to crimes they did not commit.

Our society recognizes that children are especially vulnerable in legal situations, which is why youth cannot buy alcohol and cigarettes or enter into legal contracts. Most youth can understand their rights and

what a waiver means, but what is needed to help them understand is different than what most adults need. By ensuring youth understand their rights, we ensure the outcome of interrogations are just and lawful, and create greater trust, accountability, and due process for all.

This bill would not make statements inadmissible if a youth waived without talking with an attorney first. The statement would remain potentially admissible in court, just like any statement given to the police.

### SOLUTION

SB 203 would require youth under 18 to consult with counsel prior to waiving their rights. This will preserve youth’s constitutional rights and protect the integrity of our criminal justice system.

### SUPPORT

Human Rights Watch (co-sponsor)  
Anti-Recidivism Coalition (co-sponsor)  
National Center for Youth Law (co-sponsor)  
Pacific Juvenile Defender Center (co-sponsor)

### CONTACT

Chris Morales, Legislative Aide  
Office of Senator Steven Bradford  
State Capitol, Room 2059  
(916) 651-4035  
[Christopher.Morales@sen.ca.gov](mailto:Christopher.Morales@sen.ca.gov)





## **SB 731 – Kenneth Ross Jr. Police Decertification Act of 2020**

### **SUMMARY**

SB 731 would increase accountability for law enforcement officers that commit serious misconduct and illegally violate a person's civil rights.

The bill creates a statewide process to automatically revoke the certification of a peace officer following the conviction of certain serious crimes or termination from employment for cause due to misconduct. The bill would also empower the Civil Rights Enforcement Section of the California Department of Justice with the investigative authority to inquire into additional serious allegations of misconduct, thereby creating a discretionary process for revocation of a peace officer's certificate.

Finally, the bill strengthens California's key civil rights law to prevent law enforcement abuses and other civil rights violations.

### **BACKGROUND**

Nationwide, 45 states have the authority to decertify law enforcement officers. Five states do not have decertification authority: California, Hawaii, New Jersey, Massachusetts, and Rhode Island. California, before 2003, nearly expanded its decertification authority through the administrative process. Under current state law, a peace officer can only have their certificate revoked if the certificate was obtained by fraud or misrepresentation or issued as a result of administrative error.

Of the 45 states that have authority to decertify peace officers, there is much variation in how decertification is administered. The two states that

have revoked the most peace officer certificates are Florida and Georgia, which account for approximately 40% of officer decertification nationwide. There are various reasons why Florida and Georgia lead in peace officer decertification, but one of the leading reasons for their respective large numbers is due to the inquiries into misconduct without regard to conviction for certain crimes.

Decertification is one method to improve the state's accountability for peace officers, but the law must also be strengthened to protect Californians' civil rights. California, like the federal system, relies on a system of private enforcement of civil rights, requiring robust civil rights laws to protect our cherished constitutional rights. The Tom Bane Civil Rights Act has become one of the most important California civil rights laws. Bane Act claims are included whenever constitutional or other rights are violated by government or private actors, from law enforcement use of excessive force or false arrest, to discrimination, deprivation of medical care in jails or state hospitals, wrongful seizures of property, or violations of voting rights.

The Bane Act provides a private right of action for damages against any person who "interferes," or "attempts to interfere by threat, intimidation, or coercion," with the exercise or enjoyment of rights under California or federal law. The Bane Act can apply to both public and private violations of rights. Unfortunately, as the Bane Act has become more utilized, defendants have argued for restrictive court interpretations of the law, and many state and federal courts have issued decisions that greatly impair the reach and effectiveness of this important civil rights remedy.



## PROBLEM

For years, there have been numerous stories of bad-acting officers committing misconduct and not facing any serious consequences. These officers remain on the force after pleading down to a lesser crime, if prosecuted and convicted at all. Other times, these problematic officers resign or are fired from their employer only to get rehired at another law enforcement agency and continue to commit serious acts of misconduct.

Communities in California must work to rebuild the trust with law enforcement officers. While the vast of law enforcement officers do their jobs well and with integrity, a small percentage of bad-actors continue to commit acts of misconduct. California must have a mechanism to hold these peace officers accountable.

Furthermore, the Bane Act has been under assault and its original intent undermined. Federal courts have made the doctrine of qualified immunity a more potent obstacle to achieving justice for violations of rights under the federal civil rights law. Revisions are needed to address and clarify a number of recent negative court decisions that brought the Bane Act further out of alignment with its counterpart in federal law. Given the federal issue of qualified immunity, the Bane Act must be a strong resource to defend California civil rights.

## SOLUTION

SB 731 creates a statewide process to revoke a peace officer's certification for a criminal conviction and certain acts of serious misconduct without regard to conviction. Additionally, the bill will correct misinterpretations and impediments to full civil rights enforcement using the Bane Act and bringing it into conformity with federal law.

Law enforcement officers are entrusted with great powers to carry a firearm, stop and search, use force, and arrest; to balance this, they must be held to a higher standard of accountability.

## SUPPORT

Alliance for Boys and Men of Color (Co-Sponsor)  
ACLU of California (Co-Sponsor)  
Anti-Police-Terror Project (Co-Sponsor)  
Black Lives Matter California (Co-Sponsor)  
California Families United 4 Justice (Co-Sponsor)  
Communities United for Restorative Youth Justice (Co-Sponsor)  
PolicyLink (Co-Sponsor)  
STOP Coalition (Co-Sponsor)  
Youth Justice Coalition (Co-Sponsor)

## CONTACT

Chris Morales, Legislative Aide  
Office of Senator Steven Bradford  
State Capitol, Room 2059  
(916) 651-4035  
[Christopher.Morales@sen.ca.gov](mailto:Christopher.Morales@sen.ca.gov)

**STATE CAPITOL**  
P.O. Box 942849  
SACRAMENTO, CA 94249-0064  
(916) 319-2064  
FAX: (916) 319-2164

**DISTRICT OFFICE**  
879 W. 190<sup>th</sup> Street, Suite 920  
GARDENA, CA 90248  
(310) 324-6408  
FAX: (310) 324-6485

**E-MAIL**  
Assemblymember.Gipson@assembly.ca.gov

# Assembly California Legislature

**Mike A. Gipson**  
**Democratic Caucus Chair**  
Assemblymember, Sixty-Fourth District

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DISADVANTAGED COMMUNITIES, *CHAIR*  
GUN VIOLENCE IN COMMUNITIES OF  
COLOR, *CHAIR*

## AB 1196 – Carotid Artery Restraints

### PURPOSE

Assembly Bill 1196 seeks to eliminate the use of chokeholds and carotid artery restraints statewide by law enforcement.

### BACKGROUND

The carotid restraint is one of the most commonly used strangleholds. To perform this hold, a peace officer applies pressure on either side of the windpipe—but not on the windpipe itself—to slow or stop the flow of blood to the brain via the carotid arteries.

While designed to render subjects unconscious, this hold can go wrong in two main ways: either when improperly applied, or when a subjects' physical disposition—if they suffers from coronary artery disease, for example—makes the hold dangerous or lethal. Simply maintaining restricted blood flow for one minute after the suspect is rendered unconscious can lead to irreversible brain damage.

In the Eric Garner case, NY Commissioner James O'Neill said that the officer's failure to relax his grip while subduing him triggered a fatal asthma attack. Now with the high profile death of George Floyd in Minneapolis, where a peace officer used his knee to subdue and detain him, it is clear that similar methods of restraining suspects are incredibly risky and should no longer be allowed.

Police Departments in several major cities such as San Diego and San Francisco have already taken steps to prohibit their use but statewide policies regarding neck restraints can vary greatly between both departments and agencies, resulting in a lack of accountability for the officers who use them.

### SUMMARY

AB 1196 will create a uniform statewide policy on carotid restraints and ensure that this procedure can no longer be improperly applied on Californians.

### CO-AUTHORS

- Speaker Anthony Rendon (*Principal Co*)
- Asm. Wendy Carrillo (*Joint*)
- Asm. David Chiu (*Joint*)
- Asm. Tim Grayson (*Joint*)
- Asm. Miguel Santiago (*Joint*)
- Asm. Shirley Weber (*Joint*)
- Sen. Maria Elena Durazo (*Principal Co*)
- Sen. Scott Wiener (*Principal Co*)
- Asm. Richard Bloom
- Asm. Rob Bonta
- Asm. Autumn Burke
- Asm. Sabrina Cervantes
- Asm. Susan Eggman
- Asm. Jesse Gabriel
- Asm. Eduardo Garcia
- Asm. Todd Gloria
- Asm. Lorena Gonzalez
- Asm. Chris Holden
- Asm. Reggie Jones-Sawyer
- Asm. Ash Kalra
- Asm. Marc Levine
- Asm. Evan Low
- Asm. Kevin McCarty
- Asm. Adrin Nazarian
- Asm. Eloise Reyes
- Asm. Robert Rivas
- Asm. Phil Ting
- Asm. Marie Waldron

- Sen. Ben Allen
- Sen. Ana Caballero
- Sen. Ling Ling Chang
- Sen. Bill Dodd
- Sen. Lena Gonzalez
- Sen. Holly Mitchell
- Sen. Henry Stern
- Sen. Thomas Umberg

100 Black Men of Silicon Valley  
 100 Black Women of Silicon Valley  
 #cut50

#### CONTACTS

Abraham Mendoza III  
 Office of Assemblymember Mike Gipson  
[Abraham.Mendoza@asm.ca.gov](mailto:Abraham.Mendoza@asm.ca.gov)  
 (916) 319 – 2064

#### SUPPORT

Alliance of Boys and Men of Color (Sponsor)  
 National Action Network (Sponsor)  
 PolicyLink (Sponsor)  
 Alpha Kappa Alpha Sorority –Eta Lambda Omega  
 AFSCME 3299  
 Anti-Recidivism Coalition  
 Association of CA Cities Allied with Public Safety  
 CA State Conference- NAACP  
 CA Association of Black School Educators  
 CA Family Justice Center Network  
 CA Federation of Teachers  
 CA Natural Gas Vehicle Coalition  
 Charles R. Drew University  
 City of Los Angeles, Mayor Eric Garcetti  
 City of Los Angeles Human Relations Commission  
 City of Oakland  
 City of San Diego  
 City of Refuge Church  
 Compton Unified School District  
 Conference of CA Bar Associations  
 County of Los Angeles, Board of Supervisors  
 Everytown for Gun Safety  
 LA Regional Re-entry Partnership  
 Moms Demand Action- CA Chapter  
 NARAL Pro-Choice CA  
 National Association of Social Workers- CA Chapter  
 Organize Win Legislate Sacramento  
 Racial Justice Coalition of San Diego  
 SURJ- Sacramento  
 Turo  
 UC Student Association  
 VCH Prosperity Consulting  
 Wiley Manuel Bar Association - Sacramento County  
 100 Black Men of the Bay Area  
 100 Black Men of Long Beach  
 100 Black Men of Sacramento



**Assemblymember Rudy Salas, 32<sup>nd</sup> District**  
**ASSEMBLY BILL 1299 – PEACE OFFICERS: EMPLOYMENT**  
**FACT SHEET**

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## **BACKGROUND**

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Following the tragic death of George Floyd, it was revealed that the alleged perpetrator, an officer of the Minneapolis Police Department, had 18 prior complaints filed against him. In fact, another officer present on the scene that day had six complaints filed with internal affairs, one of which was still open.

In California, a similar environment exists where departments sometimes hire officers with a history of misconduct. Last year, it was reported that the City of McFarland hired at least 13 officers who had a range misconduct violations and investigations at other departments.

In many circumstances, departments may not be aware of an officer's past misconduct due to the tactic of resigning in lieu of termination. This practice describes a situation where a peace officer who is being investigated for misconduct resigns before the investigation is complete.

## **ISSUE**

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When an officer resigns in lieu of termination, the investigation is usually halted and the officer and department will go their separate ways.

This practice allows officers to make lateral moves to different departments. Throughout the hiring process, their superiors are often unaware of the prior investigations into the applicants behavior.

This tactic is exploited by problematic officers in order to avoid termination and to continuously seek employment at different law enforcement agencies.

According to the Commission on Peace Officer Standards and Training (POST), there have been 10,368 resignations of full-time peace officers between 2015 and 2019.

## **EXISTING LAW**

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Existing laws defines persons who are peace officers and the entities authorized to appoint them. Existing law requires certain minimum training requirements for peace officers, including the completion of a basic training course, as specified.

Existing law prescribes certain minimum standards for a person to be appointed as a peace officer, including moral character and physical and mental conditions, and certain disqualifying factors for a person to be employed as a peace officer, including a felony conviction.

Existing law establishes the Commission on Peace Officer Standards and Training to set minimum standards for the recruitment and training of peace officers and to develop training courses and curriculum.

## **THIS BILL**

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AB 1299 will help ensure that law enforcement agencies are provided with pertinent information so that they can avoid hiring problematic officers with a history of misconduct.

AB 1299 will require law enforcement agencies to notify POST if an officer leaves the agency with a complaint, charge, or investigation pending, and would require the department to complete the investigation and notify the commission of its findings.

AB 1299 will also require POST to include this information in an officer's profile so that law enforcement agencies are aware of an applicants past investigations or complaints while conducting a preemployment background investigation.

## **FOR MORE INFORMATION**

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Aaron Vad  
P: (916) 319-2032  
F: (916) 319-2132  
[Aaron.Vad@asm.ca.gov](mailto:Aaron.Vad@asm.ca.gov)



## APPENDIX III – MEETING AGENDAS & NOTES

➤ July 9, 2020

➤ July 23, 2020

➤ August 6th, 2020

➤ August 20, 2020



## **Police Advisory Committee**

**Meeting of 7/9/2020**

### **Agenda**

- I. Introductions
- II. Presentation from Mayor Murphy and Council Member Shelton
- III. Familiarize Individual Funding Source for Police Services
- IV. Introduce Goals and Objectives of the Committee
- V. Review & Discuss Merced Police Dept. Policies & Procedures
- VI. Review & Discuss Legislative Bills
- VII. Future Meetings
- VIII. Closing Comments

## Police Advisory Committee Meeting of 7/9/20

Meeting Began: Approx. 9:10 a.m.

Adjourned: Approx. 10:53 a.m.

Absent: Nailah Hubbard

- Introductions
- Mayor & CM Shelton expressed their support of committee
- 4 Legislative bills, read thru and let Dee know if you support it.
- Dee asked everyone if they've reviewed policies. Most everyone has seen policies
- Next two weeks for a follow up meeting. What are people's avail.
  - Hold virtual meetings? Check with Dee on his recommendation
- See, support of legislation, how does it work?
  - Dietz mentioned City will create memo for all of them/committee, for legislation, make recommendations on local impact.
  - Cost associated, cost will likely come from state or local general fund
- Shane, Merced bill 721, who the specified people are to make that right?
- Chief, as you review, know that a lot of cases, it's being done in the state. A lot of issues are being addressed.
- Gab, 8 can't wait web
  - Dietz, Merced Co website
  - Gab, Sb731, not clear to improve intent
  - Dietz, should have clear intent noted. Will share with group
  - Carrigan, we've been monitoring what our rate is on web
- See, what is 8 can't wait
- Mayor, 8 can't wait is national campaign, came out a month ago. Look up by city on how each city measures, 8 diff metrics. Choke hold, warning before shooting, comp measures before shooting, etc. check out website. 8 policy point related to police use of force.
- Gab, 8 can't wait, are they implemented in our P & P?
- Mayor, yes. We got a 2/8.
- See, need more focus from group
- Chief, 8 can't wait. Going to national audience. CA sets national standards with trainings. Policy tool called Lexipol, endorsed by insurance.. Officer training aligns with policy manual. Daily bulletin provided to officers. They have to respond to the questions, respond to 1 or 2 a day. Does an annual update. With case laws those are pushed down immediately.
- C-Flo, explanation of policy of shooting, use of force
- Chief, Shooting is discouraged but not prohibited. Rarely done of shooting.
- See, how are laws enforced, misuse of force, complaints
- Chief, 18 months of training for a new police officer.
- Shelton, chief talk about law enforcement standards, mandates.
- Chief, every year, 5 years, 10 years based upon. They do that every year and make sure we're up to speed
- Brooks, Merced has a lot of info out there. Citizens Academy is helpful, everyone should participate. It teaches you about policies & procedures; what we're talking about right now and asking questions. Gives citizens knowledge. Wonderful course.
- Sharon, We've talked about policies and training. Talk about emotional wellness of officers. How is emotional wellness is Being handled? That's the core of that is happening?



- Chief, came from Sheriff's office. Been with City for a couple months. Psychological aspect was concerning to him for background check with City. System where if an officer feels like they need support, it's available to them.
- Weiss, every city employee has PAP. We recognize that PD has other stresses. Cortico for police, it's an app for officers and fam, offers services, counselors, chapels. Helps them to seek help. Annual membership. New to Cortico, they've started last year. Officers, spouses, and family can access program.
- Sharon, How is that happening internally before an officer takes it out on someone else.
- Weiss, we have a fitness for duty. If there's a red flag, fellow officers are to report it to their supervisor, goes to HR. Meeting with psychiatrist. Implemented for a long time and it's been working.
- Chief, Deep dive and looking at it in an industrial way. Do intervention using PAP. Changes in behavior and it was effective.
- Delray, added that Sharon wrote doc for behavioral health.
- Gab, stated she founded two groups. She speaks on behalf of young group related to unfair treatment of police. Would like statistics of use of force. Will make a list of what she wants and send it to staff.
- Dietz, we have stats that we can provide. Some stats we have avail on our web.
- Gab, 8 can't wait - there are situations where police officers who have.. Protect our residents, how can we change our polices to protect innocent residents? Used example of Jennifer Sanchez in Sac who was in a moving vehicle and was shot and killed by officer.
- Chief, we will check that section.
- Al, two questions and comment. Lexi-pole? (Yes). Procedure?
- Struble, Lexipol that implements policies across the state. Fed & state requirements, dept policy wording. We have input to insert language. We can tweak language to meet needs of city of Merced. Best practices are outlines, dept. head meet and discuss what we want our policy to say. Some are mandated by law so we can't change.
- Dietz, will send link to view policies.
- Al, impressed with MPD has for policies. It's more thorough and comprehensive with our task force. How is training operated to correspond with changing policies? How do you make the decision of training, every month, year, 2 years, 5 years?
- Chief, a lot of training can be done internally...those are minimums. Training costs money. I want officers to have the best training they can have. They do have the best training.
- Struble, monthly trainings are conducted firearms and arrested control use of force training. CA they do quarterly, biannual, and some annual. We continually try to take our dept up-to-date. They are trained on the bare minimum and expand on monthly basis. Pursuit and use of force.. Keep them fresh and updated and don't lose the essential skills.
- Gab, can we see trainings that MPD goes thru?
- Chief, training listed on website. Broken down by hour. CA link on web.
- Gab, what are we Doing to be up to date and retaining info so they don't make mistakes?
- Chief, non-sworn person, do hiring and training tracking and satisfying requirements.
- Dee, Meet one more time in July to build framework go over use of force. \*\* Reach out to members for their availability
- See, use of force.
- Specific dates to Dietz & to Nancy.
- \*\*Email: legislation, link, peace officer.. officer comparison, police Citizens academy, data of demographics of our police dept. List assignments in email. Ask about telephone sharing.
- Tatiana, language translation available thru PD?
- Chief, we have officers who speaks Spanish language. App used for translation.

- July 22, 29, 30. Aug 5-7, 10th thru 14. Council Chambers for location, both in-person and virtual. \*\* Doodle poll for everyone.
- Brooks, 90-days like a max or can we do in 60 days?
- Open to public? Majority is leaning more towards just committee members. Share info to the public via Council Meetings.
- Dee, Go thru next about 10 policies by the next meeting.
- Gab, would like to include one other person to attend.
- Brooks suggest sticking with committee members so group is focused on getting things done within the 90-day timeframe.
- See, wants to bring in people from the public, level of transparency.
- Option of conducting meetings remotely, Carrigan asked for a show of hands - a couple people rose their hands.
- \*\* July 23rd @ 9am, Senior Center, Aug 6th @ 9a, Senior Center, Aug 20th @ 9am (Requested by Dee).
- Use same room, do virtual if possible. Work with IT.



## **Police Advisory Committee Meeting of 7/23/2020 Agenda**

- I. Mayor Murphy & Council Member Shelton to Present Scope & Purpose of Police Advisory Committee
- II. Legislative Bills
  - a. Committee's Input
  - b. Staff's Response
- III. Review & Discuss Assigned Police Policies & Procedures
- IV. Recommendation of Policies & Procedures Amendments
- V. Closing Comments

## PAC Meeting 7/23/20 Notes

- Mayor restated scope of Committee: 8cantwait, recommendation to policy use of force.
- Gab, choke hold question
- Chief, use of force from police officers violation – supervisor & Mgmt. staff review for false & violation, officer will be investigated
- See, research w/ use of force in CA. Force commonly used, use of firearm and hold and take down. The choke hold is far less than the hold and take down. Respiration and what do that consist of.
- Chief, restraint and handcuff in language. No exclusion so you're not to use
- See, we don't want to restrain police from doing their job, we want to see a balance between police action with citizen's protection
- Dietz, justice partner and support to them. Transparent that it could create liaison process. Stay neutral and see how bill evolves. Input from members. Staff will support.
- Shane, what is MPD doing about the legislative bill [SB 203]
- Chief, the spirit is the same at 16. It takes it from 16 to 17.
- Shane, once you invoke, it's over. Will this be a solution or problem?
- See, question, what is our capacity locally?
- Dietz, it would be a public defender. We would have to get supplemental info.
- See, likes age extension. As a minor, you don't know how your decisions will impact. Support fact that we can extend to 17. Will this delay what you mentioned earlier because of representation. Don't want them to be detained
- Dietz, that's a question for us too. It may not be best for our decision. Not impact us, impact of behavioral health.
- See, what's the arrest stats?
- Dee, we don't have the stats, beyond our scope
- Dietz, will check if county has something
- Nellie, is there flexibility...
- Dietz, make a change a legal perspective with no funding.
- Gab, the youth arrest rate, 6/1000 for county... find on 2018 data for pd and sheriff. can send arrest for data.
- Dietz, Chief has the YTD juvenile stats.
- Chief, presented data
- See, what's the breakdown of crimes
- Chief, less serious type
- Allen, what time are we talking about. What we can do from central part 5 from happening. Are we talking of a couple hours or day or two. We should get kid legal representation. We should look at time.
- Dietz, depends on the time and day, don't think it will be weeks. Friday to Mon potentially, if we can't get someone after hours.
- Chief, how long can they be detained.. Generally, it's more lenient. The system understands these theories... Speak to parent, will add to bureaucracy
- Gab, same idea as Allen. Wait for rep is acceptable. Kids don't know what rights we have, didn't know. Staying neutral right now ... definitely want to voice support for that. Didn't know what her rights were, worth it.

- Shelton, recommendation is not too far off from what we have now. Generate small paragraph.
- Dietz, once county. This will help clarify AB 1299, change that would require change of misconduct. Would allow more active role of background process.
  - Legal perspective, may take longer to clear background. Delay hiring process, training. Believe we can support legislation.
  - SB 731, City Attorney, did legal analysis who has the right to sue?
  - What is the legal definition of the tent of the bill? Right now we are neutral. Right now it is not moving in process. In works for 2 years. Wait & see approach with legislation. Modifies civil rights act by removing immunity from officer. Recruitment, compensation, other affects. Dept impact. Budegtary impact. Removes officers' ownership of certification. No amend proposed. Would like to watch and see what happens.
- Shane, make use we talk about 731. Micro aggression. Not sure why it's in front of us. Complicated bill.
- Dietz, most complicated before you.
- Gab, did lots of research of bill. Recent protests in Merced, attendees kept things peaceful because they didn't want rights to be stripped. People feel their rights are being stripped. What does MPD have as for rights. If police are caught violating peaceful protests, etc. what is MPD doing to correct? Why are we not supporting bill like this?
- Chief, if we talk about policy violation, the process is always the same for investigation of officer. Next time will bring policy manual. When you get to the end is when you discipline, etc. Tried and true industrial system. Applied correctly is effective.
- Dee, move on to training slides
- Chief, Joe Weiss will present
- Dee, developed set of slides regarding training because of our interest from first meeting.
- Joe, Hiring process, provide overview. Helpers, Ward & Foster hiring process. 6-8 weeks. 8 weeks is what we target. Go thru applications, meet minimum qualification, written assessment for entry level, interview panel (assess person has integrity, report, overlook) understand thought process. Looking for integrity. Through interview panel, they are ranked, look for background process. Determine candidate meets standards. Hire Investigator to do in home visit, talk to neighbor, go to coworker, bosses, talk to past employers, social media. See if there are any reasons why they shouldn't be officer in Merced.
  - Edwin, what is the minimum qualification?
  - Joe, HS education, drivers lic. No criminal history, no drug use, beyond that POST academy, citizenship. Basics, age is 21 years of age.
  - Nellie, thought it was 18.
  - Joe, other agencies can do 18 but we do 21 years old.
  - Gab, criminal history, what do you mean? Automatic no hire?
  - Joe, no leniency..
  - Ward, we don't have criminal process. The background is done for moral turpitude. Evaluating life..
  - Gab, policy wise, you say no policy.
  - Chief, so POST has some exclusionary issues. (Cav served since Feb 2020) We have done reassignments recently, what was used to disqualify candidates? Updated how we look at candidates and history, Foster & Ward holistic at how they are looking at candidates. Young persons' mistakes shouldn't be held for rest of life. POST has wiggle room. Found lots of good candidates w/ previous disqualification.
  - Dee, does POST say yes or no?
  - Chief, no. Will audit, how you evaluate matches criteria

- Dee, when audit comes, is it open book?
- Chief, you get like a report card when done. If any deficiencies in process, they give you tabs to help satisfy within tabs.. use process, not get sideways with POST. Don't want a lot of tension.
- Shelton, within criteria, post dimensions and county/HR policies POST has strict mentions, audits. If there is some mental issues, employer will determine then.. They go through background and make best decisions before offer job. Big policy to follow.
- Gab, if there are policies with no policy, elimin. Some best cops have both sides, good/bad
- Dietz, look at holistically
- Chief, lots of candidates are disqualified because deception, such as intentionally omitting info.
- Joe, once background is done. Chief gives to command staff to review. Assess person if good fit. Find someone who is human being. Chief interview and speak with candidates. Will Chief offer job? Additional hurdles to overcome. Move on to CVSA (computer voice series analyzer). Kind of like lie detector test.. psych and med test.
  - Training process: send to Fresno police academy. Recruit all over CA. Consider candidates from other academies too. Regulated by POST (police officer standards and training)
  - 7 mos. 46 college units. M-F, 42 learning domains. Test physical, learning based skills. get 80% minimum. Don't pass then, remediation proceeds. If still don't pass then they are out of academy. Intense studies. Testing in 90% range.
  - Gab, if someone comes from other academy, assess? Communication?
  - Joe, goes with bill.. full background, they have to sign a release. Then we don't consider as candidate. Look at problems and avoid issues. We wouldn't consider
  - Gab, budget save money by hiring from other copes
  - Chief, we would never allow standards creep. Competitive field. We are conscience of use field of potent candidates.
- Joe, RTO, talk to teachers. Sgt. Goes down for couple weeks checks on cadet. How is cadet doing? How is their attitude? Looking for things. We evaluate things if issues. Peer review.
  - POST diversity training in curriculum. Dealing with learning domain, 32 & 37. Go to POST web and see what curriculum is being taught. Published there.
  - If they make it thru academy, field training program. 19-weeks. 3-week phases (classroom portion at beginning), thru lots of policies. Walk them thru all, report writing, thru scenarios. Ride thru field officer, passenger. Guide them along the path. Compile report, grading, scrutinizing shift, 12-shift generally. Good & improvement report. How they traffic, DART, gang unit, clear understanding. End, full program evaluation. Field training and 3 sgts look at reports & program reports. Layers we are looking for. Walk thru whole process. Classroom portion, 7/31 last day of classroom, 2 officers sitting. They are getting sworn in. Community involvement.
  - Peer support, stressful job. being and becoming. Support system set up to help thru process. Daily, weekly, phase report process. Agency 360 report is new that we are doing, computer based. Look thru trends now. Before was handwritten. Allows us to evaluate field training officer. Evaluate training officers too. We try to be progressive as we can. Great tool.
  - See, lots of training in there. Found a lot of assoc with use of force is under impairment. Officer has skill set from?
  - Joe, field training & academy we look at assessing person if they have mental health issue, alcohol or drugs. We are constantly trying to assess those things.
  - See, what mechanism do you have in place for those that are impaired when making arrest? We assume with use of force is done, DOJ called for services use of force. What types of methods are we using to defuse escalation?

- Sharon, we look at more collaboration. Not just officers.. collaboration of agencies. Mental health, under influence, how can we help. Requires experience.
- Dietz, De-escalation
- Nellie, academy question..
- Joe, academy, MPD training. It's possible to fail.. We've had people that don't pass, they can be book smart, not capable of handling issue, panic, freeze.
- Chief, 18-month probationary period. Even for promotions.
- Gab, scared that one is not present to help mental family member to de escalate [when cop shows up]
- Joe, we train to that to deal with mental and understand.
- Chief, if you have a desire.. if you would like to ride with officer, I recommend you to do so. If there were another interest, invite to participate in enforce training, where you would make decisions, level of force if any would be appropriate. Email Sgt. Foster if interested. Use of force would be a weekend training most likely.
- Dee, Continue policies next time [since running out of time, Joe to continue with presentation]
- Joe, POST programs. Firearms training, arrest & control tech, tactical control (de-escalation). Lexipol, knowledge and comprehension of policy (policy updates). Generational diversity training (youth, baby boomers, values per each generation, how to communicate with each). Depends on budget, for more training.
- Chief, Policy, revised 300 yesterday 7/22. Lexipol pushed it out. We haven't had a chance to review. 8cantwait model. SB230. \*\* send electronically to group
- Nellie, curious of age for officers?
- Dietz, we need to check demographics.. we don't capture age? Race and gender only? Will have to check.
- Chief, [MPD is] young agency



## **Police Advisory Committee Meeting of 8/6/2020 Agenda**

- I. Recap of Previous Meetings
- II. Legislative Bills Follow-Up
- III. Review & Discuss Assigned Police Policies & Procedures
- IV. Recommendation of Amendments to Policies & Procedures
- V. Closing Comments



## PAC Meeting 8/6/20 Notes

**Meeting Started:** 9:08 a.m.

**Adjourned:** 10:45 a.m.

Committee Members Present: Tatum, Batson, Brooks, Dean, Johnson, Jones, Kainth, S. Lee, May, McGarry, Morris, Sanchez, Schaap, Smith, Thao

Committee Members Absent: Hubbard, Spiva, Vizcaino

Elected Officials & Staff Present: Mayor Murphy, Council Member Shelton, Dietz, N. Lee, Chief Cavallero, Capt. Struble, Lt. Weiss, Lt. Ward, Lt. Rodriguez

Tatum, review action items and policy. City has to say we have to go with it or not. See what we can get. Chief may have new info.

Dietz, SB 203 went out to county, County is in a watch-and-receive position. More impact to the County compared to us [city]. City is happy to support.

Chief, can tell genuinely that command staff spent time. We would like to move towards adoption of policy 300. Lots of info provided to give context. Policy Section 409 and 430, they are complementary. Use of Force related. Largely with mental health commitment with mental health and people with crisis. Emotional behavioral requires intervention. Do not reach 5150 commitment. Look at these policies and know that policy and how to deal with mental issues very well defined and has police consider alternative and de-escalation. Would like to deliver services better. Thanks to [Interim] City Manager and her relationship to County and to Jim Brown and his staff, we are working to provide behavioral health tech so they are available to us. Will be able to deliver higher quality.

McGarry, [asked about] more professional help.

Dietz, going together and building relationships for Behavioral Health. We don't collect HIPAA data in our system. Good for us to start there and build and engage.

McGarry, what if they have prior mental health issue. Would that call for mental health to come instead of PD?

Dietz, PD would have to do initial interaction.

Chief, these two policies to check on prior responses at location first.

McGarry, is there a difference?

Chief, homeless mental issue or health issue.. so common.

Dietz, services to homeless come from Human Services Agency to assist and to support individual. Chief can speak to DART and help individuals get off street. We have a good system in place, not formalized. HSA will help with quality of life issue with citizens.

Chief, DART is subdivision of our division, 4 officers and 1 supervisor. They are special projects team. When you see homeless clean up with garbage truck present, that's DART. Homelessness prob. - they spend a lot of time dealing with that. Priority - trying to find services for homeless. They do a lot of work trying to get services to people that are homeless. The person needs to want the help, if not, then fewer options for us. We look forward to support role, then moving out of picture as law enforcement. PD will always be at your service even after PAC's [purpose and work concludes].

Chief, Section 300. Had missing items because policy was adopted last year. Lexipol provided fed and state best practices. The proposed updated Policy 300, would like to agree to adopt policy together. We don't want to wait 1 yr. to adopt. PD in good faith adhere to some legislative issues. It's not going to take a year to adopt... Would like recommendation from PAC.

Tatum, Chief go thru Lexipol part of it.

Chief, purpose and scope. There are added content to better convey policy and citation. Definition added to enhance understanding. Fair and use of force added to require members to carry out duties in unbiased and fair manner. Duty to intercede to report, clarify (Chief went over draft policies and summarized updates).. Perspective added.. Encourages collection of info. Proportional use of Force is noted, lower level compared to Use of Force. Deadly force used for clarity. Shooting used for clarity. Use of firearms explained... remind officers that it must be done judiciously. Medical attention required to assist people. Carotid artery restraint - Lexipol moved to standard of deadly force.

Tatum, Will your memo still stand?

Chief, yes

Dean, use of force will be prohibited but the final won't have it?

Chief, Lexipol pushed it down to us. We still need to adopt it. This is just a draft.

Schaap, 300.8, frequency of training (how it works)? "Periodic training" can be interpreted in so many ways.. keep skills current.

Chief, summarized policy... yes, POST compels us to use policy.. we also conduct in-house training. You won't see in this, training requirements are clearly defined in POST, allows agencies to train much beyond if desired. Compared to many agencies, MPD trains almost exhaustively. When I first started, it was COVID-19 and economics related to COVID.. dept had to trim budget, training was not an option. This agency pride itself on training, this policy allows to take down to minimum.. we have all exceeded in training.

S. Lee, in policy if there is ability to insert somewhere, where it states 1.2 policy review... civilian engagement.. being a part of annual review of policies and procedures complaints.. on-going improvement to them. Trust required. Include that.. have a civilian review board for policy updates.

Tatum, policy review

S. Lee, Mayor and Shelton can lead? Add community engagement, to strengthen relationship. Historically in the past, instead of the carotid restraint, 2018 data use of firearm. If we ban carotid restraint will chokehold become the increase use of force?

Tatum, Chief - can I ask you to go over choke hold? You don't want to get that close to choke hold if you don't have to.

Chief, in my experience I have never applied carotid artery restraint. Don King shared stories when he was detective, he was called out.. it was a shots fired call. King applied carotid artery restraint and it worked. Will there be more shooting if carotid artery restraint is banned?.. the more tools we take out of toolbox, the less you [officers] have to use.. Lexipol gives as much tools to use as possible. Cause and effect.

Dietz, can we directly correlate to firearms because of how little how much it's being used now?

S. Lee, if we were to remove carotid artery restraint then maybe there will be more use of firearms.

Ward, can be replaced with better use

Chief, I would expect taser use would increase.

Ward, in charge of use of force reporting.. I did a thesis many years ago, in MPD dept.. in all time since 2000, only 3 cases of use of carotid artery restraint. (Ward shared his experience with carotid artery restraint.) I was called out, it was midnight, guy was bigger than me. He was high, resisting arrest. I had to fight for my life until backup arrived. He was not tired, I was tired.. I held him from the back [and applied carotid artery restraint]. If I were to prohibit that move, the only real chance I had to [survive was to shoot him]. (Ward said he made sure to tap the subject on his chest to wake him up after placing handcuffs on the subject, once the subject became conscious, Ward sat him up and they waited for backup officers to arrive at the scene).

Tatum, carotid artery restraint leave and use it as the last resort.

Chief, Lexipol pushes down boiler plate, we [MPD] choose to adopt it. We can modify anything we like to suit our community expectations. When properly applied, you're actually causing person to faint. The person faints when pressure applied if done properly... takes little effort. Done in [police] training before you completely faint you tap the person on the leg.

Tatum, would committee consider amending this policy? What would u like?

Schaap, 300.2.4 C, the hold should be discontinued... modification that if theirs was there.. the picture would.. Can we strengthen C once person is subdued? Example of George Floyd case.

Chief, Direct to B, item 1.. add more language.. brought use as same standard as deadly force. Getting us there, it's not that we can't add more language.

Ward, law enforcement said what happened [referring to George Floyd case]? Asphyxia was probably applied with George Floyd case. We constantly monitor.

Tatum, I'd like to go around the table and indicate if you are in favor to amend or not.

Sanchez, yes

Kainth, yes

Jones, amend to state "last resort"

Johnson, fine with what committee decides.

Tatum, No [indicating that he wanted Johnson's input and that he's here for a purpose]

Johnson, We can't act on 1 out of 100 officers..

May, amending not abolishing

McGarry, #8cantwait.. is it necessary to do carotid restraint if there is more than one officer present?

Chief, no.

Ward, officers were solo when that was applied. The only time you can use when things are really-really bad. Not a commonly used tool. So many crazy things going on... last time it was used was a couple years ago. [The case involved] 3 officers, other two dealing with pit bull.. 1 officer used it [carotid artery restraint]. Personally, it has the ability to save lives.

Tatum, do they have to put it in the report?

Ward, yes. It's in the video. Robust process.. we don't have anyone using that as a general practice.

Chief, Dee I think I suggest not defining it.. with more officers or officer.. We deal with so many scenarios.. Think about yourself in the uniform, at 2am on a call. Think about your child as officer... What would you want them to do at their disposal? Believe the community picks, then we have to live with it. Personally, it should be in there with restrictions, it's already in the [draft] policy. See brought up good points, policy is all about trust. C-Flo you hit it on the head, there will always be that one person.. what we are telling you is accurate, heartfelt, and accurate.

Johnson, used to preach to ppl. Speaking from place of misconduct.. law enforcement and have family in law enforcement as well, have both sides. Example of pastor molesting, don't want that person going from one church to another church. (Used pastor comparison as an analogy for officer) there will be that one person. You guys need to be able to choke someone out.. I don't want officers to throw flowers, they gotta have some teeth to fight.

Thao, Look at the policy so big, came from country with no policy. MPD does a good job. First city that formed this group. Merced is best at leadership role. Protect problem. Want to thank leaders of Merced. Thank Mayor and MPD for good job.

Jones, what did you base the "good job" on?

Tatum, let's move on.

S. Lee, propose adding language doing civilian review board 300.12.

Tatum, can we change "civilian review board" name?

S. Lee, any name is fine. Review board...

Brooks, add verbiage such as "until they are restrained".. to carotid chokehold

Chief, we can modify and send to Dee for review

Smith, on the subject of trust... If we revive the carotid chokehold, the community is going to think "what's going on?" It [policy] has to read really clearly, we can't use this unless...

Tatum, give flexibility to use in toolbox. It's still being reported

Dean, can we report to community [concerning purpose of keeping carotid restraint]?

Tatum, we can report to community.

Smith, Ward should be present to share story.

Chief, we don't want convoluted policy.

S. Lee, there is a need for greater depth and community.. Mayor and Shelton may want to consider,.. this is a small aspect of what we want to use towards building a trust between community and MPD. Would like to put it out there for constituents.. looking at us to enforce something for a balance. Informing our community and law enforcement as well.

Brooks, 300.a carotid artery restraint.. death shouldn't be result right?

Ward, yes, it can't be.

Brooks, we want to share with public you faint rather than shoot out.

Batson, [referencing] memo on June 8th. MPD policies do not use chokehold no longer choose.

Chief, We would just revise to adopt and amend the policy again. Policy is always a living document.

Batson, so you will use carotid artery restraint?

Chief, if committee votes that in, then yes.

Tatum, we would still allow. So yes, we want it to be amended.

S. Lee, (presents State of CA statistics) 738 use of force was administered, 28 were impact, 60 carotid, 231 discharge of firearms hit, 60 firearms hit, 9 impact projectiles, 1 officer vehicle contact, 48 physical contact, 8 no force received. When I think of putting more restrictions, where do we want them? Do we want to get the chokehold or get shot? Giving officers tool and protecting constituents.

Chief, local perspective.. they will have 200 interactions with member of public in 1 shift, from dog bark and cat calls to "you name it" to nearly 90K people (with their stories and perspectives). [See] You're right, the use of force should be 0, but it will never be 0.

Tatum, fine to make amendment.

Kainth, I have two questions. What are the demographics of Merced? Ask diversity of officers.

Chief, diversity of police officer. We are interested in the exact same goal. As we go through the application and testing process, we want to screen to reflect community. What is key is we need more people putting in their application. We need more diversity application pool... I encourage you to have people into law enforcement. The agency should reflect community as demographic. COVID-19 distracted us, prior to that, Dietz and I sat together to consider bringing in more diverse officers. Super competitive recruitment process and field.

Morris, why don't we have more diversity going into interviews?

Chief, people are not honest with their background paperwork. We are willing to forgive.. Capt and Lt. go to great lengths to review. Dishonesty in background package, poor work with prior employers, criminal history..

Dietz, talked to chief on applicant pool. City of Fresno as an example. we need to focus on our panel so it reflects on our community. Admin policy we talked about.. filter into entire organization. Panel doing interview that is lense to reflect community, diverse panel (gender, race).

Kainth, do we have female officers?

Chief, we have 5 female officers

Dietz, check demographic [provided] from last meeting.

Chief, we encourage you to have others apply.

Jones, advertising for job?

Chief, we recruit social media

Jones, we need to consider when we list

Struble, social media and police academy. We push out on social media, had ad in magazines – was not cost-effective.

Chief, 300.5.1 this is what must be provided. Recommend that Item J (tackling) doesn't appear here.. The association believes it as a threat.

Chief, 301 deadly force review. What the internal procedure is. Make sure done appropriately. Investigation done by agency, DA, review for policy compliance.

Chief, handcuffing and restraints. Taser devices less lethal device that uses non-lethal electricity. Ward, do you still have to demonstrate on a person?

Ward, yes. Each officer goes thru training with taser applied to them.

Chief, officer involved shooting and death. Very comprehensive investigation.

Ward had three dogs. Crimes, citizens actions., Emotional and behavioral issues, not fall under 5150

S. Lee, 301.4.1, prohibits residents being a part of that? Council appoint be a part of review board?

Ward, deadly report review DA.. We do it quickly. If we change it from their filming that could be possibility

Dietz, We do the report quickly for operational

Ward, shooting then we have investigations.. someone from outside can

S. Lee, there seems to be a perception of secrecy on investigation on policing. How can we can incorporate that in? think of local consideration.

Mayor, [See] You bring up topic that, I think, is a much bigger topic than what we can do here. It's not the scope of this committee. There is some accountability. That's why DA is elected. It's a more greater topic than what we want to do here.

Smith, agree with Mayor. Community involvement with jury process. Charges are applied

S. Lee, create structure and trust

Dietz, Not every finding.. layer of accountability. A lot of legislature actions for accountability. State legislature have been more transparent with what officers have done.

McGarry, where does the HR review board stand?

Dietz, the last resort is PD to discipline, then Personnel Review Board (if employee chooses this route), final decision will be the City Manager

Smith, what's the procedure for the committee to make policy amendments?

Tatum, walked thru some already.

Smith, would like to make two other suggestions.

Smith, [referencing to] 300, 300.1.1, use of force. Would the subject's consent be withdrawn? What happens

Smith, 300.3.3 compliance. Maybe a question about training. Gets to George Floyd case, what if it never makes it to that point (see Shane's email on the next page detailing his suggestions and concerns).

Mayor, today's meeting was the best of the 3. Part of it is to have the right people in the room. [We chose people based on] trust that people had life experience and perspective. Thank you for doing this. It's not easy work, it's hard work.

Shelton, I'd like to echo Mayor's message. It's good to have these conversations, talk about them. Appreciate the dialogue. Thank you for conversation. Confident that group will bring good insight to get job done.

Chief, thank you for your input [directed to committee].

Tatum, thank you to four officers in the back.

-----Original Message-----

To: [deeusapr@aol.com](mailto:deeusapr@aol.com)

Cc: [cavallerot@cityofmerced.org](mailto:cavallerot@cityofmerced.org); [dietzs@cityofmerced.org](mailto:dietzs@cityofmerced.org); [murphym@cityofmerced.org](mailto:murphym@cityofmerced.org); [sheltond@cityofmerced.org](mailto:sheltond@cityofmerced.org); [strublej@cityofmerced.org](mailto:strublej@cityofmerced.org); [warda@cityofmerced.org](mailto:warda@cityofmerced.org); [weissj@cityofmerced.org](mailto:weissj@cityofmerced.org); 'Lee, Nancy' <[LeeN@cityofmerced.org](mailto:LeeN@cityofmerced.org)>

Sent: Thu, Aug 6, 2020 11:56 am

Subject: Suggestions re MPD Policy 300

Chair Tatum,

For the sake of clarity I thought it best to follow-up via email with my suggestions regarding MPD Policy section 300.

Provisions I ask the Committee to consider are as follows:

Sec. 300.1.1, Definition of "Force:" The provision expressly omits from the definition of "force" any instances where "a person allows him/herself to be searched, escorted, handcuffed, or restrained."

The question is whether there should be language concerning the situation when "a person" voluntarily withdraws consent to be "searched, escorted, handcuffed, or restrained." Upon withdrawal of consent, does an officer's continued search, escort, handcuffing, or restraint then become a "use of force" within the meaning of the policy?

Sec. 300.3.3, Pain Compliance Techniques: The provision concludes with mandatory language requiring that "[t]he application of any pain compliance techniques shall be discontinued once the officer determines that compliance has been achieved."

The question is whether the language should also include express instructions that the officer applying the pain compliance technique (or perhaps another officer responding to the same situation) must take affirmative steps to "determine" whether "compliance has been achieved."

In making this observation, I am hesitant to suggest that the policy impose a mandatory duty on officers to clearly make an investigation of the subject's compliance. On the other hand, one lesson of the George Floyd detention is the consequence of an officer remaining willfully blind to "compliance." There is at least the potential for a positive change to Section 300.3.3 that helps build community trust in our police while stopping short of putting our officers at risk of an after-the-fact "breach of duty" claim.

Of course, all of my suggestions are subject to training guidelines or other guidance of which I am unaware that accomplish the same end. It may be that my proposed changes are already implied in Policy 300 and so unnecessary.

I look forward to further discussion with the Committee. Please feel free to contact me with questions.

Best,

-Shane





## **Police Advisory Committee Meeting of 8/20/2020 Agenda**

- I. Recap of 8/6/2020 Meeting
- II. Draft List of Recommended Policy Changes
- III. Q & A
- IV. Committee to Make Final Recommendation to Policies & Procedures
- V. Closing Comments

## PAC Meeting of 8/20/2020

**Meeting Started:** 9:10 a.m.

**Meeting Adjourned:** 9:22 a.m.

Committee Members Present: Tatum, Dean, Johnson, Jones, Kainth, S. Lee, May, Morris, Sanchez, Schaap, Smith, Thao

Committee Members Absent: Batson, Brooks, Hubbard, McGarry, Spiva, Vizcaino

Elected Officials and Staff Present: Mayor, Dietz, N. Lee, Chief Cavallero, Capt. King, Capt. Struble, Lt. Rodriguez, Lt. Ward, Lt. Weiss, Sgt. Foster, Ofr. McKinnon

Dee, not going to go thru recap from last meeting since notes were sent out. Thank you to Mayor and all of you, especially officers in back. Thank you for all you do when you're out there. I don't think we understand how much training you go through, and it's a real shock... Chief bring policies to light. [They go through] training every day, every week. Thank you for working with them as well. Thank you overall for what you do.

Chief, if you see your notes you'll see how we addressed your concerns. Shane was it satisfactory? (Shane replied "yes"). As far as consent to search, if one were to give peace officer consent, and withdraw, search will have to stop immediately. Consent will have to be legitimate. Escort scenario. All the use of force req. should hold and officer would use to create report and document. Be reasonable. How do we define UOF. How do we define when it's unnecessary to be restrained.. we ponder back at police station, added language. The difference between when we started and now, is that Lexipol changed language and helped people understand, know severity. Added language that we hope will make it clear. If you look at Pg. 2, carotid artery control hold, such as when the subject is properly restrained or otherwise complies, then that restraint is no longer appropriate.

Smith, Chief appreciate thoughts and explanation. Will that satisfy? The only thing minor to suggest.. wondering if proposal, 300.3.4.. talking about...

Chief, consent is skillfully interwoven with use of force and carotid issue. In addition to policy manual, out of publication it is clear and cites case law. Consent search and withdrawn (companion to policy manual).

Dee, Chief made it clear that policies are listed on [city] website.

Dietz, Nancy sent link in past.

Dee, are there any more questions on use of force? (Carotid, etc.)

Dee, thank you Tom and staff. I will turn it over to the Mayor. Hear a few words from Mayor.

Mayor, Talk about report or written document.

Dietz, put out for recommendations. Memo in draft report. Individual to send me and Nancy.. we can memorialize in report, include excerpt to who you are. This recommendation is meat and potato to changes (referring to Q & A sheet).

Chief, send comments to Dietz and Nancy.

Dietz, staff will prepare draft report document and send to committee for review.

Mayor, everyone can see changes ahead of time and provide comments.

Dietz, do you think we need to review together in another meeting?

Dee, (asked Committee members if they think there will need to be another meeting)

Schaap, no I think we've reviewed a lot.

Sanchez, no.

Mayor, since this is the last meeting, I want to thank all of you for coming and for your participation. I speak on behalf of Council Member Shelton and Council as well.

Dietz, thank you for your trust and recommendation.

Dee, (thanked committee and staff)

## APPENDIX IV – OTHER RESOURCES

- Chief's Memos
- Merced Police Department Use of Force Answers
- Policy Section 300 Q & A
- Merced Police Department Hiring Process & Training
- Merced Police Department Demographic Breakdown

**Merced Police Department  
OFFICE OF THE CHIEF**

# Memo

**To:** POLICE  
**From:** Chief Thomas Cavallero   
**CC:** File  
**Date:** 6/19/2020  
**Re:** Carotid Restraint & Canine Apprehension Techniques

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Effective immediately, the use of the carotid restraint, (or any body positioning that may foreseeably restrict the necessary flow of blood or oxygen) to affect an arrest is hereby prohibited. Policy Section 300.3.4 (Carotid Control Hold) will be updated in our manual as soon as possible.

Additionally, the California Attorney General is urging law enforcement agencies to use "find and bark" rather than "find and bite" as it relates to use of force including, but not limited to, canine use as a first response to suspect apprehension. Please consider this carefully when deciding when and how to use canine resources.

Thank you for your attention to these important matters.

**Merced Police Department  
OFFICE OF THE CHIEF**

# Memo

**To:** Mr. Dee Tatum, Chairperson – Police Advisory Committee  
**From:** Thomas Cavallero, Chief of Police *TC*  
**CC:** File  
**Date:** 6/29/2020  
**Re:** MPD Use of Force Policies

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Attached, please find those MPD Policy Sections that are relative to, or may be associated with, use of force (UOF) events. Not included are procedural documents of a tactically sensitive nature such as those dealing with hostage rescue/barricaded person operations or those involving high-risk response to in-progress crimes at financial institutions.

Further, specific policy sections regarding UOF issues have been modified by order (ie. prohibiting use of carotid restraint/dangerous body positioning -Section 300.3.4) or are pending modification but have not yet been updated in the actual manual document. The pending modifications include expanding UOF criteria and reporting requirements (300.2.1), adding over-arching de-escalation language, and including "last resort" and "verbal warning" language in deadly force policy sections.


Finally, the City of Merced is working very closely with county officials to develop a protocol to assign a behavioral health specialist to the police department. While the men and women of the MPD work tirelessly to deliver meaningful services to every member of our community, we acknowledge that there are other agency resources whose expertise is superior to ours in providing services to those in crisis situations not initially requiring law enforcement intervention.

I look forward to working with you on this very important project and remain at your service.

Enclosure: 20Mem-23: Carotid Restraint & Canine Apprehension Techniques

**Merced Police Department  
OFFICE OF THE CHIEF**

# Memo

**To:** Mr. Dee Tatum, Chairperson, Policy Review Committee  
**From:** Chief Thomas I. Cavallero   
**CC:**  
**Date:** 7/8/2020  
**Re:** Additional information, Policy Modifications

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Attached, please find several pending MPD policy updates for your review. These changes are anticipated to be made in the very near future.

Additionally, I thought it may be helpful for you to know that 85 hours of Basic Academy Training is dedicated to cultural diversity and discrimination, community policing, de-escalation, serving those with disabilities, and professionalism and ethics.

In June of this year, MPD officers completed their POST required Bias-based Policing update and in 2018 their Racial Profiling update. Also, officers completed De-escalation training in the Spring and Fall of last year.

Finally, an MPD supervisor is scheduled to attend Racial Profiling Instructor training next month in Southern California.

## PENDING POLICY UPDATES

### 300.2.1 DUTY TO INTERCEDE

Change "should" to "shall" promptly report these observations...

### 300.5.1 NOTIFICATION TO SUPERVISORS

Add: (j) Any force applied which results in a suspect being taken to the ground.

### 300.2.2 DE-ESCALATION

Add: When encountering a non-compliant subject or a subject armed with a weapon other than a firearm, officers shall when feasible, use the following de-escalation tactics in an effort to reduce the need or degree of force:

- 1) Attempt to isolate and contain the subject;
- 2) Create time and distance from the subject by establishing a buffer zone (reactionary gap) and utilize cover to avoid creating an immediate threat that may require the use of force;
- 3) Request additional resources, such as a Crisis Intervention Team (CIT) trained officers, Crisis/Hostage Negotiation Team, or Extended Range Impact Weapon;
- 4) Designate an officer to establish rapport and engage in communication with the subject;
- 5) Tactically re-position as often as necessary to maintain the reactionary gap, protect the public, and preserve officer safety; and
- 6) Continue de-escalation techniques and take as much time as reasonably necessary to resolve the incident, without having to use force, if feasible.

Other options, not listed above, may be available to assist in de-escalating the situation.

Supervisors who become aware of a situation where an officer is using de-escalation techniques shall monitor the radio communications and evaluate the need to respond to the scene.

### 300.4.2 FIREARMS AND OTHER DEADLY FORCE

Add: It is the policy of this Department to use deadly force only as a last resort when reasonable alternatives have been exhausted or are not feasible to protect the safety of the public and police officers. The use of firearms and other deadly force is the most serious decision an officer may ever make. When safe and feasible under the totality of circumstances, officer shall consider other objectively reasonable force options before discharging a firearm or using other deadly force.

### 300.4.3 VERBAL WARNING

Add: If feasible and if doing so would not increase the danger to the officer or others, an officer shall give a verbal warning to submit to the authority of the officer before discharging a firearm or using other deadly force.



The Merced Police Department regularly evaluates all of its policies to ensure that they always comply with current law and best practices. In an effort to be responsive to the Merced community interest and concerns regarding your police department's use of force policies, the police administration is taking a closer look at our current policies. In addition to policy training, Merced Police Department officers receive extensive training in the area of use of force and de-escalation far exceeding the State of California, Police Officers Standards and Training (POST), minimum requirements. The Merced Police Department policy manual can be viewed in its entirety on the City of Merced website at:

[www.cityofmerced.org](http://www.cityofmerced.org)

- **Requires De-escalation-** De-escalation techniques are contained in our policies. In addition, our officer receive extensive training in de-escalation techniques in their monthly perishable skills training. Our department has invested in software and associated electronic equipment to conduct virtual de-escalation training. (Policy 430.6 and 409.4)
- **Bans Chokeholds and Strangleholds-** Merced Police Department policies do not authorize the use of chokeholds or strangleholds. The Merced Police Department will follow Police Officers Standards and Training (POST) standards and no longer train officers in the use carotid artery restraint. (Policy 300.3.4)
- **Duty to Intervene-** Merced Police Department officers have a duty to intercede should they witness another officer using unreasonable force. In addition the unreasonable force shall be promptly reported to a supervisor. ( Policy 300.2.1)
- **Requires warning before shooting-** Merced Police Department policy that officers shall, prior to the use of force, make reasonable efforts to identify themselves as a peace officer and to warn that deadly force may be used. (Policy 300.4)
- **Ban Shooting at Moving Vehicles-** Shooting at or from a moving vehicle is highly discouraged and is only authorized under deadly threat situations. (Policy 300.4.1)
- **Requires Comprehensive Reporting-** The Merced Police Department requires law enforcement actions be documented. In addition all use of force incidents undergo an intensive use of force review process. (Policy 300.5)
- **Requires Exhausting Other Means Before Shooting-** If an objectively reasonable officer would consider it safe and feasible to do so under the totality of the circumstances, officers should evaluate the use of other reasonably available resources and techniques when determining whether to use deadly force. (Policy 300.4)
- **Has Use of Force Continuum-** Continuum's do not require officers start with one level of force before moving to another. Merced Police Department policies require officers to use only that amount of force that reasonably appears necessary given the facts and totality of the circumstances. (Policy 300)

### Merced Police Department Use of Force Answers

- **Requires De-escalation-** Policy 430.6 and 409.4
  - In addition our officers attend monthly arrest and control skills training to include de-escalation scenarios.
  - We also have virtucom, a computer software package (virtual training). Officers receive this training at least bi annually.
  - State mandated perishable skills training is 24hrs every 2 years
- **Bans Chokeholds and Strangleholds-** Policy 300.3.4 Carotid Restraint
- **Duty to Intervene-** Policy 300.2.1
- **Requires warning before shooting-**Policy 300.4
- **Ban Shooting at Moving Vehicles-** 300.4.1
- **Requires Comprehensive Reporting-** 300.5
  - contained in police report
  - In addition to the police report the officer creates a separate use of force report which is reviewed by supervisor, Lieutenant and Division Captain for policy compliance includes review of any associated video.
- **Requires Exhausting Other Means Before Shooting-**Policy 300.4
- **Has Use of Force Continuum-** Policy 300 Covers all types of authorized force

















**your city has enacted  
and take action now.**

MERCED, CA



## MERCED, CA

Mayor Mike Murphy

-  Requires De-escalation 
-  Bans Chokeholds and Strangleholds 
-  Duty to Intervene 
-  Requires Warning Before Shooting 
-  Ban Shooting at Moving Vehicles 
-  Requires Comprehensive Reporting 
-  Requires Exhausting Other Means Before Shooting 
-  Has Use of Force Continuum 



## Use of Force

### 300.1 PURPOSE AND SCOPE

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

#### 300.1.1 DEFINITIONS

Definitions related to this policy include:

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

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

### 300.2 POLICY

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

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

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

#### 300.2.1 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 unreasonable force. An officer who observes another employee use force that exceeds the degree of force permitted by law should promptly report these observations to a supervisor.

### 300.3 USE OF FORCE

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

The reasonableness of force will be judged from the perspective of a reasonable officer on the scene at the time of the incident. Any evaluation of reasonableness must allow for the fact that officers are often forced to make split-second decisions about the amount of force that reasonably

# Merced Police Department

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### *Use of Force*

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appears necessary in a particular situation, with limited information and in circumstances that are tense, uncertain, and rapidly evolving.

Given that no policy can realistically predict every possible situation an officer might encounter, officers are entrusted to use well-reasoned discretion in determining the appropriate use of force in each incident.

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

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

#### 300.3.1 USE OF FORCE TO EFFECT AN ARREST

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

#### 300.3.2 FACTORS USED TO DETERMINE THE REASONABLENESS OF FORCE

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

- (a) The apparent immediacy and severity of the threat to officers or others (Penal Code § 835a).
- (b) The conduct of the individual being confronted, as reasonably perceived by the officer at the time.
- (c) Officer/subject factors (age, size, relative strength, skill level, injuries sustained, level of exhaustion or fatigue, the number of officers available vs. subjects).
- (d) The conduct of the involved officer (Penal Code § 835a).
- (e) The effects of drugs or alcohol.
- (f) The individual's apparent mental state or capacity (Penal Code § 835a).
- (g) The individual's apparent ability to understand and comply with officer commands (Penal Code § 835a).



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- (h) Proximity of weapons or dangerous improvised devices.
- (i) The degree to which the subject has been effectively restrained and his/her ability to resist despite being restrained.
- (j) The availability of other reasonable and feasible options and their possible effectiveness (Penal Code § 835a).
- (k) Seriousness of the suspected offense or reason for contact with the individual.
- (l) Training and experience of the officer.
- (m) Potential for injury to officers, suspects, and others.
- (n) Whether the person appears to be resisting, attempting to evade arrest by flight, or is attacking the officer.
- (o) The risk and reasonably foreseeable consequences of escape.
- (p) The apparent need for immediate control of the subject or a prompt resolution of the situation.
- (q) Whether the conduct of the individual being confronted no longer reasonably appears to pose an imminent threat to the officer or others.
- (r) Prior contacts with the subject or awareness of any propensity for violence.
- (s) Any other exigent circumstances.

#### 300.3.3 PAIN COMPLIANCE TECHNIQUES

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

- (a) The degree to which the application of the technique may be controlled given the level of resistance.
- (b) Whether the person can comply with the direction or orders of the officer.
- (c) Whether the person has been given sufficient opportunity to comply.

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

#### 300.3.4 CAROTID CONTROL HOLD

The proper application of the carotid control hold may be effective in restraining a violent or combative individual. However, due to the potential for injury, the use of the carotid control hold is subject to the following:

- (a) The officer shall have successfully completed department-approved training in the use and application of the carotid control hold.

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- (b) The carotid control hold may only be used when circumstances perceived by the officer at the time indicate that such application reasonably appears necessary to control a person in any of the following circumstances:
  - 1. The subject is violent or physically resisting.
  - 2. The subject, by words or actions, has demonstrated an intention to be violent and reasonably appears to have the potential to harm officers, him/herself or others.
- (c) The application of a carotid control hold on the following individuals should generally be avoided unless the totality of the circumstances indicates that other available options reasonably appear ineffective, or would present a greater danger to the officer, the subject or others, and the officer reasonably believes that the need to control the individual outweighs the risk of applying a carotid control hold:
  - 1. Females who are known to be pregnant
  - 2. Elderly individuals
  - 3. Obvious juveniles
  - 4. Individuals who appear to have Down syndrome or who appear to have obvious neck deformities or malformations, or visible neck injuries
- (d) Any individual who has had the carotid control hold applied, regardless of whether he/she was rendered unconscious, shall be promptly examined by paramedics or other qualified medical personnel and should be monitored until examined by paramedics or other appropriate medical personnel.
- (e) The 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 carotid control hold and whether the subject lost consciousness as a result.
- (f) Any officer attempting or applying the carotid control hold shall promptly notify a supervisor of the use or attempted use of such hold.
- (g) The use or attempted use of the carotid control hold shall be thoroughly documented by the officer in any related reports.

#### 300.3.5 USE OF FORCE TO SEIZE EVIDENCE

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



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### **300.4 DEADLY FORCE APPLICATIONS**

If an objectively reasonable officer would consider it safe and feasible to do so under the totality of the circumstances, officers should evaluate the use of other reasonably available resources and techniques when determining whether to use deadly force. The use of deadly force is only justified in the following circumstances (Penal Code § 835a):

- (a) An officer may use deadly force to protect him/herself or others from what he/she reasonably believes is an imminent threat of death or serious bodily injury to the officer or another person.
- (b) An officer may use deadly force to apprehend a fleeing person for any felony that threatened or resulted in death or serious bodily injury, if the officer reasonably believes that the person will cause death or serious bodily injury to another unless immediately apprehended. Where feasible, the officer shall, prior to the use of force, make reasonable efforts to identify themselves as a peace officer and to warn that deadly force may be used, unless the officer has objectively reasonable grounds to believe the person is aware of those facts.

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

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

#### **300.4.1 SHOOTING AT OR FROM MOVING VEHICLES**

Shots fired at or from a moving vehicle are rarely effective. Officers should move out of the path of an approaching vehicle instead of discharging their firearm at the vehicle or any of its occupants. An officer should only discharge a firearm at a moving vehicle or its occupants when the officer reasonably believes there are no other reasonable means available to avert the threat of the vehicle, or if deadly force other than the vehicle is directed at the officer or others.

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

### **300.5 REPORTING THE USE OF FORCE**

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



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#### **300.5.1 NOTIFICATION TO SUPERVISORS**

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

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

#### **300.5.2 REPORTING TO CALIFORNIA DEPARTMENT OF JUSTICE**

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

#### **300.6 MEDICAL CONSIDERATION**

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

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

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

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

#### **300.7 SUPERVISOR RESPONSIBILITY**

When a supervisor is able to respond to an incident in which there has been a reported application of force, the supervisor is expected to:

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

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

#### **300.7.1 SHIFT SUPERVISOR RESPONSIBILITY**

The designated Captain shall review each use of force by any personnel within his/her command to ensure compliance with this policy and to address any training issues.

#### **300.8 TRAINING**

Officers will receive periodic training on this policy and demonstrate their knowledge and understanding.

#### **300.9 USE OF FORCE ANALYSIS**

At least annually, the designated Captain should prepare an analysis report on use of force incidents. The report should be submitted to the Chief of Police. The report should not contain the names of officers, suspects or case numbers, and should include:

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



## Mental Illness Commitments

### 409.1 PURPOSE AND SCOPE

This policy provides guidelines for when officers may take a person into custody for psychiatric evaluation and treatment (5150 commitment) (Welfare and Institutions Code § 5150).

### 409.2 POLICY

It is the policy of the Merced Police Department to protect the public and individuals through legal and appropriate use of the 72-hour treatment and evaluation commitment (5150 commitment) process.

### 409.3 AUTHORITY

An officer having probable cause may take a person into custody and place the person in an approved mental health facility for 72-hour treatment and evaluation when the officer believes that, as a result of a mental disorder, the person is a danger to him/herself or others or the person is gravely disabled (Welfare and Institutions Code § 5150; Welfare and Institutions Code § 5585.50).

When determining whether to take a person into custody, officers are not limited to determining the person is an imminent danger and shall consider reasonably available information about the historical course of the person's mental disorder, which may include evidence presented from any of the following (Welfare and Institutions Code § 5150; Welfare and Institutions Code § 5150.05):

- (a) An individual who is providing or has provided mental health treatment or related support services to the person
- (b) A family member
- (c) The person subject to the determination or anyone designated by the person

#### 409.3.1 VOLUNTARY EVALUATION

If an officer encounters an individual who may qualify for a 5150 commitment, he/she may inquire as to whether the person desires to voluntarily be evaluated at an appropriate facility. If the person so desires, the officers should:

- (a) Transport the person to an appropriate facility that is able to conduct the evaluation and admit the person pursuant to a 5150 commitment.
- (b) If at any point the person changes his/her mind regarding voluntary evaluation, officers should proceed with the 5150 commitment, if appropriate.
- (c) Document the circumstances surrounding the individual's desire to pursue voluntary evaluation and/or admission.

### 409.4 CONSIDERATIONS AND RESPONSIBILITIES

Any officer handling a call involving an individual who may qualify for a 5150 commitment should consider, as time and circumstances reasonably permit:

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## *Mental Illness Commitments*

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- (a) Available information that might assist in determining the cause and nature of the person's action or stated intentions.
- (b) Community or neighborhood mediation services.
- (c) Conflict resolution and de-escalation techniques.
- (d) Community or other resources available to assist in dealing with mental health issues.

While these steps are encouraged, nothing in this section is intended to dissuade officers from taking reasonable action to ensure the safety of the officers and others.

Officers should consider a 5150 commitment over arrest when mental health issues appear to be a mitigating factor for people who are suspected of committing minor crimes or creating other public safety issues.

### **409.4.1 SECURING OF PROPERTY**

When a person is taken into custody for evaluation, or within a reasonable time thereafter, and unless a responsible relative, guardian or conservator is in possession of the person's personal property, the officer shall take reasonable precautions to safeguard the individual's personal property in his/her possession or on the premises occupied by the person (Welfare and Institutions Code § 5150).

The officer taking the person into custody shall provide a report to the court that describes the person's property and its disposition in the format provided in Welfare and Institutions Code § 5211, unless a responsible person took possession of the property, in which case the officer shall only include the name of the responsible person and the location of the property (Welfare and Institutions Code § 5150).

### **409.5 TRANSPORTATION**

When transporting any individual for a 5150 commitment, the transporting officer should have the Communications Center notify the receiving facility of the estimated time of arrival, the level of cooperation of the individual and whether any special medical care is needed.

Officers may transport individuals in a patrol unit and shall secure them in accordance with the Handcuffing and Restraints Policy. Should the detainee require transport in a medical transport vehicle and the safety of any person, including the detainee, requires the presence of an officer during the transport, Shift Supervisor approval is required before transport commences.

### **409.6 TRANSFER TO APPROPRIATE FACILITY**

Upon arrival at the facility, the officer will escort the individual into a treatment area designated by a facility staff member. If the individual is not seeking treatment voluntarily, the officer should provide the staff member with the written application for a 5150 commitment and remain present to provide clarification of the grounds for detention, upon request.

Absent exigent circumstances, the transporting officer should not assist facility staff with the admission process, including restraint of the individual. However, if the individual is transported



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and delivered while restrained, the officer may assist with transferring the individual to facility restraints and will be available to assist during the admission process, if requested. Under normal circumstances, officers will not apply facility-ordered restraints.

#### **409.7 DOCUMENTATION**

The officer shall complete an application for a 72-Hour detention for evaluation and treatment, provide it to the facility staff member assigned to that patient and retain a copy of the application for inclusion in the case report.

The application shall include the circumstances for officer involvement; the probable cause to believe the person is, as a result of a mental health disorder, a danger to others or him/herself or gravely disabled; and all information used for the determination of probable cause (Welfare and Institutions Code § 5150; Welfare and Institutions Code § 5150.05).

The officer should also provide a verbal summary to any evaluating staff member regarding the circumstances leading to the involuntary detention.

##### **409.7.1 ADVISEMENT**

The officer taking a person into custody for evaluation shall advise the person of:

- (a) The officer's name and agency.
- (b) The fact that the person is not under criminal arrest but is being taken for examination by mental health professionals and the mental health staff will advise him/her of their rights.
- (c) The name of the facility to which the person is being taken.
- (d) If the person is being taken into custody at his/her residence, he/she should also be advised that he/she may take a few personal items, which the officer must approve, and may make a telephone call or leave a note indicating where he/she is being taken. The officer should also ask if the person needs assistance turning off any appliance or water.

The advisement shall be given in a language the person understands. If the person cannot understand an oral advisement, the information shall be provided in writing (Welfare and Institutions Code § 5150).

#### **409.8 CRIMINAL OFFENSES**

Officers investigating an individual who is suspected of committing a minor criminal offense and who is being taken on a 5150 commitment should resolve the criminal matter by issuing a warning or a Notice to Appear as appropriate.

When an individual who may qualify for a 5150 commitment has committed a serious criminal offense that would normally result in an arrest and transfer to a jail facility, the officer should:

- (a) Arrest the individual when there is probable cause to do so.

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## *Mental Illness Commitments*

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- (b) Notify the appropriate supervisor of the facts supporting the arrest and the facts that would support the 5150 commitment.
- (c) Facilitate the individual's transfer to jail.
- (d) Thoroughly document in the related reports the circumstances that indicate the individual may qualify for a 5150 commitment.

In the supervisor's judgment, the individual may instead be arrested or booked and transported to the appropriate mental health facility. The supervisor should consider the seriousness of the offense, the treatment options available, the ability of this department to regain custody of the individual, department resources (e.g., posting a guard) and other relevant factors in making this decision.

### **409.9 FIREARMS AND OTHER WEAPONS**

Whenever a person is taken into custody for a 5150 commitment, the handling officers should seek to determine if the person owns or has access to any firearm or other deadly weapon defined in Welfare and Institutions Code § 8100. Officers should consider whether it is appropriate and consistent with current search and seizure law under the circumstances to seize any such firearms or other dangerous weapons (e.g., safekeeping, evidence, consent).

Officers are cautioned that a search warrant may be needed before entering a residence or other place to search, unless lawful, warrantless entry has already been made (e.g., exigent circumstances, consent). A search warrant may also be needed before searching for or seizing weapons

The handling officers shall issue a receipt describing the deadly weapon or any firearm seized, and list any serial number or other identification that is on the firearm. Officers shall advise the person of the procedure for the return of any firearm or other weapon that has been taken into custody (Welfare and Institutions Code § 8102 (b)) (see Property and Evidence Policy).

#### **409.9.1 PETITION FOR RETURN OF FIREARMS AND OTHER WEAPONS**

Whenever the handling officer has cause to believe that the future return of any confiscated weapon might endanger the person or others, the officer shall detail those facts and circumstances in a report. The report shall be forwarded to the Investigative Bureau, which shall be responsible for initiating a petition to the Superior Court for a hearing in accordance with Welfare and Institutions Code § 8102(c), to determine whether the weapon will be returned.

The petition to the Superior Court shall be initiated within 30 days of the release of the individual from whom such weapon has been confiscated, unless the Department makes an ex parte application to the court to extend the time to file such a petition, up to a maximum of 60 days. At the time any such petition is initiated, the Department shall send written notice to the individual informing him/her of the right to a hearing on the issue, that he/she has 30 days to confirm with the court clerk any desire for a hearing and that the failure to do so will result in the forfeiture of any confiscated weapon.

# Merced Police Department

Merced PD Policy Manual

## *Mental Illness Commitments*

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### **409.10 TRAINING**

This department will endeavor to provide Peace Officer Standards and Training (POST)-approved advanced officer training on interaction with persons with mental disabilities, 5150 commitments and crisis intervention.



## Crisis Intervention Incidents

### 430.1 PURPOSE AND SCOPE

This policy provides guidelines for interacting with those who may be experiencing a mental health or emotional crisis. Interaction with such individuals has the potential for miscommunication and violence. It often requires an officer to make difficult judgments about a person's mental state and intent in order to effectively and legally interact with the individual.

#### 430.1.1 DEFINITIONS

Definitions related to this policy include:

**Person in crisis** - A person whose level of distress or mental health symptoms have exceeded the person's internal ability to manage his/her behavior or emotions. A crisis can be precipitated by any number of things, including an increase in the symptoms of mental illness despite treatment compliance; non-compliance with treatment, including a failure to take prescribed medications appropriately; or any other circumstance or event that causes the person to engage in erratic, disruptive or dangerous behavior that may be accompanied by impaired judgment.

### 430.2 POLICY

The Merced Police Department is committed to providing a consistently high level of service to all members of the community and recognizes that persons in crisis may benefit from intervention. The Department will collaborate, where feasible, with mental health professionals to develop an overall intervention strategy to guide its members' interactions with those experiencing a mental health crisis. This is to ensure equitable and safe treatment of all involved.

### 430.3 SIGNS

Members should be alert to any of the following possible signs of mental health issues or crises:

- (a) A known history of mental illness
- (b) Threats of or attempted suicide
- (c) Loss of memory
- (d) Incoherence, disorientation or slow response
- (e) Delusions, hallucinations, perceptions unrelated to reality or grandiose ideas
- (f) Depression, pronounced feelings of hopelessness or uselessness, extreme sadness or guilt
- (g) Social withdrawal
- (h) Manic or impulsive behavior, extreme agitation, lack of control
- (i) Lack of fear
- (j) Anxiety, aggression, rigidity, inflexibility or paranoia

# Merced Police Department

Merced PD Policy Manual

## *Crisis Intervention Incidents*

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Members should be aware that this list is not exhaustive. The presence or absence of any of these should not be treated as proof of the presence or absence of a mental health issue or crisis.

### **430.4 COORDINATION WITH MENTAL HEALTH PROFESSIONALS**

The Chief of Police should designate an appropriate Division Captain to collaborate with mental health professionals to develop an education and response protocol. It should include a list of community resources, to guide department interaction with those who may be suffering from mental illness or who appear to be in a mental health crisis.

### **430.5 FIRST RESPONDERS**

Safety is a priority for first responders. It is important to recognize that individuals under the influence of alcohol, drugs or both may exhibit symptoms that are similar to those of a person in a mental health crisis. These individuals may still present a serious threat to officers; such a threat should be addressed with reasonable tactics. Nothing in this policy shall be construed to limit an officer's authority to use reasonable force when interacting with a person in crisis.

Officers are reminded that mental health issues, mental health crises and unusual behavior alone are not criminal offenses. Individuals may benefit from treatment as opposed to incarceration.

An officer responding to a call involving a person in crisis should:

- (a) Promptly assess the situation independent of reported information and make a preliminary determination regarding whether a mental health crisis may be a factor.
- (b) Request available backup officers and specialized resources as deemed necessary and, if it is reasonably believed that the person is in a crisis situation, use conflict resolution and de-escalation techniques to stabilize the incident as appropriate.
- (c) If feasible, and without compromising safety, turn off flashing lights, bright lights or sirens.
- (d) Attempt to determine if weapons are present or available.
  1. Prior to making contact, and whenever possible and reasonable, conduct a search of the Department of Justice Automated Firearms System via the California Law Enforcement Telecommunications System (CLETS) to determine whether the person is the registered owner of a firearm (Penal Code § 11106.4).
- (e) Take into account the person's mental and emotional state and potential inability to understand commands or to appreciate the consequences of his/her action or inaction, as perceived by the officer.
- (f) Secure the scene and clear the immediate area as necessary.
- (g) Employ tactics to preserve the safety of all participants.
- (h) Determine the nature of any crime.
- (i) Request a supervisor, as warranted.
- (j) Evaluate any available information that might assist in determining cause or motivation for the person's actions or stated intentions.



*Crisis Intervention Incidents*

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- (k) If circumstances reasonably permit, consider and employ alternatives to force.

**430.6 DE-ESCALATION**

Officers should consider that taking no action or passively monitoring the situation may be the most reasonable response to a mental health crisis.

Once it is determined that a situation is a mental health crisis and immediate safety concerns have been addressed, responding members should be aware of the following considerations and should generally:

- Evaluate safety conditions.
- Introduce themselves and attempt to obtain the person's name.
- Be patient, polite, calm, courteous and avoid overreacting.
- Speak and move slowly and in a non-threatening manner.
- Moderate the level of direct eye contact.
- Remove distractions or disruptive people from the area.
- Demonstrate active listening skills (e.g., summarize the person's verbal communication).
- Provide for sufficient avenues of retreat or escape should the situation become volatile.

Responding officers generally should not:

- Use stances or tactics that can be interpreted as aggressive.
- Allow others to interrupt or engage the person.
- Corner a person who is not believed to be armed, violent or suicidal.
- Argue, speak with a raised voice or use threats to obtain compliance.

**430.7 INCIDENT ORIENTATION**

When responding to an incident that may involve mental illness or a mental health crisis, the officer should request that the dispatcher provide critical information as it becomes available. This includes:

- (a) Whether the person relies on drugs or medication, or may have failed to take his/her medication.
- (b) Whether there have been prior incidents, suicide threats/attempts, and whether there has been previous police response.
- (c) Contact information for a treating physician or mental health professional.

Additional resources and a supervisor should be requested as warranted.

# Merced Police Department

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### *Crisis Intervention Incidents*

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#### **430.8 SUPERVISOR RESPONSIBILITIES**

A supervisor should respond to the scene of any interaction with a person in crisis. Responding supervisors should:

- (a) Attempt to secure appropriate and sufficient resources.
- (b) Closely monitor any use of force, including the use of restraints, and ensure that those subjected to the use of force are provided with timely access to medical care (see the Handcuffing and Restraints Policy).
- (c) Consider strategic disengagement. Absent an imminent threat to the public and, as circumstances dictate, this may include removing or reducing law enforcement resources or engaging in passive monitoring.
- (d) Ensure that all reports are completed and that incident documentation uses appropriate terminology and language.
- (e) Conduct an after-action tactical and operational debriefing, and prepare an after-action evaluation of the incident to be forwarded to the Division Captain.

Evaluate whether a critical incident stress management debriefing for involved members is warranted.

#### **430.9 INCIDENT REPORTING**

Members engaging in any oral or written communication associated with a mental health crisis should be mindful of the sensitive nature of such communications and should exercise appropriate discretion when referring to or describing persons and circumstances.

Members having contact with a person in crisis should keep related information confidential, except to the extent that revealing information is necessary to conform to department reporting procedures or other official mental health or medical proceedings.

##### **430.9.1 DIVERSION**

Individuals who are not being arrested should be processed in accordance with the Mental Illness Commitments Policy.

#### **430.10 NON-SWORN INTERACTION WITH PEOPLE IN CRISIS**

Non-sworn members may be required to interact with persons in crisis in an administrative capacity, such as dispatching, records request, and animal control issues.

- (a) Members should treat all individuals equally and with dignity and respect.
- (b) If a member believes that he/she is interacting with a person in crisis, he/she should proceed patiently and in a calm manner.
- (c) Members should be aware and understand that the person may make unusual or bizarre claims or requests.

If a person's behavior makes the member feel unsafe, if the person is or becomes disruptive or violent, or if the person acts in such a manner as to cause the member to believe that the person

# Merced Police Department

## Merced PD Policy Manual

### *Crisis Intervention Incidents*

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may be harmful to him/herself or others, an officer should be promptly summoned to provide assistance.

#### **430.11 EVALUATION**

The Division Captain designated to coordinate the crisis intervention strategy for this department should ensure that a thorough review and analysis of the department response to these incidents is conducted annually. The report will not include identifying information pertaining to any involved individuals, officers or incidents and will be submitted to the Chief of Police through the chain of command.

#### **430.12 TRAINING**

In coordination with the mental health community and appropriate stakeholders, the Department will develop and provide comprehensive education and training to all department members to enable them to effectively interact with persons in crisis.

This department will endeavor to provide Peace Officer Standards and Training (POST)-approved advanced officer training on interaction with persons with mental disabilities, welfare checks and crisis intervention (Penal Code § 11106.4; Penal Code § 13515.25; Penal Code § 13515.27; Penal Code § 13515.30).

## **POLICY SECTION 300 – Q & A**

### **Question:**

Sec. 300.1.1, Definition of "Force:" The provision expressly omits from the definition of "force" any instances where "a person allows him/herself to be searched, escorted, handcuffed, or restrained."

The question is whether there should be language concerning the situation when "a person" voluntarily withdraws consent to be "searched, escorted, handcuffed, or restrained." Upon withdrawal of consent, does an officer's continued search, escort, handcuffing, or restraint then become a "use of force" within the meaning of the policy?

### **Answer:**

The withdrawal of consent absent any physical resistance does not mean we have a "use of force". If there is physical

### **Question:**

Sec. 300.3.3, Pain Compliance Techniques: The provision concludes with mandatory language requiring that "[t]he application of any pain compliance techniques shall be discontinued once the officer determines that compliance has been achieved."

The question is whether the language should also include express instructions that the officer applying the pain compliance technique (or perhaps another officer responding to the same situation) must take affirmative steps to "determine" whether "compliance has been achieved."

In making this observation, I am hesitant to suggest that the policy impose a mandatory duty on officers to clearly make an investigation of the subject's compliance. On the other hand, one lesson of the George Floyd detention is the consequence of an officer remaining willfully blind to "compliance." There is at least the potential for a positive change to Section 300.3.3 that helps build community trust in our police while stopping short of putting our officers at risk of an after-the-fact "breach of duty" claim.

### **Answer:**

It is not necessary to include instructions to take affirmative steps. The force being used must be in compliance with Sec. 300.3.2 - Factors Used to Determine the Reasonableness of Force. Any officers present and observing the use of force are bound by Sec. 300.2.1 - Duty to Intercede and Report. Both of these sections are governed by federal law and the combination of these will address the question.

**Question:**

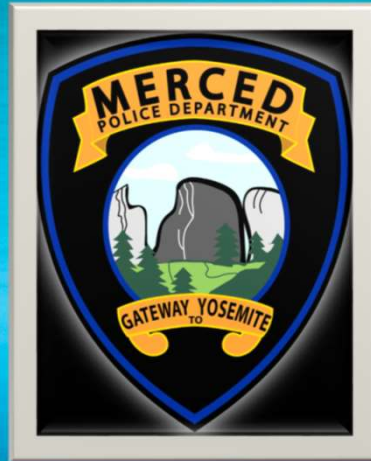
In Sec 300.3.4 Carotid Control Hold, should there be language to accompany "application no longer reasonably appears necessary" that helps describe "reasonable appears necessary"?

**Answer:**

300.3.4 Carotid Control Hold

(c) At all times during the application of the carotid control hold, the response of the individual should be monitored. The carotid control hold should be discontinued when circumstances indicate that the application no longer reasonably appears necessary (i.e. such as when the subject is properly restrained or otherwise compliant.)





# Merced Police Department Hiring Process and Training



# The Hiring Process

This extensive process take approximately 8 weeks and is a collaboration between the Personnel Department and the Police Department.

## Application

- Collects basic information

## Background

- Determines if the candidate meets standards.
- Home/neighbor/past employer checks

## Written Test

- Assesses writing and communication skills

## Command Staff review and Chief's interview.

- Job offer

## Interview Panel

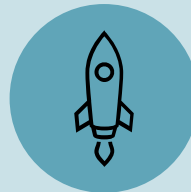
- Assesses decision making, ethics & interest

## Psychologist Evaluation

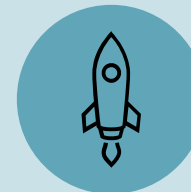
## Medical Evaluation

CVSA (Computer Voice Stress Analyzer)

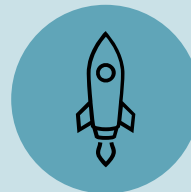
Police Academy



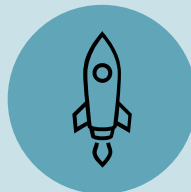
## Training



Field Training Program



Perishable  
Skills Training



Continuing  
Professional Training

# The Police Academy

## Peace Officer Standards and Training (P.O.S.T.)

7 months equal to 46 college units

42 Learning Domains

- Physical/skills, scenario, & knowledge

Testing requirements  
(80% min.) / Remediation

Peer Review / RTO Review

Merced PD Monitoring of Trainees

Cultural Diversity Training –LD 42  
People with Disabilities – LD 37

# MPD Field Training Program

19 weeks long (3-week phases)

Classroom, Patrol, Traffic, DART & GVSU

Community Relations Block

Evaluations (Daily, Weekly, Phase & full program)

Remediation Plans

EAP / Peer Support / Cordico / Chaplain

Agency 360 software  
Program Evaluation

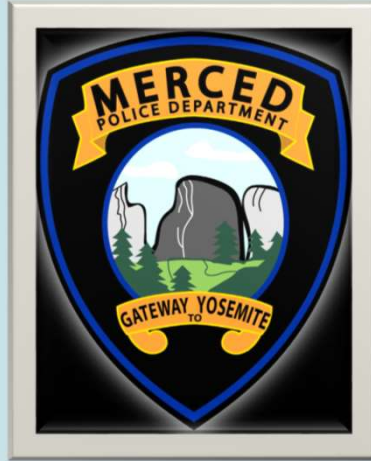
# Ongoing Training

## P.O.S.T. Mandated

- Perishable Skills Program (every 2 years)
  - Driving
  - Arrest & Control
  - Firearms
  - Tactical Communication
    - De-escalation
  - Domestic Violence update
  - Bias Based Policing & Racial Profiling
  - First Aid/ CPR Update

## Merced Police Department Specific

- Firearms (monthly)
- Arrest and control techniques (tactical communication – de-escalation) (monthly)
- Taser / impact weapons
- Police and City of Merced Policy
  - DTB – Daily Training Bulletins from Lexipol
  - Policy Changes – immediately
  - Briefing trainings
- Generational Diversity training



# Our Vision

To be a trusted, professional organization renowned for exceptional, ethical service committed to the communities within Merced.

In order to accomplish our vision, we will:

- provide professional services through honest, ethical, fair and consistent practices
- develop quality employees through appropriate education and training
- enhance the provision of life and property protection, utilizing advanced technology
- encourage and participate

# Merced Police Department Demographic Breakdown

	White	Hispanic	Black	Asian/Pacific Islander	Native American
<i>Sworn</i>	57	29	2	4	2
<i>Non-sworn</i>	28	9	1	2	0
<i>Total</i>	85	38	3	6	2