

Use of Force

300.1 PURPOSE AND SCOPE

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

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

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

300.1.1 DEFINITIONS

Definitions related to this policy include:

Active Resistance – Imminent threat(s) through verbal statement(s) and/or physical action(s) by an individual who has the intent, means, opportunity, and ability to:

- 1) resist arrest/custody through violence and/or
- 2) flee from arrest/custody.

Compliant Subject - An individual who is cooperative, responsive to lawful commands, and offers no active resistance.

Control Hold - Any Department-approved method or hold, designed to control the movement of an individual by manually applying pressure to a particular part of their body (such as bent wrist control hold, twist lock, rear wrist lock, finger lock, etc.). A control hold can be applied without implementing pain.

Control Techniques - Movements/manipulation of an engaged individual by an officer which could include pushing, pulling, guiding, and/or the use of control holds.

Deadly/Lethal 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).

De-escalation - The process of using strategies and techniques intended to decrease the need to use force and/or reducing or ending the application of force.

Disengagement - A de-escalation tactic designed to avoid or minimize the need to use force, or otherwise unsafe outcomes for both the individual being contacted and/or the officer. Disengagement may be a viable option for individuals who pose no additional threats to others, there is no crime, or for individuals who may later be apprehended under safer conditions.

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Emergency Medical Treatment – Treatment for significant injuries where an individual requires life-saving intervention and/or treatment at a hospital.

Exigent Circumstances – Circumstances where a reasonable person would believe that certain action(s) and/or response(s) were necessary to prevent harm.

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

Force - The application of physical techniques/tactics, chemical agents, or weapons upon another person to:

- (a) Defend against an assault, and/or
- (b) Overcome resistance to arrest/custody, and/or
- (c) Overcome flight from arrest/custody.

It is not a use of force when a person allows themselves to be searched, escorted, handcuffed, or restrained.

Imminent Threat - A threat which, based on the totality of the circumstances and clear articulable facts, 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 injury to the officer or another person. An officer's subjective fear of future harm alone is insufficient as an imminent threat. Imminent threat is one that from appearances must be immediately addressed. (Penal Code 835a).

Intercede- Includes, but is not limited to, verbally and/or physically stopping the excessive use of force.

Less-Lethal Force - Any use of force, other than deadly force, which by design presents less potential for causing death or serious injury than conventional lethal force options.

Medical Treatment – Treatment for injuries not requiring lifesaving intervention. This includes first aid in the field or treatment at a medical facility.

Necessary Force - Force where objectively reasonable alternatives were not available and/or practical and the force used was reasonable based on the Department's policy and training to effect the lawful purpose intended.

Objectively Reasonable – An assessment of reasonableness based on a specific set of facts and a totality of circumstances where an officer's conduct is evaluated based on the reasonable officer standard. This evaluation is used to determine whether the officer's actions were justified given the situation ~~he/she~~ **they** faced at that time.

Pain Compliance Technique - Involves either the manipulation of a person's joints or activating certain pressure points intended to create sufficient pain for the purpose of motivating a person to comply with verbal commands.

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Passive Resistance - Resistance where an individual does not follow the lawful verbal commands of an officer and does not engage in acts of violence and/or physical resistance in any way. Examples: A person who goes completely limp, sits down, and refuses to stand or walk, or who may stand with arms at their sides without attempting to strike at or physically resist officers.

Personal Body Weapons - An officer's use of ~~his/her~~ **their** body part, including but not limited to hand, foot, knee, elbow, shoulder, hip, arm, leg, or head by means of kinetic energy transfer (impact) to gain control of a subject.

Pre-Event Conduct - The actions of police personnel, to include the process of gathering and assessing all of the information and resources available to officers prior to an event.

Restrained Person – A person who has fully been placed into any authorized restraint device such as handcuffs, leg restraints, or a WRAP Restraint Device.

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

Tactical Repositioning - A tactic considered when circumstances reasonably appear to be conducive and advantageous to physically move or change an officer's location. The intent is to seize opportunities to gain additional time, distance, and cover in a manner that supports safety for members of the community, officers, and the subject. When appropriate, the objective is to consider tactical repositioning as an option in support of de-escalation techniques and to increase an officer's reaction time and tactical options. Tactical repositioning is not considered a "retreat" as outlined in PC 835a(d) and should be included as another option for officers to consider when attempting an arrest.

Takedown Technique – A method designed to physically take a subject to the ground with the intent of gaining control of the subject.

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

300.2 POLICY

The Alameda Police Department's highest priority is safeguarding the life, dignity, and liberty of all persons. Officers shall demonstrate this principle in their daily interactions with the community they are sworn to protect and serve. The Department is committed to accomplishing this mission with respect and minimal reliance on the use of force by using rapport-building communication, crisis intervention, and de-escalation tactics before resorting to force. Officers must respect the sanctity of human life, act in all possible respects to preserve human life, and minimize the force that is used, while still protecting themselves and the public.

In all cases where physical force is used and no other options were practical, officers shall use a minimum amount of force to accomplish a legitimate law enforcement objective that is objectively reasonable and proportional to effectively and safely overcome resistance.

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The United States Supreme Court in *Graham v. Connor*, 490 U.S. 386 (1989), held that, in order to comply with the U.S. Constitution, an officer's use of force must be objectively reasonable under the totality of circumstances known to the officer at the time. Additionally, Penal Code section 835(a) imposes further restrictions on an officer's use of force.

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

300.2.1 DUTY TO INTERCEDE

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

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

300.2.2 FAIR AND UNBIASED USE OF FORCE

Officers are expected to carry out their duties, including the use of force, in a manner that is fair and unbiased (Government Code § 7286(b)). Any application of force that is solely rooted in bias against a person's race, ethnicity, national origin, religion, disability, gender identity or expression, sexual orientation, or any other protected class/characteristic is strictly prohibited. Officers engaged in such action will be subject to termination. See the Bias-Based Policing Policy.

300.2.3 DUTY TO REPORT EXCESSIVE FORCE

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

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

300.2.4 FAILURE TO INTERCEDE

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

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

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

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

It is also recognized that circumstances may arise in which officers reasonably believe that it would be impractical or ineffective to use any of the approved or authorized tools, weapons, or methods provided by the Alameda Police 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. Officers should consider re-positioning or disengaging.

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 ~~their~~ ~~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 ~~their~~ ~~his/her~~ right to self-defense by the use of reasonable force to effect the arrest, prevent escape, or to overcome resistance. Retreat does not mean tactical repositioning or other de-escalation techniques (Penal Code § 835a).

300.3.2 FACTORS USED TO DETERMINE THE REASONABLENESS OF FORCE

When determining whether to apply force and evaluating whether an officer has used reasonable force, a number of factors should be taken into consideration, as time and circumstances permit (Government Code § 7286(b)). These factors include but are not limited to:

- (a) The apparent immediacy and severity of the threat to officers or others (Penal Code § 835a).

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- (b) The conduct of the individual being confronted, as reasonably perceived by the officer at the time (Penal Code § 835a).
- (c) Officer/subject factors (age, size, relative strength, skill level, injuries sustained, level of exhaustion or fatigue, the number of officers available vs. subjects).
- (d) The conduct of the involved officer leading up to the use of force (Penal Code § 835a).
- (e) The effects of suspected drugs or alcohol.
- (f) The individual's apparent mental state or capacity (Penal Code § 835a).
- (g) The individual's apparent ability to understand and comply with officer commands (Penal Code § 835a).
- (h) Proximity of weapons or dangerous improvised devices.
- (i) The degree to which the subject has been effectively restrained and ~~his/her~~ **their** ability to resist despite being restrained.
- (j) The availability of other reasonable and feasible options and their possible effectiveness (Penal Code § 835a).
- (k) Seriousness of the suspected offense or reason for contact with the individual prior to and at the time force is used.
- (l) Training and experience of the officer.
- (m) Potential for injury to officers, suspects, bystanders, and others.
- (n) Whether the person appears to be resisting, attempting to evade arrest by flight, or is attacking the officer.
- (o) The risk and reasonably foreseeable consequences of escape.
- (p) The apparent need for immediate control of the subject or a prompt resolution of the situation.
- (q) Whether the conduct of the individual being confronted no longer reasonably appears to pose an imminent threat to the officer or others.
- (r) Prior contacts with the subject or awareness of any propensity for violence.
- (s) Any other exigent circumstances.

300.3.3 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.

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

300.3.4 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 Alameda Police Department for this specific purpose.

300.3.5 ALTERNATIVE TACTICS - DE-ESCALATION

De-escalation and Force Minimization: Every officer's goal, throughout an encounter with a member of the public, shall be to de-escalate, wherever possible, and resolve the encounter without resorting to the use of force. Wherever possible, officers shall employ de-escalation techniques to increase the likelihood of voluntary compliance with law enforcement requests or directives and, thereby, decrease the likelihood that a use of force will become necessary during an incident. Further, in any encounters that do call for applying force, officers must always use a minimal amount of force that is objectively reasonable to safely achieve their legitimate law enforcement objective.

Proportionality: When determining the appropriate level of force, officers shall balance the severity of the offense committed and the level of resistance based on the totality of the circumstances known to or perceived by the officer at the time. It is particularly important that officers apply proportionality and critical decision making when encountering a subject who is unarmed or armed with a weapon other than a firearm.

Minimizing the Use of Deadly Force: Deadly force may only be used when it is objectively reasonable that such action is necessary to protect the officer or another person from imminent danger of death or serious bodily harm. Officers shall not use deadly force if it is objectively reasonable that alternative techniques will eliminate the imminent danger and ultimately achieve the law enforcement purpose with less risk of harm to the officer or to other persons.

Vulnerable Populations: Officers should be particularly sensitive when considering the use of force against vulnerable populations, including children, elderly persons, pregnant women, people with physical and mental disabilities, people experiencing mental health crises, and people with limited English proficiency.

Foster Strong Community Relationships: The Alameda Police Department understands that uses of force, even if lawful and proper, can have a damaging effect on the public's perception of the Department and the Department's relationship with the community. The Department is committed to fostering strong community relations by building on its historic tradition of progressive policing, ensuring accountability and transparency, and striving to increase trust with our community.

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De-escalation tactics and techniques are actions used by officers which seek to minimize the need to use force during an incident. Such tactics and techniques may increase the likelihood of voluntary compliance when employed and shall be used when it is safe to do so. De-escalation tactics emphasize slowing down an incident to allow time, distance, and flexibility for the situation to resolve. Officers shall continually assess the dynamics of a situation and modulate their response and actions appropriately. Officers may be justified in using force at one moment, but not justified in using force the next due to a change in dynamics. The application of these tactics is intended to increase the potential for resolution with a minimal reliance on the use of force, or without using force at all.

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

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

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

- (a) Attempts to de-escalate a situation.
- (b) If reasonably available, the use of crisis intervention techniques by properly trained personnel.
- (c) Maintaining a safe distance.
- (d) Using available cover and concealment and identifying escape routes.
- (e) Staging other relevant emergency personnel such as the Alameda Fire Department.
- (f) Controlling vehicle and pedestrian traffic.
- (g) Establishing communication, preferably with one officer.
- (h) Creating an emergency plan and a deliberate plan with contingencies.
- (i) Making a tactical approach to the scene.
- (j) Gathering intelligence concerning the incident and/or the involved person(s) from available sources.
- (k) Evaluating if the person has any of the following conditions which may prevent or delay effective de-escalation:
 - 1. Physical disability

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2. Mental health disability
 3. Developmental disability
 4. Intellectual disability
 5. Under the influence of drugs (prescribed or otherwise) or alcohol, or both
- (l) Using available cover and concealment, as appropriate.
- (m) Utilizing distance and space to maximize non-confrontational contact and dialogue.
- (n) Communicating with the person in a calm, slow, non-threatening manner and tone:
1. Provide clear, concise directions or commands
 2. Allow person(s) to express themselves verbally; allow the person to "vent"
 3. Ask open-ended questions
 4. Recognize the importance of verbal and non-verbal communication being in sync
- (o) Deploying less-lethal resources.
- (p) Tactical repositioning of resources and personnel.
- (q) Disengagement.

300.3.6 RESTRICTIONS ON THE USE OF A CHOKE HOLD

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

300.3.7 ADDITIONAL RESTRICTIONS

Officers are not authorized to use any restraint or transportation method which would create substantial risk of positional asphyxia as defined by Government Code § 7286.5 and/or unreasonably impair an individual's breathing or respiratory capacity. Once controlled, the individual shall be placed into a recovery position (e.g., supine or seated) and monitored for signs of medical distress (Government Code § 7286.5). Pressure on the head, neck, and/or spine shall be avoided. Any pressure applied on the back shall be transitory. Department policy further requires restrained individuals shall be placed into the recovery position immediately. If a decision is made to place a restrained individual into a leg restraint device, officers shall comply with Policy 306.7 ~~When an individual has been placed under any circumstances that may result in airway compression, reduction of breathing, and/or pressure or body weight against neck, torso, or back or in a prone position, and handcuffed, the individual shall immediately be placed into a recovery position and monitored for signs of medical distress.~~

300.4 DEADLY FORCE APPLICATIONS

Where feasible, the officer shall, prior to the use of deadly force, make reasonable efforts to identify themselves ~~him/herself~~ as a peace officer and to warn that deadly force may be used, unless the

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officer has objectively reasonable grounds to believe the person is aware of those facts (Penal Code 835a).

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

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

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

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

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

300.4.1 SHOOTING AT OR FROM MOVING VEHICLES

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

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

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300.4.2 DISPLAYING OF FIREARMS

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

- (a) If the officer does not initially perceive a threat but reasonably believes that the potential for such threat exists, firearms should generally be kept in the low-ready or other position not directed toward an individual.
- (b) If the officer reasonably believes that a threat exists based on the totality of circumstances presented at the time (e.g., high-risk stop, tactical entry, armed encounter), firearms may be directed toward such threat until the officer no longer perceives such threat.

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

300.5 REPORTING THE USE OF FORCE

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

300.5.1 NOTIFICATION TO SUPERVISORS

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

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

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

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300.5.2 REPORTING TO CALIFORNIA DEPARTMENT OF JUSTICE

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

300.6 MEDICAL CONSIDERATIONS

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

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

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

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

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

See the Medical Aid and Response Policy for additional guidelines.

300.7 SUPERVISOR RESPONSIBILITY

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

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

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- (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 ~~their his/her~~ *Miranda* rights, the following shall apply:
 - 1. The content of the interview should not be summarized or included in any related criminal charges.
 - 2. The fact that a recorded interview was conducted should be documented in a property or other report.
 - 3. The recording of the interview should be distinctly marked for retention until all potential for civil litigation has expired.
- (d) Once any initial medical assessment has been completed or first aid has been rendered, ensure that photographs have been taken of any areas involving visible injury or complaint of pain, as well as overall photographs of uninjured areas. These photographs should be retained until all potential for civil litigation has expired.
- (e) Identify any witnesses not already included in related reports.
- (f) Review and approve all related reports.
- (g) Determine if there is any indication that the subject may pursue civil litigation.
 - 1. If there is an indication of potential civil litigation, the supervisor should complete and route a notification of a potential claim through the appropriate channels.
- (h) Evaluate the circumstances surrounding the incident and initiate an administrative investigation if there is a question of policy non-compliance or if for any reason further investigation may be appropriate.

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

300.7.1 WATCH COMMANDER RESPONSIBILITY

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

300.8 TRAINING

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

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

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

- (a) Guidelines regarding vulnerable populations, including but not limited to children, elderly persons, pregnant individuals, and individuals with physical, mental, and developmental disabilities.
- (b) Training courses required by and consistent with POST guidelines set forth in Penal Code § 13519.10.

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

300.9 USE OF FORCE ANALYSIS

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

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

300.10 USE OF FORCE COMPLAINTS

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

300.11 POLICY REVIEW

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

300.12 POLICY AVAILABILITY

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

300.13 PUBLIC RECORDS REQUESTS

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

Handcuffing and Restraints

306.1 PURPOSE AND SCOPE

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

306.2 POLICY

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

306.3 USE OF RESTRAINTS

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

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

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

306.3.1 RESTRAINT OF DETAINEES

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

306.3.2 RESTRAINT OF PREGNANT PERSONS

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

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

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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).

306.3.3 RESTRAINT OF JUVENILES

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

306.3.4 NOTIFICATIONS

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

As part of the intake process at Santa Rita Jail (SRJ), the Alameda County Sheriff's Office will no longer accept arrestees in a WRAP Restraint Device if the arrestee cannot be safely removed from the restraint device and a proper medical assessment can be conducted by their medical staff prior to booking. The sworn staff at SRJ will be made available to assist our officers at the time of intake, but they will not accept arrestees who remain violent while in the WRAP.

If the arrestee is too combative to obtain vital signs and medical staff cannot conduct a thorough medical assessment, the arrestee will be refused and we will need to transport the arrestee to a hospital for evaluation and/or treatment. Upon clearance from the hospital and removal from the WRAP Restraint Device, notwithstanding, any other medical conditions which may preclude acceptance to SRJ, the arrestee can be returned to SRJ for the booking process.

306.4 APPLICATION OF HANDCUFFS OR PLASTIC CUFFS

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

Although recommended for most arrest situations, handcuffing is discretionary and not an absolute requirement of the Alameda Police 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.

When a situation arises where officers are not able to overcome resistance to handcuff a person who has been placed in a prone position, officers shall consider other force options, including,

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but not limited to, the use of other authorized tactics and techniques, de-escalation, tactical repositioning, or disengaging. Any placement of body weight upon an individual shall be transitory. See the Use of Force Policy for additional guidelines.

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

306.5 APPLICATION OF SPIT HOODS

Spit hoods are temporary protective devices designed to prevent the wearer from biting and/or transferring or transmitting fluids (saliva and 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 distorting that person's vision. Officers should avoid comingling those wearing spit hoods with other detainees.

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

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

306.6 APPLICATION OF AUXILIARY RESTRAINT DEVICES

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

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

306.7 APPLICATION OF LEG RESTRAINT DEVICES

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

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The approved device is the WRAP Restraint manufactured by Safe Restraints, Inc., Park City, Utah. It is the only restraint authorized by this department. Officers shall only use the WRAP Restraint supplied by the department.

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 ~~their~~ ~~his/her~~ own actions (e.g., hitting ~~their~~ ~~his/her~~ head against the interior of the patrol vehicle, running away from the arresting officer while handcuffed, kicking at objects or officers).
- (c) Whether it is reasonably necessary to avoid damage to property (e.g., kicking at windows of the patrol vehicle).

306.7.1 GUIDELINES FOR USE OF LEG RESTRAINTS

When applying leg restraints ~~s devices~~, officers shall do so without unnecessary delay and the following guidelines ~~shall~~ ~~ould~~ be followed:

- (a) If practicable, officers ~~shall~~ ~~ould~~ 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) Limit the number of officers on top of the subject while in the prone position. If pressure is applied, pressure shall be transitory Officers ~~shall~~ ~~ould~~ position themselves on the shoulder blades and legs and avoid pressure to the spine.
- (c) Once applied, absent a medical or other emergency, restraints ~~shall~~ ~~ould~~ remain in place until the officer arrives at the jail or other facility or the person no longer reasonably appears to pose a threat.
- (d) Once secured, the person ~~shall~~ ~~ould~~ be placed in a seated or upright position, secured with a seat belt, and shall not be placed on ~~their~~ ~~his/her~~ stomach for an extended period, as this could reduce the person's ability to breathe.
- (e) The restrained person ~~shall~~ ~~ould~~ be continually monitored by an officer while in the leg restraint. The officer ~~shall~~ ~~ould~~ ensure that the person does not roll onto and remain on ~~their~~ ~~his/her~~ stomach.
- (f) The officer ~~shall~~ ~~ould~~ look for signs of labored breathing and take appropriate steps to relieve and minimize any obvious factors contributing to this condition.
- (g) When transported by emergency medical services, the restrained person ~~shall~~ ~~ould~~ be accompanied by an officer when requested by medical personnel. The transporting officer ~~shall~~ ~~ould~~ 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).

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306.8 REQUIRED DOCUMENTATION

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

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

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

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

306.9 TRAINING

Subject to available resources, the Training Sergeant should ensure that officers receive periodic training on the proper use of handcuffs and other restraints, including:

- (a) Proper placement and fit of handcuffs and other restraint devices approved for use by the Alameda Police 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.

Portable Audio/Video Recorders

450.1 PURPOSE AND SCOPE

This policy provides guidelines for the use of portable audio/video recording devices by members of this department while in the performance of their duties. Portable audio/video recording devices include all recording systems whether body-worn, handheld, or integrated into [vehicles](#).

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

450.2 POLICY

The Alameda Police Department may provide members with access to portable recorders, either audio, video, or both, for use during the performance of their duties. Body-worn cameras (BWCs) [and in-car cameras](#) are ~~used~~ ~~issued~~ primarily ~~by~~ ~~to~~ uniformed personnel along with personnel assigned to investigations. It is the policy of this department that members should activate their BWC [and in-car cameras](#) when [acting in an official capacity with members of the public](#), ~~such use is appropriate to the proper performance of his or her official duties~~, where the recordings are consistent with this policy and law. 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. The recordings captured also assist the Department in establishing public accountability, procedural transparency, and assistance with criminal/civil proceedings, including prosecution, litigation, and convictions.

450.3 MEMBER PRIVACY EXPECTATION

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

450.4 SYSTEM ADMINISTRATOR RESPONSIBILITIES

The System Administrator is designated by the Chief of Police and has oversight responsibilities to include, but are not limited to the following:

1. Operation and user administration of the system;
2. System evaluation;
3. Training;
4. This policy and procedure review and evaluation will take place no less than once annually;
5. Coordination with IT regarding system related issues; and

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6. Ensure BWC files are retained in accordance with our retention requirements noted in this policy.

450.5 MEMBER RESPONSIBILITIES

All members assigned BWCs must complete an agency approved and/or provided training program to ensure proper use and operation. No member of this department shall operate a BWC or in-car camera without first completing this training. Additional training may be required at periodic intervals to ensure the continued effective use and operation of the equipment, proper calibration and performance, and to incorporate changes, updates, or other revisions in policy and equipment.

Prior to going into service, each uniformed member, with the exception of those wearing Class A, will be responsible for making sure ~~that they are~~ ~~he/she is~~ equipped with a BWC, issued by the Department, and that it is in good working order. Any member using a patrol vehicle will ensure the in-car camera is in good working order. Equipment malfunctions shall be brought to the attention of the member's supervisor as soon as possible so that a replacement unit may be provided.

Uniformed members should wear the BWC in a conspicuous manner. Members shall ensure that the BWC is worn in such a way as to provide an unobstructed camera view of the officer's civilian ~~citizen~~ contact. 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.

When using a recorder, the assigned member should record their ~~his/her~~ name, employee 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.

For the purpose of this policy, any member contacting an individual suspected of violating any law or during the course of any official law enforcement related activity shall be presumed to be engaged in an investigation. This presumption shall not apply to contacts with other members conducted solely for administration purposes. It shall further be presumed that any individual contacted by a uniformed officer wearing a conspicuously mounted BWC will have knowledge that such a contact is being recorded. Officers are not required to obtain consent from a private person when:

1. In a public place;
2. In a location where there is no reasonable expectation of privacy;
3. The inside of a building or dwelling where the officer is lawfully present and engaged in the performance of official duties.

Members are encouraged to advise private persons they are recording if they are legally inside a private dwelling only via consent and it does not hinder officer safety.

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All BWC files shall be securely downloaded no later than the end of each shift. Members shall place the BWC into any open slot on the Evidence Transfer Manager (ETM) docking station. ~~This will allow the data to be transferred from the BWC through the ETM to Evidence.com (a highly secured web-based digital media storage facility). The data is considered impounded at this point and the BWC is cleared of existing data.~~ The BWC should not be removed from the ETM until the data has been uploaded and the battery has been fully recharged.

Each member shall be responsible for maintaining ~~their~~ ~~his/her~~ own ~~audio~~ recordings until the media is either full or placed into evidence/safekeeping. ~~Audio-r~~ ~~Recordings shall~~ ~~ould~~ be downloaded no later than the end of each shift, prior to the member's departure. Should the member be unable to download the contents of ~~their~~ ~~his/her~~ audio recorder prior to ~~their~~ ~~his/her~~ departure, then the ~~audio~~-recorder should be downloaded no later than the beginning of the member's next duty day. Nothing in this policy prevents a supervisor from ordering an employee back to work to download the contents of ~~their~~ ~~his/her~~ audio recorder, should the recordings be needed for an investigation.

Attach the connected report number to your recording in this format "1001234" (no dashes, no spaces).

450.5.1 SUPERVISOR RESPONSIBILITIES

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

Supervisors are responsible for ensuring members utilize the BWC and audio recording equipment according to protocol and policy guidelines. When calls for service are identified where recordings would enhance the mission of the Department, the supervisors should order officers responding to the call, via the police radio, to activate their BWCs.

The Inspectional Services Section will conduct periodic audits of recordings to ensure adherence to policy, assess performance, and for training purposes. Audits will be fair and impartial.

450.6 ACTIVATION OF THE PORTABLE RECORDER

There are many situations where the use of ~~a recorder~~ ~~the BWC~~ is appropriate. This policy is not intended to describe every possible situation where use of the equipment may be appropriate.

Public contacts: Officers shall record public contacts, whether in person or through telephonic means, in situations where ~~they~~ ~~he/she~~ ~~are~~ ~~is~~ operating in an official law enforcement capacity.

Non-public contacts: Officer shall record non-public contacts where there is a likelihood enforcement action may be taken. These situations include, but are not limited to:

- Code 3 driving
- K-9 deployment
- Deployment of a firearm

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- Probation/parole searches
- Protective sweeps
- Service of arrest or search warrants

Audio only recordings shall be utilized in situations where the BWC becomes impractical (e.g. medical environment).

Communication between Law Enforcement Personnel outside the presence of any member of the public need not be recorded; provided, however, the body camera shall be immediately reactivated upon any public contact.

At no time should an officer jeopardize ~~their~~ ~~his/her~~ safety in order to activate a ~~body camera~~ recorder. However, if a member intentionally fails to activate their recorder ~~BWC~~ as required by this policy, the member will be subject to discipline.

450.6.1 SURREPTITIOUS USE OF THE PORTABLE RECORDER

Members of the Alameda Police 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 any other ~~another~~ department members s without a court order unless lawfully authorized by the Chief of Police or the authorized designee.

450.6.2 CESSATION OF RECORDING

Once activated, the portable recorder should remain on continuously until the member's 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.

Officers may cease recording when encountering or interviewing a victim who is in a vulnerable position or who asks not to be video-recorded.

Officers may cease recording when interviewing a subject who does not want to be video-recorded and the officer feels obtaining the information or statements exceeds the importance of video evidence.

In all cases above, the officer shall verbally express the intent and reason to stop recording prior to turning off the equipment, and should verbally express it has resumed if later reactivated. The officers should consider whether activating another type of recording device, such as audio recording would be appropriate for memorializing the interaction.

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).

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450.6.3 EXPLOSIVE DEVICE

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

450.6.4 REQUEST FOR DELETION OF ACCIDENTAL RECORDING

In the event of an accidental activation of the recorder where the recording is of no investigative or evidentiary value, the recording employee may request that the recorded file be deleted by submitting an email request with sufficient information to locate the recorded file to the Services Division Commander who shall review the file, approve or deny the request, and forward to the System Administrator for action. All requests and final decisions shall be kept on file with the Services Division Commander.

450.7 PROHIBITED USE OF PORTABLE RECORDERS

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

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

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

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

[Recorders](#) [BWCs](#) shall be used only in conjunction with official law enforcement duties. The [recorders](#) [BWC](#) shall not be used to record:

1. Encounters with undercover officers or confidential informants [or receiving confidential information](#);
2. Conversations with law enforcement personnel that involve case tactics or strategy;
3. Strip searches;
4. When on break or otherwise engaged in non-business related activities; or
5. In any location where members have a reasonable expectation of privacy, such as a restroom or locker room.

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450.7.1 PROHIBITED USE OF BIOMETRIC SURVEILLANCE SYSTEM

The installation, activation, or use of biometric surveillance systems, including facial recognition, in connection with portable recorders is prohibited.

450.8 IDENTIFICATION AND PRESERVATION OF RECORDINGS

Any time a member records any portion of a contact, the member shall categorize the video into the appropriate category to ensure the recording is retained if there is evidentiary value. The user should also record the related case/incident number and transfer the file in accordance with the current procedures for storing digital files. The member shall also document the existence of the recording in the related case report **on the first line of the narrative**. Transfers shall occur at the end of the member's shift, or any time the storage capacity is nearing its limit, or as otherwise directed by a supervisor. Videos that have no evidentiary value need to be changed from "uncategorized" to "No Evidentiary Value" and purged in accordance to the **retention deletion** schedule.

Members shall use the categorization and notation functions of Evidence.com to make notes within the system. Notes such as case numbers, suspect names, and citation numbers will facilitate flagging videos for review, discovery and retention. Members need not make notes on every recording, only recordings which should be retained according to the categorization schedule. Members shall designate retention of their videos in Evidence.com according to the nature of the incident (felony, misdemeanor, traffic stop, field interview, etc.) by using the categorization feature. Uncategorized videos will be deleted after two years so it is critical that videos are appropriately categorized.

Any time a member reasonably believes a recorded contact may be beneficial in a non-criminal matter (e.g., a hostile contact or **citizen** complaint); the member shall promptly notify a supervisor of the existence of the recording. Supervisors, managers, or system administrators may re-categorize recordings as they deem necessary.

450.8.1 RETENTION REQUIREMENTS

It is the responsibility of the member making the recording to categorize recordings in Evidence.com based upon the circumstances of the incident. Files should be securely stored in accordance with state records retention laws and no longer than useful for purposes of training or for use in an investigation or prosecution. All recordings shall 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 90 days.

While it is critical to retain recordings of evidentiary value, it is important that files of insignificant incidents are deleted in a timely fashion according to schedule. The following retention schedule should serve as a guide:

1. Homicide - permanent
2. Inspectional Services - 6 year retention
3. Felony - 3 year retention

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4. All Use of Force - 3 year retention
5. Liability to the City - 3 year retention
6. Misdemeanor (including traffic related misdemeanors) - 1 year retention
7. 5150 W&I - 1 year retention
8. Citations/Warnings - 1 year retention
9. Field Interview Card/Incident Card/ Public Contact- Minimum 180 day retention
10. 901a/Fatal - 3 year retention
11. No Evidentiary Value - 90 days
12. Public Relations - 2 years
13. Admin Interviews - 3 years
14. Uncategorized/Pending Review - Not to be used- Users will have to recategorize their BWCs from this category.

450.9 REVIEW OF RECORDINGS

Access to the data captured by recorders ~~on the BWC~~ is logged and subject to audit at any time. Access to the data from the system is permitted on a right to know, need to know basis. Employees authorized under this policy may review video according to the provisions of this policy.

Once uploaded to the server, personnel may view their own audio/video data at a department desktop computer. Access is automatically time/date stamped and records each access by name.

~~1.~~ A member may review recorded ~~BWC~~ files as it relates to their involvement in:

~~2~~ 1. An incident for the purpose of completing a criminal investigation and preparing an official report

~~2~~ 3. Prior to courtroom testimony or for courtroom presentation

~~3~~ 4. For potential training purposes

Members may view all video that they appear in, either visually or audibly. Additionally, members may view other member's video if they were in close proximity of any functioning BWCs

Members with investigatory responsibilities may review recorded ~~BWC~~ files under the provisions of this policy for the purpose of conducting official departmental business.

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.

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Subsequent to an officer involved shooting, the initial interview of an involved officer should occur before the officer has reviewed any audio/video recordings of the incident. An involved officer will have the opportunity to review recordings after the initial statement has been taken.

Recorded files may also be reviewed:

1. 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.
2. Pursuant to lawful process or by court personnel who are otherwise authorized to review evidence in a related case.
3. By media personnel with permission of the Chief of Police or the authorized designee.
4. By members of the public involved in an active investigation after approval by a [commander supervisor](#).
5. 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.

Civilians shall not be allowed to review the recordings at the scene without [command supervisor](#) approval.

450.10 RECORDINGS FOR TRAINING

A Portable Audio/Video Recorder file may be utilized as a training tool for individuals, specific units, and the Department as a whole. A recommendation to utilize a Portable Audio/Video Recorder file for such purpose may come from any source.

1. A member recommending utilization of a Portable Audio/Video Recorder file for training purposes shall submit the recommendation through the chain of command to the Bureau of [Support Services Commander](#), or designee.
2. If a member objects to the showing of a recording, [their his/her](#) objection will be submitted to staff to determine if the member's objection outweighs the training value.
3. The Bureau of [Support Services Commander](#), or designee, shall review the recommendation and determine how best to utilize the Portable Audio/Video Recorder file considering the identity of the member(s) involved, sensitive nature of the incident, and the benefit of utilizing the file versus other means (Lexipol Policy, Training Bulletin, Officer Safety Bulletin, or additional training).

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450.11 COORDINATOR

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

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

Automated License Plate Readers (ALPRs)

462.1 PURPOSE AND SCOPE

The purpose of this policy is to establish guidelines for officers utilizing the Automated License Plate Reader (ALPR) system. This policy will further establish guidelines for the deployment and actions permissible when using the system. The policy shall remain in effect until it is superseded, amended, or withdrawn.

(a) An ALPR system is a computer based system that utilizes special cameras to capture license plate information. The ALPR system captures an infrared image of a license plate and converts it to a text file using Optical Character Recognition ("OCR") technology. The text is compared to various hot lists generated by local, state, and federal law enforcement agencies, including the National Crime Information Center ("NCIC"), and generates an alert when there is a hit. The ALPR system identifies license plates and will not identify the person operating the motor vehicle. The Department may, as a separate step and for legitimate law enforcement purposes per the Federal Driver's Privacy Protection Act, and as set forth in this Policy, undertake to identify the owner of a vehicle in the event the ALPR system generates an alert, such as by running the license plate number through the State of California Department of Motor Vehicle (DMV) database.

(b) It shall be the policy of this Agency that all Department members abide by the policy and its procedures set forth when using the ALPR system, thereby increasing the efficiency and effectiveness of its public safety efforts in a manner that safeguards the privacy concerns of law abiding citizens.

(c) The ALPR system shall be restricted to legitimate law enforcement uses for the purpose of furthering legitimate law enforcement goals and enhancing public safety. Such uses and goals include, but are not limited to, providing information to officers that will assist in on going criminal investigations, crime prevention, crime detection, the apprehension of wanted persons, ensuring the safety of vulnerable individuals through the recovery of missing and endangered persons, and improving the quality of life in our community through the identification and removal of stolen or unregistered motor vehicles.

(d) The Department shall utilize hot lists which further the above specified goals of the ALPR system, where there is a legitimate and specific law enforcement reason for identifying a vehicle associated with an outstanding arrest warrant, vehicles related to missing persons investigations, vehicles associated with AMBER Alerts, stolen vehicles, vehicles that are reasonably believed to be involved in the commission of a crime, vehicles which are registered to or are reasonably believed to be operated by persons who do not have a valid operator's license or who are on the revoked or suspended list, vehicles with expired registrations, vehicles registered to persons who are subject to a restraining order issued by a court or by the Parole Board, or who are subject to any other duly issued order restricting their movements, vehicles registered to persons wanted by a law enforcement agency who are of interest in a specific investigation, or vehicles registered to persons who are on any watch list issued by a State or Federal agency responsible for homeland security when information has been received concerning a specific individual.

~~Automated License Plate Readers (ALPRs)~~

~~462.2 DEFINITIONS~~

~~ALPR Automated License Plate Recognition System, or Automated License Plate Reader~~

~~ALPR System The system in its entirety, including all ALPR cameras, software, and collected data~~

~~Alert An audible and/or visual signal activated upon the read of a license plate by the ALPR system that has NOT BEEN VISUALLY VERIFIED by the officer against the photo in the ALPR system.~~

~~Tentative Hit An alert by the ALPR system that HAS BEEN VISUALLY VERIFIED by the officer against the ALPR hotlist and photo but HAS NOT BEEN VALIDATED by the officer or dispatch as a live query transaction OR CONFIRMED AS VALID with the original entering agency.~~

~~Live Query Transaction A hit by the ALPR system that HAS BEEN VALIDATED as active but HAS NOT BEEN CONFIRMED as valid by the entering agency.~~

~~Confirmation (Confirmed Hit) A hit by the ALPR system that HAS BEEN CONFIRMED as valid and active by the original entering agency through secondary check.~~

~~Hotlist Data files extracted from law enforcement databases which contain listings of stolen license plates, stolen vehicles, wanted persons, and other vehicles/persons actively being sought by a law enforcement agency such as Amber/Silver Alert vehicles/persons. These data extracts are generally facilitated numerous times per day in an effort to provide current data.~~

~~462.3 PROCEDURES~~

~~(a) Management~~

~~The Alameda Police Department, by and through the Chief of Police, is solely responsible for the day today operation and management of the ALPR system and for all tasks ancillary to its operation and management. The Chief of Police shall assign Department personnel to operate and manage the ALPR system on a day to day basis.~~

~~The Chief of Police, through his or her designee, shall ensure that the ALPR system is operated in conformity with this Policy and other Department policies, procedures, rules and regulations. The Chief shall enforce this Policy and shall act as the Department Head for all disciplinary and enforcement actions for any violations by Department personnel.~~

~~(b) Operations~~

~~1. Installation and Functioning. ALPR cameras may be mounted on a marked cruiser or unmarked vehicle. ALPR equipment will passively read the license plates of moving or parked motor vehicles using ALPR optical character recognition technology and compare them against various hot lists uploaded or created by the Alameda Police Department. Scanned data files collected by the system will, on an ongoing basis, be automatically uploaded from the ALPR camera to the Department's ALPR database.~~

~~Automated License Plate Readers (ALPRs)~~

~~2. Hot Lists. Designation of hot lists to be utilized by the ALPR system shall be made by the Chief or his/her designee. Hot lists shall be obtained or compiled from sources as may be consistent with the purposes of the ALPR system set forth in this Policy. These sources may include:~~

- ~~• NCIC Stolen Vehicle files, as available;~~
- ~~• NCIC Stolen plates and Stolen Canadian plates, as available;~~
- ~~• NCIC Wanted persons, as available;~~
- ~~• NCIC Missing or Endangered person files, as available;~~
- ~~• NCIC Supervised Release (Federal Probationers), as available;~~
- ~~• NCIC Nationwide Domestic Violence Protection Orders, as available;~~
- ~~• NCIC Violent Gang and Terrorist Organization File, as available;~~
- ~~• NCIC Sexual Offender;~~
- ~~• DMV Records of Suspended/Revoked Registrations.~~

~~3. Training. No member of this Department shall operate ALPR equipment or access ALPR data without first completing Department approved training.~~

~~4. Login/Log-Out Procedure. To ensure proper operation and facilitate oversight of the ALPR system, all users will be required to have individual credentials for access and use of the systems and/or data. A routine check to ensure the equipment is working properly should be done at the beginning of each shift by the user logging into the system.~~

~~5. Auditing and Oversight. To ensure proper oversight into the use of the system and adherence to this policy, all activities (plate detections, queries, reports, etc.) are automatically recorded by the system for auditing purposes. System audits shall be conducted by the Inspectional Services Section supervisor at least every six months during the first two years subsequent to implementation and no less than annually thereafter. The audit report shall include an explanation regarding any data retained longer than six months (e.g. data retained as evidence in a criminal case).~~

~~6. Permitted/Impermissible Uses. The ALPR system, and all data collected, is the property of the Alameda Police Department. Department personnel may only access and use the ALPR system for official and legitimate law enforcement purposes consistent with this Policy.~~

~~The following uses of the ALPR system are specifically prohibited:~~

~~a. Invasion of Privacy. Except when done pursuant to a court order such as a search warrant, it is a violation of this Policy to utilize the ALPR to record license plates except those of vehicles that are exposed to public view (e.g., vehicles on a public road or street, or that are on private property but whose license plate(s) are visible from a public road, street, or a place to which members of the public have access, such as the parking lot of a shop or other business establishment).~~

~~Automated License Plate Readers (ALPRs)~~

~~b. Harassment or Intimidation: It is a violation of this Policy to use the ALPR system to harass and/or intimidate any individual or group.~~

~~c. Personal Use: It is a violation of this Policy to use the ALPR system or associated scan files or hot lists for any personal purpose.~~

~~Anyone who engages in an impermissible use of the ALPR system or associated scan files or hot lists may be subject to:~~

- ~~- criminal prosecution;~~
- ~~- civil liability, and/or~~
- ~~- administrative sanctions, up to and including termination, pursuant to and consistent with the relevant collective bargaining agreements and Department policies.~~

~~7. Required Steps Preliminary to Police Action. Hot lists utilized by the Department's ALPR system may be updated by agency sources more frequently than the Department may be uploading them, and the Department's ALPR system will not have access to real time data. Further, there may be errors in the ALPR's read of a license plate. Therefore, an alert alone shall not be a basis for police action (other than following the vehicle of interest). Prior to initiation of a stop of a vehicle or other intervention based on an alert, an officer shall undertake the following:~~

~~a. Verification of current status on hot list. An officer must receive confirmation, from someone or some system within the Department that the license plate is still stolen, wanted, or otherwise of interest before proceeding.~~

~~b. Visual verification of license plate number. Officers shall visually verify that the license plate on the vehicle of interest matches identically with the image of the license plate number captured (read) by the ALPR, including both the alphanumeric characters of the license plate and the state of issue, before proceeding with a traffic stop.~~

~~8. Use in Connection With Serious Crimes/Incidents. Use of the ALPR should be considered to conduct license plate canvasses in the immediate wake of any homicide, shooting, robbery, kidnapping, sexual assault or AMBER ALERT, or other major crime or incident.~~

~~(c) Database Access and Privacy Concerns~~

~~1. The ALPR system database and software resides in a data center featuring full redundancy and access controls. The data remains property of the Alameda Police Department, and is managed according to this Policy.~~

~~2. The ALPR system is governed by the Permitted/Impermissible Uses as outlined in this Policy.~~

~~3. The ALPR data contains no Personally Identifiable Information (PII) that may be used to connect license plate detection to an individual. It is only with permissible purpose that an investigator may make this connection (using other systems) and this access is already governed by the Federal Driver's Privacy Protection Act (DPPA).~~

~~Automated License Plate Readers (ALPRs)~~

~~4. All investigative queries into collected ALPR data are logged by user and available for auditing and review by the Department as outlined in this Policy.~~

~~(d) Data Retention~~

~~All data and images gathered by an ALPR are for the official use of the Alameda Police Department and because such data may contain confidential CLETS information, it is not open to public review. ALPR information gathered and retained by this Department may be used and shared with prosecutors or others only as permitted by law. All ALPR data downloaded to the server will be stored for a period of six months, and thereafter shall be purged unless it has become, or it is reasonable to believe it will become, evidence in a criminal or civil action or is subject to a lawful action to produce records. In those circumstances, the applicable data should be downloaded from the server onto portable media and booked into evidence.~~

Automated License Plate Readers (ALPR)

463.1 STATEMENT OF INTENDED USE

The use of **fixed** Automated License Plate Readers (ALPR) technology seeks to improve the safety and protection of the City of Alameda, its residents, visitors, and business owners. The primary intended use of the technology is to collect license plate numbers to assist in the identification, apprehension, and prosecution of criminal offenders. Other uses include locating missing persons, intelligence gathering to prevent crimes or investigate acts of domestic terrorism, deter criminal actions, and/or reduce the perception of crime.

463.2 POLICY

The policy of the Alameda Police Department is to utilize **fixed** ALPR technology to capture and store digital license plate data and images while recognizing the established privacy rights of the public. All data and images gathered by the **fixed** ALPR are for the official use in support of criminal investigations. Such data may contain confidential information not open to the public for review.

463.3 PURPOSE AND SCOPE

The purpose of this policy is to provide guidance for the capture, storage, and use of digital data obtained through the use of **fixed** ~~Automated License Plate Reader (ALPR)~~ technology.

463.4 DEFINITIONS

(a) **Fixed ~~Automated License Plate Reader (ALPR)~~**: A fixed device that uses cameras and computer technology to compare digital images to lists of available information of interest.

(b) **Mobile ALPR**: A mobile device, typically mounted in a patrol vehicle, that uses cameras and computer technology to compare digital images to lists of available information of interest.

(c) **ALPR Operator**: Trained Department members who may utilize ALPR system/ equipment. ALPR operators may be assigned to any position within the Department, and the ALPR Administrator may order the deployment of the ALPR systems for use in various efforts.

(d) **ALPR Administrator**: The Bureau of Support Services Captain or the Chief's designee serves as the ALPR Administrator for the Department.

(e) **Hotlist**: A list of license plates associated with vehicles of interest compiled from one or more databases including, but not limited to, NCIC, CA DMV, Local BOLOs.

(f) **Vehicles of Interest**: Including, but not limited to, vehicles that are reported as stolen; display stolen license plates or tags; vehicles linked to missing and/ or wanted persons and vehicles flagged by the Department of Motor Vehicle Administration or law enforcement agencies.

(g) **Detection**: Data obtained by a **fixed** ALPR of an image (such as a license plate) within public view that was read by the device, including potential images (such as the plate and description of vehicle on which it was displayed), and information regarding the location of the ALPR system at the time of the ALPR's read.

Automated License Plate Readers (ALPR)

(h g) Hit: Alert from the ALPR system that a scanned license plate number may be in the National Crime Information Center (NCIC) or other law enforcement database for a specific reason including, but not limited to, being related to a stolen car, wanted person, missing person, domestic violation protective order or terrorist-related activity.

(i h) Public Agency: A public agency (also referred to as "law enforcement agency" in this policy) means the state, any city, county, or city and county, or any agency or political subdivision of the state or a city, county, or city and county, including, but not limited to, a law enforcement agency.

(i i) Authorized Agency: Another law enforcement agency whose own policy matches the intent of the Alameda Police Department's ALPR policy as determined by the Office of the Chief of Police.

463.5 ADMINISTRATION

The **fixed** ALPR technology, ~~also known as Automated License Plate Readers (ALPR)~~, allows for the automated detection of license plates along with the vehicle make, model, color, and unique identifiers through the Alameda Police Department's ALPR system and the vendor's vehicle identification technology. The Alameda Police Department uses the technology to convert data associated with vehicle license plates and vehicle descriptions for official law enforcement purposes, including identifying stolen or wanted vehicles, stolen license plates, and missing persons. It may also be used to gather information related to active warrants, criminal investigations, suspect interdiction, and stolen property recovery.

All installation and maintenance of ALPR equipment and ALPR data retention and access shall be managed by the ALPR Administrator. The ALPR Administrator will assign members under their command to administer the day-to-day operation of the ALPR equipment and data.

463.6 ALPR ADMINISTRATOR

The Bureau of Support Services Captain shall be responsible for developing guidelines and procedures to comply with the requirements of Civil Code § 1798.90.5 et seq. This includes, but is not limited to (Civil Code § 1798.90.51; Civil Code § 1798.90.53):

- (a) Training requirements for authorized users.
- (b) A description of how the **fixed** ALPR systems^s will be monitored to ensure the security of the information and compliance with applicable privacy laws.
- (c) Procedures for system operators to maintain records of access in compliance with Civil Code § 1798.90.52.
- (d) The title and name of the current designee in overseeing ~~the fixed~~ ALPR operations^s.
- (e) Ensuring the appropriate and timely retention and destruction of ALPR data.
- (f) Ensuring this policy and related procedures are conspicuously posted on the Department's website.

Automated License Plate Readers (ALPR)

463.7 OPERATIONS

The use of an ALPR is restricted to the purposes outlined below. Department members shall not use or allow others to use the equipment or database records for any unauthorized purpose (Civil Code § 1798.90.51; Civil Code § 1798.90.53).

- (a) An ALPR shall only be used for official law enforcement business.
- (b) No member of this Department shall operate ALPR equipment or access ALPR data without first completing Department-approved training.
- (c) Absent exigent circumstances, officers shall verify an ALPR response through the California Law Enforcement Telecommunications System (CLETS) via Dispatch or MDT before taking any enforcement action. Once an alert is received, the operator must confirm that the observed license plate from the system matches the license plate, state of issue, and description of the observed vehicle. Officers are reminded ALPR provides hits on vehicles and may or may not provide information on occupants. Accordingly, officers must establish reasonable suspicion and/or probable cause to detain vehicle occupants.
- (d) Access and searches of the database require supervisory approval **prior** to the search. Additionally, the search documentation shall include the name of the person accessing the database, ~~the name of the supervisor approving access~~, the associated case number/details, and intended purpose of the access by ~~crime assigned~~ code or additional description. The name of the supervisor approving access will be captured and retained through dispatch.
- (e) Partial license plates and unique vehicle descriptions reported during criminal investigations should be entered into the ALPR system in an attempt to identify suspect vehicles.
- (f) Department members will clear all stops that were generated from an ALPR alerts with a CAD disposition code that clearly documents the stop outcome.
- (g) General Hot Lists (SVS, SFR, and SLR) will be automatically downloaded into the ALPR system a minimum of once a day, with the most current data overwriting the old data.
- (h) To ensure proper operation and facilitate oversight of the ALPR system, all users will be required to have individual credentials for access and use of the systems and/or data, which can be fully audited.

463.8 PROHIBITED USES

The ALPR system and all data collected are the property of the Alameda Police Department. Department personnel may only access and use the ALPR system for official and legitimate law enforcement purposes consistent with this policy. The following uses of the ALPR system are expressly prohibited:

- (a) Invasion of Privacy: Except when done pursuant to a court order such as a search warrant, it is a violation of this policy to utilize the ALPR to record license plates not exposed to public view.
- (b) Harassment or Intimidation: It is a violation of this policy to use the ALPR system to harass, monitor, and/or intimidate any individual or group.

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(c) Use Based on a Protected Class/Characteristics. It is a violation of this policy to use the ALPR system solely based on a person's or group's perceived race, gender, religion, political affiliation, nationality, ethnicity, sexual orientation, disability, or other classification protected by law.

(d) Immigration Enforcement/Investigations: It is a violation of this policy to use the ALPR system for immigration enforcement and/or investigations.

(e) Personal Use: It is a violation of this policy to use the ALPR system for any personal purpose.

(f) First Amendment Rights. It is a violation of this policy to use the ALPR system for the purpose or known effect of infringing upon First Amendment rights and/or any Constitutional rights.

(g) The City Manager will be notified of any sustained policy violations within 1 week of the sustained violation. Anyone who engages in an impermissible use of the ALPR system may be subject to:

- Criminal prosecution,
- Civil liability, and/or
- Administrative sanctions, up to and including termination, pursuant to and consistent with the relevant collective bargaining agreements and Department policies.

463.9 DATA COLLECTION AND RETENTION

The ALPR Administrator is responsible for ensuring systems and processes are in place for the proper collection and retention of ALPR data.

ALPR data stored or retained by the Alameda Police Department or any vendor may be retained up to 60 days. Thereafter, ALPR data shall be purged unless it has become, or is reasonable to believe will become evidence in a criminal, civil, and/or administrative action or is subject to a discovery request or other lawful action to produce records. In those circumstances, the applicable data shall be downloaded from the server into evidence.com. Additionally, no ALPR data will be warehoused or co-mingled with any private company data. Information gathered or collected will not be shared, sold, accessed, or used for any purpose other than legitimate law enforcement or public safety purposes, and only in compliance with this policy or in response to a lawful action to produce the data.

463.10 ACCOUNTABILITY AND SAFEGUARDS

All data will be closely safeguarded and protected by procedural and technological means. The Alameda Police Department will observe the following safeguards regarding access to and use of stored data (Civil Code § 1798.90.51; Civil Code § 1798.90.53):

(a) All ALPR data downloaded to the mobile workstation and in storage shall be accessible only through a login/password-protected system capable of documenting all access of information by name, date, and time (Civil Code § 1798.90.52). Passwords are required to be changed periodically according to CJIS standards. Employees that leave the City will have all access immediately revoked.

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(b) All non-law enforcement requests for access to stored ALPR data shall be processed in accordance with applicable law and this policy.

(c) Such ALPR data may be released to other authorized and verified law enforcement officials and agencies for legitimate law enforcement purposes. Absent a court order, the Department may only share access to ALPR data with agencies whose ALPR policies align with this policy's intent and in compliance with Civil Code § 1798.90.5 et seq.

(d) ALPR system audits shall be conducted regularly.

463.11 ALPR DATA AUDITS AND ANNUAL REPORTING

It is the responsibility of the the ALPR Administrator to ensure that an audit is conducted of ALPR detection browsing inquiries at least once during each calendar year. The Department will audit a sampling of the ALPR system utilization from the prior 12-month period to verify proper use in accordance with the above-authorized uses. The audit shall randomly select at least ten detection browsing inquiries conducted by Department employees during the preceding 12-month period and determine if each inquiry meets the requirements established in this policy.

The audit shall be documented in the form of an internal Department memorandum to the Office of the Chief of Police. The memorandum shall include any data errors or policy violations found so that such errors can be corrected and violations addressed. Additionally, the memorandum shall include an evaluation of the system's efficacy, including relevant crime statistics and/or data to help the community assess whether use of the technology is beneficial. After the review by the Office of the Chief of Police, the memorandum and any associated documentation shall be filed and retained according to the City of Alameda's retention policies.

Beginning on January 1, 2024, or the next closest regular scheduled City Council meeting, and annually on or about the same date thereafter. The Office of the Chief of Police will prepare an annual report for submission to City Council. The annual report will include, at a minimum:

1) A summary of the audit memorandum including any corrective action taken, not to include any confidential disciplinary information prohibited by law from disclosure.

2) The number of fixed ALPR cameras.

[3\) The number of mobile ALPR cameras.](#)

[4](#) ~~3~~ (ALPRs) The number of scanned license plates.

[5](#) ~~4~~ The number of hotlist hits or alerts.

[6](#) ~~5~~ The number of search queries and the justification for such queries.

[7](#) ~~6~~ The number of investigative leads generated by use of ALPR data.

[8](#) ~~7~~ The number of witnesses located by use of ALPR data.

[9](#) ~~8~~ The number of stolen vehicles recovered by use of ALPR data.

[10](#) ~~9~~ The number of suspects apprehended by use of ALPR data.

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11 ~~10~~) A list of Authorized Agencies that accessed or received ALPR data.

12 ~~1~~) The approved and unapproved ALPR data requests from third parties referenced in the section below.

13 ~~2~~) Total costs for maintenance, upgrades, licensing, and training.

463.12 RELEASING ALPR DATA

The Department shares the following data with the recipients, provided they have both a "right to know" and a "need to know." A "right to know" is the legal authority to receive information pursuant to a court order, statutory law, case law, or being a sworn member of a law enforcement agency conducting an active criminal/administrative investigation.

A "need to know" is a compelling reason to request information such as direct involvement in an investigation. The ALPR data may be shared only with other law enforcement or prosecutorial agencies for official law enforcement purposes or as otherwise permitted by law and this policy. Absent exigent circumstances, all other agencies that have not been authorized by the Office of the Chief of Police, the following procedures shall apply.

Personnel shall ask that the requesting agency to complete a written request for the ALPR data that includes:

- (a) The name of the agency.
- (b) The name of the person requesting.
- (c) The intended purpose of obtaining the information.
- (d) The request is reviewed by the on-duty watch commander or the authorized designee and approved before the request is fulfilled.
- (e) The approved request is retained on file.

The Chief of Police or the authorized designee will consider the California Values Act (Government Code § 7282.5; Government Code § 7284.2 et seq) before approving the release of ALPR data. The Alameda Police Department does not permit the sharing of ALPR data gathered by the City or its contractors/subcontractors for the purpose of federal immigration enforcement. These federal immigration agencies include Immigrations and Customs Enforcement (ICE) and Customs and Border Patrol (CBP). No facial recognition software will be incorporated into the ALPR software.

463.13 TRAINING

The Training Manager should ensure that members receive Department-approved training for those authorized to use or access the ALPR system (Civil Code § 1798.90.51; Civil Code § 1798.90.53). (ALPRs) Training shall include, but not be limited to, this policy, relevant statutory and case law, and local ordinances and policies. An attestation that this policy has been reviewed shall be documented in all ALPR Operator's training records.

Evaluation of Employees

1002.1 PURPOSE AND SCOPE

The Alameda Police Department's employee performance evaluation system is designed to record work performance for both the Alameda Police Department and the employee, providing recognition for good work and developing a guide for improvement.

1002.2 POLICY

The Alameda Police Department utilizes a performance evaluation report ~~from Benchmark Analytics~~ to measure performance and to use as a factor in making personnel decisions that relate to merit increases, promotion, reassignment, discipline, demotion, and termination. The evaluation report is intended to serve as a guide for work planning and review by the supervisor and employee. It gives supervisors a way to create an objective history of work performance based on job standards.

The Alameda Police Department evaluates employees in a non-discriminatory manner based upon job-related factors specific to the employee's position, without regard to actual or perceived race, ethnicity, national origin, religion, sex, sexual orientation, gender identity or expression, age, disability, pregnancy, genetic information, veteran status, marital status, and any other classification or status protected by law.

1002.3 FULL TIME PROBATIONARY PERSONNEL

Professional Staff personnel are on probation ~~f or~~ before being eligible for certification as permanent employees. An evaluation is completed ~~monthly~~ for all full-time professional staff personnel during the probationary period.

Sworn personnel are on probation for 24 months before being eligible for certification as permanent employees. Lateral sworn police employees who possess, at minimum, a Basic POST Certificate are on probation for at least 12 months before being eligible for certification as a permanent employee. Probationary officers are evaluated daily, weekly and monthly during the probationary period.

1002.4 DIVISION FILES

To attain uniformity, and to preclude the practice of duplicate or unnecessary record keeping, the following policy is implemented:

Transfers - If an employee is transferred to another Division or unit, their ~~his~~ Division files shall accompany them ~~him /her~~, provided that they are of use to the new supervisor. If such files are of no further use they are to be destroyed. Duplicate files are not necessary and shall not be kept.

Termination - If an employee quits or is terminated, their ~~his/her~~ Divisional files shall be closed out immediately. Materials no longer needed shall be destroyed. Items of informational value which are to be kept shall be forwarded to the Chief's office for inclusion in the former employee's closed

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personnel file. There shall be only one closed file on former employees and no information shall be released from the closed files except with direct authorization from the Chief of Police.

Current Employees - Divisional files are kept only for the convenience of the respective units. Supervisors must keep them current and must not allow them to become repositories of out-dated or worthless information. In no event should information be released to outside inquirers from the informal Divisional files unless specifically authorized by the Divisional Commander

1002.4.1 RATINGS

When completing the Employee Performance Evaluation, the rater will evaluate each employee on a 1-5 basis that best describes the employee's performance. The rater will give an overall rating of the employee's performance. The definition of each rating category is as follows:

Superior - The employee's performance consistently exceeds the performance required for the position. It is exceptional performance, definitely superior or extraordinary.

Above Average - The employee accomplishes more than what is expected. They consistently and frequently exceed the job requirements.

Average - The employee is doing a satisfactory job. Performance is what is expected of a qualified person in their assigned position.

Below Average - The employee's level of performance is less than expected of a competent employee in their position. A below-average rating must be thoroughly discussed with the employee. Is a level of performance less than that expected of a fully competent employee and less than standards required of the position. A needs improvement rating must be thoroughly discussed with the employee.

Unsatisfactory - Performance is inferior to the standards required of the position. It is very inadequate or undesirable performance that cannot be tolerated.

Space for the employee's strengths, areas of growth and/or any other brief written comments is provided at the end of the evaluation. Any rating under any job dimension marked unsatisfactory or outstanding shall be substantiated in the rater comments section.

1002.4.2 PERSONNEL REPORTS

Notes may be made ~~in files at the Division level~~ to assist supervisors in documenting facts that may later be used for performance evaluation purposes.

~~Divisional P personnel reports files must not remain in existence beyond 12 months. evaluation periods ; nor should such files remain with a Divisional unit after the affected employee has been transferred to another unit.~~

Responsibility for security of the files will rest with the ~~Training Unit Division Commander~~. The Alameda Police Department Personnel Report (APD-104) may be used for documenting events in replacement of a supervisor's notes.

Supervisors may use the Personnel Report to document events occurring during the rating period.

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After completing a Personnel Report, the supervisor will forward it to the appropriate Division Commander for review and ~~their~~ ~~his~~ ~~her~~ signature. The form will then be returned to the supervisor who will review it with the employee. It will then be held in ~~Training Unit Division~~ files until it is attached to the performance appraisal at the end of the rating period.

1002.5 EVALUATION REVIEW

When the supervisor has completed the evaluation, they will submit it to the Division Commander for review. Once reviewed by the Division Commander, the report will be forwarded to the Bureau Commander and then to the Chief of Police for review. After being reviewed by everyone in the employee's chain of command, the employee will receive the evaluations to be reviewed and signed.

1002.6 EVALUATION INTERVIEW

Arrangements shall be made for a private discussion of the evaluation between the employee and their supervisor. The supervisor should discuss the results of the just completed rating period and clarify any questions the employee may have. If the employee has valid and reasonable protests of any of the ratings, the supervisor may make appropriate changes to the evaluation. Areas needing improvement and goals for reaching the expected level of performance should be identified and discussed. The supervisor should also provide relevant counseling regarding advancement, specialty positions, and training opportunities. Permanent employees may also write comments in the Employee Comments section of the performance evaluation report.

1002.7 EVALUATION DISTRIBUTION

The performance evaluation will be maintained ~~in the Benchmark Analytics software system~~ and will be available for review by the employee and their supervisors.

1002.8 EVALUATION PERIODS

All personnel will be rated ~~annually every~~ ~~calendar year~~. Evaluations will be due on the last day of each month based alphabetically on the employees' last names. The employee's current supervisor is responsible for completing the employee's evaluation by the due date. Any supervisor who directly supervised an employee for more than 90 days during the evaluation period must have input on the employee's evaluation.

January - Employees with last names beginning in A or B

February - Employees with last names beginning in C or D

March - Employees with last names beginning in E or F

April - Employees with last names beginning in G or H

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May - Employees with last names beginning in I or J

June - Employees with last names beginning in K or L

July - Employees with last names beginning in M or N

August - Employees with last names beginning in O or P

September - Employees with last names beginning in Q, R, or S

October - Employees with last names beginning in T or U

November - Employees with last names beginning in V, W, or X

December - Employees with last names beginning in Y or Z

Overtime Compensation Requests

1038.1 PURPOSE AND SCOPE

1038.1 PURPOSE AND SCOPE The purpose of this order is to establish a procedure to control and regulate overtime.

1038.2 POLICY It is the policy of the Department to control overtime and regulate excessive overtime through compensatory time off or payment.

1038.3 DEFINITIONS

1038.3.1 "OVERTIME" Any authorized overtime worked, other than the Sergeants, Police Officers, or Police Technicians workday, shall be compensated at the rate of one and one-half (1-1/2) times the employee's regular straight time rate of pay, provided, however, that for fifteen (15) minutes or less of overtime in any workday the employee will receive no compensation.

1038.3.2 "EXCESSIVE OVERTIME" is any overtime in excess of forty (40) hours.

1038.3.3 "EXTENSION OF THE PERFORMANCE OF A POLICE FUNCTION" or "CONTIGUOUS" means an extension of a regular work day, either before or after the shift.

1038.3.4 "STANDBY" Any employee of the rank of Police Sergeant, Police Officer, to be on emergency on-call status, available for immediate callback.

1038.3.5 "CALLBACK TIME" Any employee of the rank of Police Sergeant, Police Officer, or Police Technician spends when called back to duty on their day off, or on their duty day not contiguous with their duty shift, but excludes Training or Court overtime.

1039.3.6 "COURT OVERTIME" Time spent either off duty or contiguous with a duty day before of after a shift for purpose of conferring with members of the District Attorney's office or appearing in court when subpoenaed as a witness in a criminal case.

1039.3.7 "FAIR LABOR STANDARDS ACT OVERTIME" (FLSA) Affects Police Civilians and Sergeants and Officers who receive educational incentive pay and must be paid for excessive overtime.

1039.3.8 "TRAINING TIME" Time spent for training on a day off or on a duty day in response to a Departmental requirement or State law.

1038.4 OVERTIME APPROVAL All overtime credit must be approved by the Watch or Division Commander.

1038.5 COMPUTING OVERTIME Approved overtime which is an extension of the performance of a police function is computed at the rate of time-and-one-half (1-1/2) based on actual overtime worked. FLSA overtime for Civilians is computed at one-half time (1/2) the excess 1-1/4 hours over 40 hours they are required to work each week. However, no such overtime shall occur if the employee was off during said week as a result of an illness (sick leave), vacation, compensatory time off, leave without pay, injury leave, or was late or tardy during that week in excess of 1-1/4

Overtime Compensation Requests

hours. They shall be entitled to the overtime if their absence from their shift was for either being at a training school or because someone was representing them. (Any representation must be paid back within the same week it occurred).

1038.5.1 Sergeants and Officers, who are receiving educational incentive pay, must be paid at an overtime hourly rate of pay which has that pay factored in. To factor it in, the following formula must be used: monthly salary, plus rate of educational incentive pay, times twelve (12) months, divided by thirteen (13) pay periods (28 day cycles), divided by one hundred sixty-five (165) hours (number of hours within a 28 day cycle).

1038.6 Supervisors are responsible for verifying and signing overtime work reports turned in by personnel going off duty on their shifts.

1038.7 Upon completion of any overtime in excess of 15 minutes, the employee shall submit ~~an Overtime Worked sheet, Form APD-49~~, supplying all required information. These reports must be given to the on-duty Patrol Sergeant who shall verify the exact time the employee goes off duty.

~~1038.7.1 The same procedures shall apply to FLSA overtime, except that Form APD-49 is blue and is clearly marked "FLSA Overtime".~~

1038.8 The verified "Overtime/~~Compensatory Representation~~/Vacation" ~~submissions forms~~ must be forwarded to the Watch or Division Commander for final approval. ~~The Commander shall:~~

~~1038.8.1 Forward the original "Overtime" and "FLSA Overtime/Representation/Vacation" forms to the Attendance Secretary for subsequent computing and recording.~~

1038.9 STANDBY TIME If a Sergeant, Police Officer or Police Civilians are placed on emergency on-call status, known as "stand-by", by the Department, such employee shall be credited with one-half (1/2) ~~their his or her~~ regular hourly salary rate during the period that ~~they are~~ on stand-by; provided, however, that stand-by shall not be considered pay, salary, or compensation for the purpose of calculating present or future pension benefits; and that the employee shall be available at a telephone number supplied to the Department during the stand-by period, and must report for duty if called at the time specified by the Department; and that an employee will not be on stand-by for more than twelve (12) consecutive hours.

1038.10 COURT OVERTIME Employees who are off-duty and who are required to testify in court or attend a District Attorney's conference in any criminal or civil matter will receive a minimum of four (4) hours' overtime computed at time-and-one-half (1-1/2). Overtime in excess of the minimum two (2) hours' or contiguous with a work shift will be computed at time and one-half (1-1/2) for actual time involved.

1038.10.1 On-duty employees appearing while on duty may use a city vehicle and receive reimbursement for additional expenses such as bridge fare or parking fees.

1038.11 CALL BACK TIME If an employee is called back to work, ~~they he or she~~ shall, upon reporting, receive a minimum of four (4) hours' work, or if four (4) hours' work is not furnished, a minimum of four (4) hours' pay at time and on-half (1-1/2). This provision does not apply to instances in which the employee is called to report before ~~their his or her~~ regular starting time.

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An employee affected by this provision may be assigned to perform any duties within ~~their~~ ~~his~~ job classification in lieu of being sent home.

1038.12 CONTIGUOUS OVERTIME Overtime contiguous to an employees' tour of duty is computed at time and on-half (1-1/2) for the actual time worked. If an employee is required to report for duty early as an extension of ~~their~~ ~~his~~ ~~/her~~ duty day, every effort shall be made to allow that employee to terminate work after ten (10) hours, if requested.

1038.13 OVERTIME FOR TRAINING If a Police Officer, Sergeant or uniformed Police Civilian is required by the Department or by State law to attend a training class on ~~their~~ ~~his~~ ~~-or-her~~ regular day off, or on ~~their~~ ~~his~~ ~~-or-her~~ regular workday, but not contiguous with ~~their~~ ~~his~~ ~~-or-her~~ regular shift, ~~they~~ ~~he~~ ~~-or-she~~ shall be guaranteed a minimum of two (2) hours' overtime at the overtime rate of pay which shall be paid.

1038.13.1 If a Police Officer, Police Sergeant or uniformed Police Civilian is required by the Department to attend a training class contiguous with ~~their~~ ~~his~~ ~~-or-her~~ regular duty shift, ~~they~~ ~~he~~ ~~-or-she~~ shall be guaranteed a minimum of one (1) hour overtime at the overtime rate of pay, with the understanding that there may be, at the Department's discretion, a break of less than fifteen (15) minutes between the end of the work shift and the beginning or end of the one (1) hour training period. Such overtime shall be paid.

1038.13.2 Training may include, but not limited to:

1038.13.2.1 Education.

1038.13.2.2 Compulsory Firearms Training.

1038.13.2.3 Meetings.

1038.13.2.4 Conferences.

1038.13.2.5 Emergency Care Procedures, i.e., First Aid and CPR.

1038.14 OVERTIME WHEN AN ASSIGNMENT OCCURS ON A REGULARLY SCHEDULED DAY OFF Police Officers, Sergeants and uniformed Police Civilians assigned to attend a conference, convention or another meeting as a representative of this Department, and when all or part of this assignment occurs on a regularly scheduled day off, will be credited up to a maximum of ten (10) hours overtime at ~~time-and-one-half (1-1/2)~~ ~~straight time~~.

1038.14.1 Police Officers ~~or~~ ~~;~~ Sergeants ~~and~~ Jailers transporting prisoners, when all or part of this duty occurs on a regularly scheduled day off, will be credited up to a maximum of ten (10) hours overtime at time-and-one-half (1-1/2).

1038.15 OVERTIME ACCUMULATION Overtime may be accumulated within the following guidelines:

1038.15.1 Only overtime in excess of eighty (80) hours may be paid during an employee's regular employment.

Overtime Compensation Requests

1038.15.2 Once an employee has accumulated eighty (80) hours of overtime ~~they~~ ~~he~~ shall be paid at the end of the month for all overtime in excess of eighty (80) hours.

1038.15.3 Excessive overtime will automatically be paid at the end of each fiscal year.

1038.16 COMPENSATORY TIME Employees wishing to take compensatory time off must submit a request ~~an "Overtime Collection Request" Form APD-50~~ to ~~their~~ ~~his~~ ~~/he~~ ~~r~~ supervisor ~~Sergeant~~, giving reasonable advance notice. The ~~supervisor~~ ~~Sergeant~~ will make every effort to grant the request. ~~they~~ ~~He~~ ~~/she~~ shall:

~~1038.16.1 approve or deny the request. If approved, Sign the request will be form and forwarded~~ ~~it~~ to the appropriate Watch or ~~Bureau Division~~ Commander for final review.

1038.16.2 In urgent cases and in the absence of a ~~Sergeant~~ ~~Lieutenant~~, the request form may be submitted directly to the appropriate ~~Bureau Division~~ Commander.

1038.16.3 For purposes of this Section Compensatory Time, depending on assignment a workday may be 8, 9, or 10 hours. A work week will be forty (40) hours.

~~1038.16.4 The present compensatory time policy as described in previous General Order 80-65 will be continued for the duration of this Memorandum of Understanding with the APOA .~~

1038.16.5 Maximum Compensatory Time accrual is eighty (80) hours.

1038.17 ELIMINATION OF UNNECESSARY OVERTIME A Sergeant's judgment will be relied upon to justify the working of overtime consistent with the efficient performance of the basic police task. It shall be ~~their~~ ~~his~~ ~~/her~~ responsibility to eliminate all unnecessary overtime.

1038.17.1 Police Officers, Communication, Identification, and ~~other~~ ~~Jail~~ Personnel involved in assignments towards the end of their tours of duty which could result in overtime should, whenever possible, be relieved by personnel from the oncoming watch.

1038.17.2 Overtime shall always be allowed for the completion of arrest reports, as they must be completed prior to reporting off-duty - no exceptions.

1038.18 OVERTIME FOR CIVIL CASES Sections 68097.1 through 68097.7, Government Code, prohibit any person to pay or offer to pay consideration to an officer, or for the officer to accept consideration to act as a witness to events perceived or investigated in the course of ~~their~~ ~~his~~ duties.

1038.18.1 Police Officers, Sergeants, Communication, Identification, and Jail personnel subpoenaed in civil cases shall immediately notify the Technical Services Division Lieutenant so that ~~they~~ can maintain proper records subpoenas, billing procedures, and letters to the Finance Director.

1038.18.2 Reasonable travel time will be allowed from the employee's home to the court and return, and will be counted as overtime. A minimum of two (2) hours computed at time-and-one-half (1-1/2) will be allowed each time the officer is subpoenaed to testify on off-duty status.

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1038.18.3 After an employee appears as a witness in a civil case on their off-duty time, they shall submit to the Bureau of Support Services ~~Services Division~~ Lieutenant a statement of time spent and reasonable expenses.

1038.18.4 The following information is needed for proper billing to the court and shall be provided when the officer receives a civil subpoena:

1038.18.4.1 Name of officer.

1038.18.4.2 Time of court appearance.

1038.18.4.3 Action number listed on subpoena.

1038.18.4.4 Name of plaintiff.

1038.18.4.5 Name of defendant.

1038.18.4.6 Court of appearance.

1038.18.4.7 When an officer is subpoenaed on their ~~his /her~~ duty time, they ~~he~~ will be given a police vehicle for transportation but will receive no other compensation other than their ~~his~~ regular salary unless there are additional expenses incurred.

1038.19 ACTING PAY An employee who is assigned in writing by the Chief of Police and approved by the City Manager to perform a job in another classification during the temporary or permanent absence of an employee shall be paid in accordance with the agreements between the City, and their labor bargaining group. ~~the first step of the higher classification which is above the salary step of the employee assigned to the acting position, but not less than five percent (5%). The City Manager may approve a "Y" rate outside an existing classification if additional duties so warrant.~~

~~1038.20 RETENTION PAY Upon the satisfactory completion of ten (10) years of continuous service with the Alameda Police Department, the employee's regular base monthly salary shall be increased by three percent (3.0%). Upon the satisfactory completion of fifteen (15) years of continuous service with the Alameda Police Department, the employee's regular base monthly salary shall be increased by an additional four percent (4.0%). Upon the satisfactory completion of twenty (20) years of continuous service with the Alameda Police Department, the employee's regular base monthly salary shall be increased by an additional five (5.0%).~~

~~1038.20.1 The City and the APOA agree to participate in a labor/management committee to develop mutually agreeable alternative provision(s) to replace the current retention pay program. The committee will begin meeting within sixty (60) days of MOU adoption. If through the committee process an alternate benefit is mutually identified, the parties agree to reopen this section of the MOU, only, in order to meet and confer regarding the implementation of such alternate benefit.~~