

Investigation and Prosecution

600.1 PURPOSE AND SCOPE

~~When assigned to a case for initial or follow-up investigation, detectives shall proceed with due diligence in evaluating and preparing the case for appropriate clearance or presentation to a prosecutor for filing of criminal charges~~ The purpose of this policy is to set guidelines and requirements pertaining to the handling and disposition of criminal investigations.

600.2 INVESTIGATIONS DIVISION ORGANIZATION

The Investigations Division is within the Bureau of Operations. The division is managed by a Lieutenant who reports to the Bureau Captain. Personnel assigned to the Investigations Division will specialize and work in one of the following three units:

- Property Crimes Unit
- Violent Crimes Unit
- Special Investigations Unit

600.3 PROPERTY CRIMES UNIT

The Property Crimes Section shall be responsible for follow-up investigation in the following areas, regardless of the age of the persons involved:

- Burglary
- Pawn shop receipts, and second hand stores
- Receiving stolen property
- Auto theft
- Grand theft
- Fraudulent or forged checks/documents
- Credit card forgery and/or theft
- Arson
- Counterfeiting
- Bunco fraud
- Community Oriented Policing and Preventative Services (COPPS)
- High Technology, Internet, or computer - associated property crime
- Financial Elder Abuse

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- Identity Theft

600.4 VIOLENT CRIMES UNIT

The Violent Crimes Section shall be responsible for follow-up investigation in the following areas, regardless of the age of the persons involved:

- Hate Crime
- Felonious assault
- Bribery or extortion
- Fugitives (felony)
- Homicide
- Kidnapping
- Missing persons
- Rape
- Felony Sex Crime (adult)
- Unnatural death
- Weapon Violations (felony)
- Escapes and jailbreaks
- Bombs and explosives
- Domestic Violence (felony)
- Stalking
- A.S.S.E.T. - Alameda Safe Schools Enforcement Team
- The School Resource Officer (SRO) Program

600.5 SPECIAL INVESTIGATIONS UNIT

The Special Investigations Unit shall be responsible for:

- Crime specific targets, as directed by the Division Commander
- Sex, Arson, and Drug registration compliance
- Monitoring of parolees and probationers
- Coordinate Sex Offender Tracking Program (SOTP), Sexual Habitual Offender Program (SHOP) and Megan's Law

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- Warrant service and fugitive apprehension
- Assisting other Investigations Division Units as directed by the Division Commander
- Gambling
- Liquor violations
- Human Trafficking and Prostitution
- Intelligence gathering related to the unit's investigative responsibilities
- Narcotics and Dangerous Drugs, sales and/or use violations
- Seditious and/or subversive activities
- Public dances, circuses, cabarets, bingo or other activities in which vice may be a potential factor or result. (Related permits are handled by the Identification Section)
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600.6 INVESTIGATIONS DIVISION GENERAL DUTIES AND RESPONSIBILITIES

- (a) Cases other than those previously mentioned may be assigned to particular personnel or sections as deemed necessary by the Division Commander.
- (b) Should any of the following offenses occur, the Bureau of Operations Commander, the Investigations Division Commander, and the Violent Crimes Unit supervisor shall be notified immediately, whether on or off duty:
 - 1. Kidnapping
 - 2. Murder or suspicious death
 - 3. Bombing
 - 4. Police Officer involved shooting
 - 5. All in custody deaths
 - 6. Arson involving serious injury or death
 - (a) If an arson involving major property damage occurs, the Investigations Division Commander and the Property Crimes supervisor shall be notified immediately, whether on or off duty.
- (c) For offenses other than those listed above, the Watch Commander or Duty Lieutenant shall be responsible for deciding whether or not off duty Investigations Division personnel should be contacted.
- (d) Whenever available, on duty Investigations Division personnel shall respond to reported felonies in progress, in order to assist with the investigation and /or apprehension of suspects.

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- (e) During normal business hours, requests from outside agencies for felony investigations assistance involving local residents will be referred to the appropriate Section supervisor. Otherwise, patrol officers shall be directed to render the necessary assistance.
- (f) It is the responsibility of the Division Commander to review and assign each case received in the Division to the appropriate Investigative Unit.
- (g) Unit Supervisors shall re-assign cases to their respective personnel for investigative follow-up and update the Case Management File appropriately.
- (h) Although assigned to a specific unit, officers may be assigned to other units if deemed necessary by the Division Commander.
- (i) Unit supervisors shall ensure their personnel submit initial follow-up reports on all assigned cases in a timely manner.
- (j) Unit supervisors will ensure their personnel maintain an accurate monthly case assignment/status record using the Department's Case Management System.
- (k) Unit supervisors shall submit to the Division Commander a monthly summary of their unit's activities.
- (l) The Division Commander shall ensure that personnel within the Division meet regularly for case briefings and information sharing.
- (m) All Investigations Division personnel will, as often as possible, attend association meetings pertaining to their specific assignments.
- (n) At the conclusion of their work day, personnel assigned to the Investigations Division shall clear their desks of assigned cases and other paraphernalia.
- (o) No victim or citizen should be required to return at a later time, or fail to receive service, because a specific detective is not present to assist them. Despite specialization of assignments, assistance shall be provided to citizens whenever possible, even though it may involve temporarily working out of assignment.

600.6.1 TERRORISM LIAISON OFFICER

(a) **Terrorism Liaison Officer**

1. The Terrorism Liaison Officer has the responsibility for specified intelligence gathering, dissemination, sharing, and maintaining as it relates to the analysis of criminal activity and Homeland Security intelligence. The Terrorism Liaison Officer also has the responsibility for training Department employees for emergency response to, and recovery from, natural disasters as related to National Recovery Plans.
2. The Investigations Division Lieutenant is the Department's designated Terrorism Liaison Officer.

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3. It is the policy of the Department that all intelligence information be gathered and stored in accordance with the Code of Federal Regulations, Title 28, and Part 23, which is established to protect individual rights of speech, association, or privacy. Information may only be maintained when it is based on reasonable suspicion of involvement in criminal activity or conduct, and the information is relevant to that criminal activity or conduct.

(b) Criminal/Homeland Security Intelligence

1. The gathering, evaluation, and dissemination of criminal intelligence and Homeland Security intelligence is the responsibility of the Terrorism Liaison Officer, under the direct command of the Bureau of Operations Captain.
2. The Chief of Police shall be informed of intelligence information that is relative and pertinent to the Alameda Police Department in a timely manner.
3. Intelligence information of a routine nature that is relative and pertinent to the Alameda Police Department shall be disseminated to staff and line officers for informational and training purposes.

(c) Terrorism Liaison Officer Responsibilities

1. Ensure the Department is compliant with Homeland Security Presidential Directive 5, which is the Management of Domestic Incidents, through a National Incident Management System.
2. Ensure the Department is compliant with Homeland Security Presidential Directive 8, which is the national response plan for Federal assistance to State and local government, in the event of threatened or actual domestic terrorist attacks, major disasters, and other emergencies.
3. Maintain correspondence with federal and state terrorism task force groups for the purpose of gathering, sharing, dissemination, and maintaining of intelligence information related to possible criminal activity.

600.7 SCHEDULING

Scheduling of duty hours for the Investigations Division's personnel shall be the responsibility of the Division Commander and may be subject to adjustment to accomplish a specific police purpose.

Investigations Division personnel shall normally work the hours of the Second Platoon. When necessary, personnel may be scheduled for night and/or weekend duty.

It shall be the responsibility of the Division Commander to have at least one investigator available in the Division's office during normal working hours.

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600.8 POLICY

It is the policy of the Alameda Police Department to investigate crimes thoroughly and with due diligence, and to evaluate and prepare criminal cases for appropriate clearance or submission to a prosecutor.

600.9 CUSTODIAL INTERROGATION REQUIREMENTS

Suspects who are in custody and subjected to an interrogation shall be given the *Miranda* warning, unless an exception applies. Interview or interrogation of a juvenile shall be in accordance with the Temporary Custody of Juveniles Policy.

600.9.1 AUDIO/VIDEO RECORDINGS

Any custodial interrogation of an individual who is suspected of having committed any violent felony offense should be recorded (audio or video with audio as available) in its entirety. Regardless of where the interrogation occurs, every reasonable effort should be made to secure functional recording equipment to accomplish such recordings.

Consideration should also be given to recording a custodial interrogation, or any investigative interview, for any other offense when it is reasonable to believe it would be appropriate and beneficial to the investigation and is otherwise allowed by law.

No recording of a custodial interrogation should be destroyed or altered without written authorization from the prosecuting attorney and the Investigations Division commander. Copies of recorded interrogations or interviews may be made in the same or a different format as the original recording, provided the copies are true, accurate and complete and are made only for authorized and legitimate law enforcement purposes.

Recordings should not take the place of a thorough report and investigative interviews. Written statements from suspects should continue to be obtained when applicable.

600.9.2 MANDATORY RECORDING OF ADULTS

Any custodial interrogation of an adult who is suspected of having committed any murder shall be recorded in its entirety. The recording should be video with audio if reasonably feasible (Penal Code § 859.5).

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

- (a) Recording is not feasible because of exigent circumstances that are later documented in a report.
- (b) The suspect refuses to have the interrogation recorded, including a refusal any time during the interrogation, and the refusal is documented in a report. If feasible, the refusal shall be electronically recorded.
- (c) The custodial interrogation occurred in another state by law enforcement officers of that state, unless the interrogation was conducted with the intent to avoid the requirements of Penal Code § 859.5.

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

The [Department/Office] shall maintain an original or an exact copy of the recording until a conviction relating to the interrogation is final and all appeals are exhausted or prosecution is barred by law (Penal Code § 859.5).

600.10 INITIAL INVESTIGATION

600.10.1 OFFICER RESPONSIBILITIES

An officer responsible for an initial investigation shall complete no less than the following:

- (a) Make a preliminary determination of whether a crime has been committed by completing, at a minimum:
 - 1. An initial statement from any witnesses or complainants.
 - 2. A cursory examination for evidence.
- (b) If information indicates a crime has occurred, the officer shall:
 - 1. Preserve the scene and any evidence as required to complete the initial and follow-up investigation.
 - 2. Determine if additional investigative resources (e.g., investigators or scene processing) are necessary and request assistance as required.
 - 3. If assistance is warranted, or if the incident is not routine, notify a supervisor or the Watch Commander.
 - 4. Make reasonable attempts to locate, identify and interview all available victims, complainants, witnesses and suspects.
 - 5. Collect any evidence.
 - 6. Take any appropriate law enforcement action.
 - 7. Complete and submit the appropriate reports and documentation.

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- (c) If the preliminary determination is that no crime occurred, determine what other action may be necessary, what other resources may be available, and advise the informant or complainant of this information.

600.10.2 NON-SWORN MEMBER RESPONSIBILITIES

A non-sworn member assigned to any preliminary investigation is responsible for all investigative steps, except making any attempt to locate, contact or interview a suspect face-to-face or take any enforcement action. Should an initial investigation indicate that those steps are required, the assistance of an officer shall be requested.

600.11 DISCONTINUATION OF INVESTIGATIONS

~~The~~ The investigation of a criminal case or efforts to seek prosecution should only be discontinued if one of the following applies:

- (a) All reasonable investigative efforts have been exhausted, no reasonable belief that the person who committed the crime can be identified, and the incident has been documented appropriately.
- (b) The perpetrator of a misdemeanor has been identified and a warning is the most appropriate disposition.
 - 1. In these cases, the investigator shall document that the person was warned and why prosecution was not sought.
 - 2. Warnings shall not be given for felony offenses or other offenses identified in this policy or by law that require an arrest or submission of a case to a prosecutor.
- (c) The case has been submitted to the appropriate prosecutor but no charges have been filed. Further investigation is not reasonable nor has the prosecutor requested further investigation.
- (d) The case has been submitted to the appropriate prosecutor, charges have been filed, and further investigation is not reasonable, warranted, or requested, and there is no need to take the suspect into custody.
- (e) Suspects have been arrested, there are no other suspects, and further investigation is either not warranted, or requested.
- (f) Investigation has proven that a crime was not committed (see the Sexual Assault Investigations Policy for special considerations in these cases).

The Domestic Violence, Child Abuse Sexual Assault Investigations ~~and Adult Abuse policies~~ and Senior and Disability Victimization policies may also require an arrest or submittal of a case to a prosecutor.

600.12 COMPUTERS AND DIGITAL EVIDENCE

The collection, preservation, transportation and storage of computers, cell phones and other digital devices may require specialized handling to preserve the value of the related evidence. If it is anticipated that computers or similar equipment will be seized, officers should request that computer forensic examiners assist with seizing computers and related evidence. If a forensic

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examiner is unavailable, officers should take reasonable steps to prepare for such seizure and use the resources that are available.

600.13 INVESTIGATIVE USE OF SOCIAL MEDIA AND INTERNET SOURCES

Use of social media and any other Internet source to access information for the purpose of criminal investigation shall comply with applicable laws and policies regarding privacy, civil rights and civil liberties. Information gathered via the Internet should only be accessed by members while on-duty and for purposes related to the mission of this [department/office]. If a member encounters information relevant to a criminal investigation while off-duty or while using his/her own equipment, the member should note the dates, times and locations of the information and report the discovery to his/her supervisor as soon as practicable. The member, or others who have been assigned to do so, should attempt to replicate the finding when on-duty and using [department/office] equipment. Information obtained via the Internet should not be archived or stored in any manner other than [department/office]-established record keeping systems (see the Records Maintenance and Release and the Criminal Organizations policies).

600.13.1 ACCESS RESTRICTIONS

Information that can be accessed from any [department/office] computer, without the need of an account, password, email address, alias or other identifier (unrestricted websites), may be accessed and used for legitimate investigative purposes without supervisory approval.

Accessing information from any Internet source that requires the use or creation of an account, password, email address, alias or other identifier, or the use of nongovernment IP addresses, requires supervisor approval prior to access. The supervisor will review the justification for accessing the information and consult with legal counsel as necessary to identify any policy or legal restrictions. Any such access and the supervisor approval shall be documented in the related investigative report.

Accessing information that requires the use of a third party's account or online identifier requires supervisor approval and the consent of the third party. The consent must be voluntary and shall be documented in the related investigative report.

Information gathered from any Internet source should be evaluated for its validity, authenticity, accuracy and reliability. Corroborative evidence should be sought and documented in the related investigative report.

Any information collected in furtherance of an investigation through an Internet source should be documented in the related report. Documentation should include the source of information and the dates and times that the information was gathered.

600.13.2 INTERCEPTING ELECTRONIC COMMUNICATION

Intercepting social media communications in real time may be subject to federal and state wiretap laws. Officers should seek legal counsel before any such interception.

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600.14 MODIFICATION OF CHARGES FILED

Members are not authorized to recommend to the prosecutor or to any other official of the court that charges on a pending case be amended or dismissed without the authorization of a supervisor. Any authorized request to modify the charges or to recommend dismissal of charges shall be made to the prosecutor.

600.15 CELLULAR COMMUNICATIONS INTERCEPTION TECHNOLOGY

The Operations Bureau Bureau Commander is responsible for ensuring the following for cellular communications interception technology operations (Government Code § 53166):

- (a) Security procedures are developed to protect information gathered through the use of the technology.
- (b) A usage and privacy policy is developed that includes:
 - 1. The purposes for which using cellular communications interception technology and collecting information is authorized.
 - 2. Identification by job title or other designation of employees who are authorized to use or access information collected through the use of cellular communications interception technology.
 - 3. Training requirements necessary for those authorized employees.
 - 4. A description of how the [Department/Office] will monitor the use of its cellular communications interception technology to ensure the accuracy of the information collected and compliance with all applicable laws.
 - 5. Process and time period system audits.
 - 6. Identification of the existence of any memorandum of understanding or other agreement with any other local agency or other party for the shared use of cellular communications interception technology or the sharing of information collected through its use, including the identity of signatory parties.
 - 7. The purpose of, process for and restrictions on the sharing of information gathered through the use of cellular communications interception technology with other local agencies and persons.
 - 8. The length of time information gathered through the use of cellular communications interception technology will be retained, and the process the local agency will utilize to determine if and when to destroy retained information.

Members shall only use approved devices and usage shall be in compliance with [department/office] security procedures, the ~~department's~~ [department/office]'s usage and privacy procedures and all applicable laws.