## CHIEF’S PREFACE

The "Policies and Procedures Manual" contains the operational orders established by the Police Department to maintain the safety of our employees while we provide public safety and police services to our community. These policies represent our commitment to service and professionalism. Recognizing the need for uniformity, effectiveness, and efficiency, all Brentwood Police Department personnel are required to be familiar with the written policies and procedures contained in this manual. This manual represents our intent to identify roles, responsibilities, underlining principles and philosophies on how we should conduct ourselves as we go about our daily tasks and duties. Written policies and procedures are necessary to clearly define our agency's position and provide guidelines with which our personnel can make administrative, investigative, and operational judgments. These policies shall remain in effect as issued and in the event of conflict with previously written directives, training bulletins, or standard operating procedures, the policies contained herein shall assume precedence. Recognition of errors or deficiencies in the intent or text of these policies and procedures shall be reported in writing to the Office of the Chief of Police, via the chain of command, for appropriate disposition.

Thomas Hansen, Chief of Police

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

**LAW ENFORCEMENT CODE OF ETHICS**

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

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

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

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

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

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

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

## MISSION STATEMENT

**Protect and enhance the quality of life in our community through uncompromised dedication, professionalism, integrity, and innovative police services.**

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

# Table of Contents

**Chief's Preface** . . . . . 1

**Law Enforcement Code of Ethics** . . . . . 2

**Mission Statement** . . . . . 3

**Chapter 1 - Law Enforcement Role and Authority** . . . . . 9
100 - Law Enforcement Authority . . . . . 10
102 - Chief Executive Officer . . . . . 12
104 - Oath of Office . . . . . 13
106 - Policy Manual . . . . . 14

**Chapter 2 - Organization and Administration** . . . . . 19
200 - Organizational Structure and Responsibility . . . . . 20
204 - Special Orders . . . . . 21
206 - Emergency Operations Plan . . . . . 22
208 - Training Policy . . . . . 23
209 - Training Bulletins . . . . . 26
214 - Administrative Communications . . . . . 28
216 - Staffing Levels . . . . . 29
218 - License to Carry a Firearm . . . . . 30
220 - Retiree Concealed Firearms . . . . . 38

**Chapter 3 - General Operations** . . . . . 43
300 - Use of Force . . . . . 44
306 - Handcuffing and Restraints . . . . . 54
307 - Wrap Restraint . . . . . 59
308 - Control Devices and Techniques . . . . . 63
309 - Conducted Energy Weapon (CEW/TASER) . . . . . 68
310 - Officer-Involved Shootings and Deaths . . . . . 74
311 - Firearms . . . . . 82
313 - Vehicle Pursuits . . . . . 91
314 - Spike Strip Deployment . . . . . 106
315 - Officer Response to Calls . . . . . 108
317 - Canines . . . . . 111
319 - Domestic Violence . . . . . 121
321 - Search and Seizure . . . . . 131
323 - Temporary Custody of Juveniles . . . . . 133
325 - Adult Abuse . . . . . 144
327 - Discriminatory Harassment . . . . . 154
329 - Child Abuse . . . . . 159
331 - Missing Persons . . . . . 167
333 - Public Alerts . . . . . 174
335 - Victim and Witness Assistance . . . . . 179

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

337 - Hate Crimes . . . . . 182
339 - Standards of Conduct . . . . . 192
341 - Information Technology Use . . . . . 199
343 - Report Preparation . . . . . 200
345 - Media Relations . . . . . 203
347 - Subpoenas and Court Appearances . . . . . 206
350 - Outside Agency Assistance . . . . . 209
354 - Registered Offender Information . . . . . 211
356 - Major Incident Notification . . . . . 214
358 - Death Investigation . . . . . 216
360 - Identity Theft . . . . . 219
362 - Private Persons Arrests . . . . . 220
364 - Anti-Reproductive Rights Crimes Reporting . . . . . 222
366 - Limited English Proficiency Services . . . . . 224
368 - Communications with Persons with Disabilities . . . . . 231
370 - Mandatory Employer Notification . . . . . 239
372 - Biological Samples . . . . . 241
378 - Child and Dependent Adult Safety . . . . . 244
380 - Service Animals . . . . . 248
384 - Off-Duty Law Enforcement Actions . . . . . 250
386 - Video Surveillance Programs . . . . . 252
387 - Native American Graves Protection and Repatriation . . . . . 255
388 - Gun Violence Restraining Orders . . . . . 257

**Chapter 4 - Patrol Operations . . . . . 262**

400 - Patrol Function . . . . . 263
402 - Racial- or Bias-Based Profiling . . . . . 265
404 - Briefing Training . . . . . 267
406 - Crime and Disaster Scene Integrity . . . . . 268
408 - Special Weapons and Tactics . . . . . 270
410 - Ride-Along Policy . . . . . 282
412 - Hazardous Material Response . . . . . 285
413 - ELECTRONIC SATELLITE PURSUIT (ESP) GPS CURRENCY TRACKING SYSTEM . . . . . 287
414 - Hostage and Barricade Incidents . . . . . 292
416 - Response to Bomb Calls . . . . . 296
418 - Mental Illness Commitments . . . . . 301
420 - Cite and Release Policy . . . . . 307
422 - Foreign Diplomatic and Consular Representatives . . . . . 312
423 - Fugitive Rendition and Extradition . . . . . 316
426 - Reporting Police Activity Outside of Jurisdiction . . . . . 318
428 - Immigration Violations . . . . . 319
430 - Securing Buildings - Private Property . . . . . 324
432 - Patrol Rifles . . . . . 325
434 - Aircraft Accidents . . . . . 328
436 - Field Training Officer Program . . . . . 332
438 - Obtaining Air Support . . . . . 335

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

439 - Code 666 and BOLO Broadcasts . . . . . 336
440 - Contacts and Temporary Detentions . . . . . 338
442 - Criminal Organizations . . . . . 342
444 - Watch Commanders . . . . . 347
449 - In-Car Mobile Audio/Video (MAV) Recorders . . . . . 348
450 - Portable Audio/Video Recorders . . . . . 350
452 - Medical Marijuana . . . . . 355
464 - Homeless Persons . . . . . 360
465 - Public Recording of Law Enforcement Activity . . . . . 363
466 - Crisis Intervention Incidents . . . . . 366
467 - Civil Disputes . . . . . 371
468 - First Amendment Assemblies . . . . . 374
469 - Medical Aid and Response . . . . . 380
469 - Automated License Plate Readers (ALPRs) . . . . . 386
471 - Quiet Room . . . . . 389

**Chapter 5 - Traffic Operations . . . . . 391**

500 - Traffic Function and Responsibility . . . . . 392
502 - Traffic Collision Reporting . . . . . 395
504 - Collision Review On-Duty Vehicles . . . . . 398
510 - Vehicle Towing and Release . . . . . 402
512 - Vehicle Impound Hearings . . . . . 406
514 - Impaired Driving . . . . . 408
516 - Traffic Citations . . . . . 413
520 - Disabled Vehicles . . . . . 416
524 - 72-Hour Parking Violations . . . . . 417

**Chapter 6 - Investigation Operations . . . . . 419**

600 - Investigation and Prosecution . . . . . 420
602 - Sexual Assault Investigations . . . . . 427
606 - Asset Forfeiture . . . . . 433
608 - Informants . . . . . 440
612 - Brady Material Disclosure . . . . . 446
613 - Unmanned Aircraft System (UAS) Operations . . . . . 448
614 - Warrant Service . . . . . 451
615 - Operations Planning and Deconfliction . . . . . 455

**Chapter 7 - Equipment . . . . . 461**

700 - Department Owned and Personal Property . . . . . 462
703 - Equipment Deficiency Report . . . . . 464
704 - Vehicle Maintenance . . . . . 465
706 - Vehicle Use . . . . . 467

**Chapter 8 - Support Services . . . . . 471**

800 - Crime Analysis . . . . . 472
802 - Communication Operations . . . . . 473
803 - Property and Evidence . . . . . 475

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

805 - Records Bureau . . . . . 479
806 - Records Management Program . . . . . 481
807 - Restoration of Firearm Serial Numbers . . . . . 486
810 - Records Maintenance and Release . . . . . 488
811 - Protected Information . . . . . 497
813 - Computers and Digital Evidence . . . . . 503
821 - Jeanne Clery Campus Security Act . . . . . 506

**Chapter 9 - Custody . . . . . 512**

900 - Temporary Custody of Adults . . . . . 513
902 - Custodial Searches . . . . . 518
904 - Prison Rape Elimination . . . . . 523

**Chapter 10 - Personnel . . . . . 533**

1000 - Recruitment and Selection . . . . . 534
1002 - Evaluation of Employees . . . . . 539
1003 - Special Assignments and Promotions . . . . . 542
1005 - Grievance Procedure . . . . . 545
1009 - Reporting of Employee Convictions . . . . . 549
1011 - Drug- and Alcohol-Free Workplace . . . . . 551
1013 - Sick Leave . . . . . 554
1015 - Communicable Diseases . . . . . 556
1017 - Smoking and Tobacco Use . . . . . 561
1019 - Personnel Complaints . . . . . 562
1021 - Seat Belts . . . . . 573
1023 - Body Armor . . . . . 575
1025 - Personnel Records . . . . . 577
1026 - Collateral Duty Assignments . . . . . 585
1027 - Special Assignments . . . . . 587
1028 - Administrative Appeals . . . . . 590
1029 - Department Awards . . . . . 595
1030 - Fitness Room Policy . . . . . 599
1031 - Fitness for Duty . . . . . 603
1033 - Meal Periods and Breaks . . . . . 606
1034 - Lactation Break Policy . . . . . 607
1035 - Payroll Record Procedures . . . . . 609
1037 - Overtime Compensation Requests . . . . . 610
1039 - Outside Employment . . . . . 612
1041 - Occupational Disease and Work-Related Injury Reporting . . . . . 617
1043 - Personal Appearance Standards . . . . . 619
1045 - Uniform Regulations . . . . . 621
1049 - Nepotism and Conflicting Relationships . . . . . 630
1051 - Department Badges . . . . . 632
1053 - Temporary Modified-Duty Assignments . . . . . 634
1057 - Employee Speech, Expression and Social Networking . . . . . 639
1058 - Peer Support Team . . . . . 643
1059 - Anti-Retaliation . . . . . 650

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

**Attachments . . . . . 654**
Hate Crime Checklist.pdf . . . . . 655
Video Surveillance Sign.pdf . . . . . 657
Commission on Peace Officer Standards and Training Hate Crimes Model Policy 2019.pdf . . . . . 658
Statutes and Legal Requirements.pdf . . . . . 659
Neighborhood Watch Video Surveillance Sign.pdf . . . . . 661

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

# Chapter 1 - Law Enforcement Role and Authority

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

# Law Enforcement Authority

## 100.1 PURPOSE AND SCOPE

The purpose of this policy is to affirm the authority of the members of the Brentwood Police Department to perform their functions based on established legal authority.

## 100.2 PEACE OFFICER POWERS

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

### 100.2.1 ARREST AUTHORITY OUTSIDE THE JURISDICTION OF THE BRENTWOOD POLICE DEPARTMENT

The arrest authority outside the jurisdiction of the Brentwood Police Department includes (Penal Code § 830.1; Penal Code § 836):

(a) When the officer has probable cause to believe the person committed a felony.

(b) When the officer has probable cause to believe the person has committed a misdemeanor in the presence of the officer and the officer reasonably believes there is immediate danger to person or property or of escape.

(c) When the officer has probable cause to believe the person has committed a misdemeanor for which an arrest is authorized even if not committed in the presence of the officer such as certain domestic violence offenses and there is immediate danger to person or property or of escape or the arrest is mandated by statute.

(d) When authorized by a cross jurisdictional agreement with the jurisdiction in which the arrest is made.

(e) In compliance with an arrest warrant.

On-duty arrests will not generally be made outside the jurisdiction of this department except in cases of hot or fresh pursuit, while following up on crimes committed within the City, or while assisting another agency.

On-duty officers who discover criminal activity outside the jurisdiction of the City should when circumstances permit, consider contacting the agency having primary jurisdiction before attempting an arrest.

### 100.2.2 TIME OF MISDEMEANOR ARRESTS

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

(a) The arrest is made without a warrant pursuant to Penal Code § 836 which includes:

1. A misdemeanor committed in the presence of the officer.
2. Misdemeanor domestic violence offenses (See the Domestic Violence Policy).

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

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

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

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

100.2.3 ARREST AUTHORITY INSIDE THE JURISDICTION OF THE BRENTWOOD POLICE DEPARTMENT

The arrest authority within the jurisdiction of the Brentwood Police Department includes (Penal Code § 830.1; Penal Code § 836):

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

(b) When the officer has probable cause to believe the person has committed a misdemeanor in this jurisdiction and in the presence of the officer.

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

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

(e) In compliance with an arrest warrant.

## 100.3 POLICY

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

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

## 100.4 INTERSTATE PEACE OFFICER POWERS

Peace officer powers may be extended to other states:

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

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

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

## 100.5 CONSTITUTIONAL REQUIREMENTS

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

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

# Chief Executive Officer

## 102.1 PURPOSE AND SCOPE

The California Commission on Peace Officer Standards and Training (POST) has mandated that all sworn officers and dispatchers employed within the State of California shall receive certification by POST within prescribed time periods.

### 102.1.1 CHIEF EXECUTIVE OFFICER REQUIREMENTS

Any chief executive officer of this department appointed after January 1, 1999, shall, as a condition of continued employment, complete the course of training prescribed by POST and obtain the Basic Certificate by POST within two years of appointment (Penal Code § 832.4).

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

# Oath of Office

## 104.1 PURPOSE AND SCOPE

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

## 104.2 POLICY

It is the policy of the Brentwood Police Department that, when appropriate, department members affirm the oath of their office as an expression of commitment to the constitutional rights of those served by the Department and the dedication of its members to their duties.

## 104.3 OATH OF OFFICE

All department members, when appropriate, shall take and subscribe to the oaths or affirmations applicable to their positions. All sworn members shall be required to affirm the oath of office expressing commitment and intent to respect constitutional rights in discharging the duties of a law enforcement officer (Cal. Const. Art. 20, § 3; Government Code § 3102). The oath shall be as follows:

“I, (employee name), do solemnly swear (or affirm) that I will support and defend the Constitution of the United States and the Constitution of the State of California against all enemies, foreign and domestic; that I will bear true faith and allegiance to the Constitution of the United States and the Constitution of the State of California; that I take this obligation freely, without any mental reservation or purpose of evasion; and that I will well and faithfully discharge the duties upon which I am about to enter.”

## 104.4 MAINTENANCE OF RECORDS

The oath of office shall be filed as prescribed by law (Government Code § 3105).

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

# Policy Manual

## 106.1 PURPOSE AND SCOPE

The manual of the Brentwood Police Department is hereby established and shall be referred to as the Policy Manual or the manual. The manual is a statement of the current policies, rules and guidelines of this department. All members are to conform to the provisions of this manual.

All prior and existing manuals, orders and regulations that are in conflict with this manual are rescinded, except to the extent that portions of existing manuals, procedures, orders and other regulations that have not been included herein shall remain in effect, provided that they do not conflict with the provisions of this manual.

### 106.1.1 DISCLAIMER

The provisions contained in this Policy Manual are not intended to create an employment contract, nor any employment rights or entitlements. The policies contained within this manual are for the internal use of the Brentwood Police Department Department and shall not be construed to create a higher standard or duty of care for civil or criminal liability against the City, its officials or employees. Violations of any provision of any policy contained within this manual shall only form the basis for departmental administrative action, training or discipline. The Brentwood Police Department Department reserves the right to revise any policy content, in whole or in part.

## 106.2 POLICY

Except where otherwise expressly stated, the provisions of this manual shall be considered as guidelines. It is recognized that the work of law enforcement is not always predictable and circumstances may arise which warrant departure from these guidelines. It is the intent of this manual to be viewed from an objective standard, taking into consideration the sound discretion entrusted to members of this department under the circumstances reasonably available at the time of any incident.

### 106.2.1 DISCLAIMER

The provisions contained in the Policy Manual are not intended to create an employment contract nor any employment rights or entitlements. The policies contained within this manual are for the internal use of the Brentwood Police Department and shall not be construed to create a higher standard or duty of care for civil or criminal liability against the City, its officials or members. Violations of any provision of any policy contained within this manual shall only form the basis for department administrative action, training or discipline. The Brentwood Police Department reserves the right to revise any policy content, in whole or in part.

### 106.2.2 STAFF

Command Staff shall consist of the following:

- Chief of Police
- The Captain from each division

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

- All Lieutenants

The Command Staff shall review all recommendations regarding proposed changes to the manual at staff meetings.

Supervisory Staff includes all sworn employees at the rank of sergeant or above and all civilian supervisors.

106.2.3 OTHER PERSONNEL
All Department employees suggesting revision of the contents of the Policy Manual shall forward their suggestion, in writing, to their Division Commander who will consider the recommendation and forward to staff.

**106.3 AUTHORITY**
The Chief of Police shall be considered the ultimate authority for the content and adoption of the provisions of this manual and shall ensure compliance with all applicable federal, state and local laws. The Chief of Police or the authorized designee is authorized to issue Departmental Directives, which shall modify those provisions of the manual to which they pertain. Departmental Directives shall remain in effect until such time as they may be permanently incorporated into the manual.

106.3.1 ACCEPTABLE ABBREVIATIONS
The following abbreviations are acceptable substitutions in the manual:

- Special Orders may be abbreviated as "SO"
- Policy Manual sections may be abbreviated as "Section 106.X" or "§ 106.X"

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

**Adult** - Any person 18 years of age or older.

**CHP** - The California Highway Patrol.

**CFR** - Code of Federal Regulations.

**City** - The City of Brentwood.

**Department /BPD** - The Brentwood Police Department.

**DMV** - The Department of Motor Vehicles.

**Employee/Personnel** - Any person employed by the Department.

**Juvenile** - Any person under the age of 18 years.

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

**May** - Indicates a permissive, discretionary or conditional action.

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

**Member** - Any person who is employed or appointed by the Brentwood Police Department including sworn officers, reserve officers, non-sworn employees and volunteers.

**Non-sworn** - Employees and volunteers who are not sworn peace officers.

**Officer/Sworn** - Those employees, regardless of rank, who are sworn employees of the Brentwood Police Department.

**On-Duty** - Employee status during the period when he/she is actually engaged in the performance of his/her assigned duties.

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

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

**Rank** - The job classification title held by an officer.

**Shall or will** - Indicates a mandatory action.

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

**USC** - United States Code

106.3.3 DISTRIBUTION OF MANUAL

A computerized version of the Policy Manual will be made available on the Department network for access by all employees. The computerized version will be limited to viewing and printing of specific sections. No changes shall be made to the electronic version without authorization.

Employees that are issued phones are authorized to download the Lexipol KMS app for additional access to the policy manual.

## 106.4 DEFINITIONS

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

**Adult** - Any person 18 years of age or older.

**CCR** - California Code of Regulations (Example: 15 CCR 1151).

**CHP**- The California Highway Patrol.

**CFR** - Code of Federal Regulations.

**City** - The City of Brentwood.

**Non-sworn** - Employees and volunteers who are not sworn peace officers.

**Department/BPD** - The Brentwood Police Department.

**DMV** - The Department of Motor Vehicles.

**Employee** - Any person employed by the Department.

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

**Juvenile**- Any person under the age of 18 years.

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

**May** - Indicates a permissive, discretionary or conditional action.

**Member** - Any person employed or appointed by the Brentwood Police Department, including:

- Full- and part-time employees
- Sworn peace officers
- Reserve, auxiliary officers
- Non-sworn employees
- Volunteers.

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

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

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

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

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

**Shall or will** - Indicates a mandatory action.

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

**Supervisor** - A person in a position of authority that may include responsibility for hiring, transfer, suspension, promotion, discharge, assignment, reward or discipline of other department members, directing the work of other members or having the authority to adjust grievances. The supervisory exercise of authority may not be merely routine or clerical in nature but requires the use of independent judgment.

The term "supervisor" may also include any person (e.g., officer-in-charge, lead or senior worker) given responsibility for the direction of the work of others without regard to a formal job title, rank or compensation.

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

**USC** - United States Code.

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

106.4.1 REVISIONS TO POLICIES

All employees are responsible for keeping abreast of all Policy Manual revisions. All changes to the Policy Manual will be posted on the Department Intranet Home Page under the title Recent Policy Manual Revisions. The Training Manager will forward revisions to the Policy Manual as needed to all personnel via electronic mail. Each employee shall acknowledge receipt by return email, review the revisions and seek clarification as needed.

Each unit commander/manager will ensure that employees under his/her command are aware of any Policy Manual revisions.

## 106.5 ISSUING THE POLICY MANUAL

An electronic version of the Policy Manual will be made available to all members on the department network for viewing and printing. No changes shall be made to the manual without authorization from the Chief of Police or the authorized designee.

Each member shall acknowledge that he/she has been provided access to, and has had the opportunity to review the Policy Manual and Departmental Directives. Members shall seek clarification as needed from an appropriate supervisor for any provisions that they do not fully understand.

## 106.6 PERIODIC REVIEW OF THE POLICY MANUAL

The Chief of Police will ensure that the Policy Manual is periodically reviewed and updated as necessary.

## 106.7 REVISIONS TO POLICIES

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

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

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

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

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

# Chapter 2 - Organization and Administration

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

# Organizational Structure and Responsibility

## 200.1 PURPOSE AND SCOPE

The organizational structure of this department is designed to create an efficient means to accomplish our mission and goals and to provide for the best possible service to the public.

## 200.2 DIVISIONS

The Chief of Police is responsible for administering and managing the Brentwood Police Department. There are two divisions in the Police Department as follows:

- Operations Division
- Support Division

### 200.2.1 OPERATIONS DIVISION

The Operations Division is commanded by a Captain whose primary responsibility is to provide general management direction and control for that division. The Operations Division consists of the Patrol Bureau, including the Traffic Unit, the K-9 Unit, the School Resource Officer Unit, the Field Training Program, and Special Events. This division is also responsible for Fleet Services and the Temporary Holding Facility.

### 200.2.2 SUPPORT DIVISION

The Support Division is commanded by a Captain whose primary responsibility is to provide general management direction and control for that division. The Support Division consists of the Special Services Bureau and the Administration Bureau. This division includes Investigations, the Property Unit, the Records Unit, Accounting, Emergency Services, Crime Prevention, Crime Analysis, Personnel including recruiting, hiring, and training, Construction and Development Review, and Facilities.

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

# Special Orders

## 204.1 PURPOSE AND SCOPE

Special Orders establish an intradepartmental communication that may be used by the Chief of Police to make immediate changes topolicy and procedure consistent with the current Memorandum of Understanding and as permitted by Government Code § 3500 et seq. Special Orders will immediately modify or change and supersede sections of this manual to which they pertain.

### 204.1.1 SPECIAL ORDER PROTOCOL

Special Orders will be incorporated into the manual as required upon approval of Staff. Special Orders will modify existing policies or create a new policy as appropriate and will be rescinded upon incorporation into the manual.

All existing Special Orders have now been incorporated in the updated Policy Manual as of the revision date.

Any Special Orders issued after publication of the manual shall be numbered consecutively starting with the last two digits of the year, followed by the number "01" For example, 10-01 signifies the first Special Order for the year 2010.

## 204.2 RESPONSIBILITIES

### 204.2.1 STAFF

Command staff shall review and approve revisions of the Policy Manual, which will incorporate changes originally made by a Special Order.

### 204.2.2 CHIEF OF POLICE

The Chief of Police shall issue all Departmental Directives.

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

# Emergency Operations Plan

## 206.1 PURPOSE AND SCOPE

The City has prepared an Emergency Management Plan for use by all employees in the event of a major disaster or other emergency event. The plan provides for a strategic response by all employees and assigns specific responsibilities in the event that the plan is activated (Government Code § 8610).

## 206.2 ACTIVATING THE EMERGENCY PLAN

The Emergency Management Plan can be activated on the order of the official designated by local ordinance.

## 206.3 LOCATION OF THE PLAN

The Emergency Management Plan is available in Administration and the Watch Commander's office. All supervisors should familiarize themselves with the Emergency Management Plan. The Administration supervisor should ensure that department personnel are familiar with the roles police personnel will play when the plan is implemented.

## 206.4 UPDATING OF MANUALS

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

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

# Training Policy

## 208.1 PURPOSE AND SCOPE

It is the policy of this department to administer a training program that will provide for the professional growth and continued development of its personnel. By doing so, the Department will ensure its personnel possess the knowledge and skills necessary to provide a professional level of service that meets the needs of the community.

## 208.2 PHILOSOPHY

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

## 208.3 OBJECTIVES

The objectives of the Training Program are to:

(a) Enhance the level of law enforcement service to the public

(b) Increase the technical expertise and overall effectiveness of our personnel

(c) Provide for continued professional development of department personnel

## 208.4 TRAINING PLAN

A training plan has been developed and is maintained by the Training Manager. It is the responsibility of the Training Manager to maintain, review, and update the training plan on an annual basis. The plan will address the following areas:

- Legislative changes and case law
- State mandated training
- Critical issues training
- Individual officer deployment

## 208.5 TRAINING NEEDS ASSESSMENT

The Professional Standards Unit will conduct an annual training needs assessment of the Department. The needs assessment will be reviewed by Command Staff. Upon approval of staff, the needs assessment will form the basis for the training plan for the fiscal year.

## 208.6 TRAINING COMMITTEE

The Training Manager shall establish a Training Committee, which will serve to assist with identifying training needs for the Department.

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

The Training Committee shall be comprised of at least three members, with the senior ranking member of the committee acting as the chairperson. Members should be selected based on their abilities at post-incident evaluation and at assessing related training needs. The Training Manager may remove or replace members of the committee at his/her discretion.

The Training Committee should review certain incidents to determine whether training would likely improve future outcomes or reduce or prevent the recurrence of the undesirable issues related to the incident. Specific incidents the Training Committee should review include, but are not limited to:

(a) Any incident involving the death or serious injury of an employee.

(b) Incidents involving a high risk of death, serious injury or civil liability.

(c) Incidents identified by a supervisor as appropriate to review to identify possible training needs.

The Training Committee should convene on a regular basis as determined by the Training Manager to review the identified incidents. The committee shall determine by consensus whether a training need exists and then submit written recommendations of its findings to the Training Manager. The recommendation should not identify specific facts of any incidents, such as identities of employees involved or the date, time and location of the incident, but should focus on the type of training being recommended.

The Training Manager will consider the recommendations of the committee and determine what training should be addressed, taking into consideration the mission of the Department and available resources.

## 208.7 TRAINING PROCEDURES

(a) All employees assigned to attend training shall attend as scheduled unless previously excused by their immediate supervisor. Excused absences from mandatory training should be limited to the following:

1. Court appearances
2. First choice vacation
3. Sick leave
4. Physical limitations preventing the employee’s participation.
5. Emergency situations

(b) When an employee is unable to attend mandatory training, that employee shall:

1. Notify his/her supervisor as soon as possible but no later than one hour prior to the start of training.
2. Document his/her absence in a memorandum to his/her supervisor.

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

3. Make arrangements through his/her supervisor and the Training Manager to attend the required training on an alternate date.

## 208.8 DAILY TRAINING BULLETINS

The Lexipol Daily Training Bulletins (DTBs) is a web-accessed system that provides training on the Brentwood Police Department Policy Manual and other important topics. Generally, one training bulletin is available for each day of the month. However, the number of DTBs may be adjusted by the Training Manager.

Personnel assigned to participate in DTBs should only use the password and login name assigned to them by the Training Manager. Personnel should not share their password with others and should frequently change their password to protect the security of the system. After each session, employees should log off the system to prevent unauthorized access. The content of the DTBs is copyrighted material and shall not be shared with others outside of the Department.

Employees who are assigned to participate in the DTB program should complete each DTB at the beginning of their shift or as otherwise directed by their supervisor. Employees should not allow uncompleted DTBs to build up over time. Personnel may be required to complete DTBs missed during extended absences (e.g., vacation, medical leave) upon returning to duty. Although the DTB system can be accessed from any Internet active computer, employees shall only take DTBs as part of their on-duty assignment unless directed otherwise by a supervisor.

Supervisors will be responsible for monitoring the progress of personnel under their command to ensure compliance with this policy.

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

# Training Bulletins

## 209.1 PURPOSE AND SCOPE

This policy establishes guidelines for the issuance of Department approved Training Bulletins.

## 209.2 DEPARTMENT PUBLISHED TRAINING BULLETIN

Training Bulletins are prepared and published in effort to provide information related to law enforcement activities in a written and referenceable form.

## 209.3 FORMAT

The topic of each Training Bulletin should be complete, addressing the entire subject matter.

The length of each bulletin should be no more than one page, double-sided. If the amount of the information is greater than one page, then consideration should given to dividing the bulletin into logical sections and issued as multiple bulletins.

## 209.4 CLASSIFICATIONS

Training Bulletin subject matter will be indexed into the following classifications:

(a) Controlled Substances

(b) Evidence

(c) Intelligence

(d) Investigation

(e) Juvenile

(f) Legal Update

(g) Medical

(h) Miscellaneous

(i) Traffic

(j) Weapons and Tactics

(k) Emergency Services

## 209.5 PROCEDURE

A Training Bulletin may be prepared by any member of the Department. A member may voluntarily prepare a bulletin or be assigned a topic to report on. An inquiry as to the relevance of the topic matter should be made to the member's supervisor.

The proposed Training Bulletin should be submitted to the Professional Standards Supervisor (via the chain of command). The bulletin will be reviewed by general staff as to assess appropriateness and validity of the subject matter prior to publication.

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

*Training Bulletins*

All reference material shall be noted on the training bulletin with a copy of the material submitted with the original for retention.

Training Bulletins will only be issued upon approval of the Chief of Police.

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

# Administrative Communications

## 214.1 PURPOSE AND SCOPE

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

## 214.2 MEMORANDUMS

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

## 214.3 CORRESPONDENCE

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

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

# Staffing Levels

## 216.1 PURPOSE AND SCOPE

The purpose of this policy is to establish the minimum staffing level for Patrol Bureau shifts required to ensure the Department's commitment to provide a proactive enforcement service to the citizens of Brentwood.

## 216.2 SUPERVISION

At no time will the Patrol Bureau operate without at least one supervisor or designated Officer-In-Charge (OIC) on-duty.

(a) The supervisor requirement may be met by any rank of sergeant or desiganated OIC.

(b) Before going off-duty, the supervisor shall ensure that another supervisor or OIC has assumed the responsibility for the shift.

### 216.2.1 SQUAD STAFFING

Minimum squad staffing will be at least one patrol/canine officer assigned to each beat on each shift.

(a) When shifts overlap, the squad sergeant may authorize time off provided the above minimums are met.

The above staffing requirements may only be altered by the Chief of Police or his/her designee.

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

# License to Carry a Firearm

## 218.1 PURPOSE AND SCOPE

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

### 218.1.1 APPLICATION OF POLICY

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

## 218.2 POLICY

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

## 218.3 QUALIFIED APPLICANTS

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

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

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

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

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

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

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

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

(h) Provide proof of ownership or registration of any firearm to be licensed.

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

(j) Complete required training (Penal Code § 26165).

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

## 218.4 APPLICATION PROCESS

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

### 218.4.1 PHASE ONE (TO BE COMPLETED BY ALL APPLICANTS)

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

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

2. If an incomplete application package is received, the Chief of Police or authorized designee may do any of the following:

(a) Require the applicant to complete the package before any further processing.

(b) Advance the incomplete package to phase two for conditional processing pending completion of all mandatory conditions.

(c) Issue a denial if the materials submitted at the time demonstrate that the applicant would not qualify for a license to carry a firearm even if the package was completed (e.g., not a resident, disqualifying criminal conviction, absence of good cause).

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

1. Additional fees may be required for fingerprinting, training or psychological testing, in addition to the application fee.

2. Full payment of the remainder of the application fee will be required upon issuance of a license.

3. Payment of related fees may be waived if the applicant is a duly appointed reserve peace officer as defined in Penal Code § 830.6 (a) or (b) (Penal Code § 26170).

(c) The applicant shall be required to submit to fingerprinting and a complete criminal background check by the California DOJ. A second set of fingerprints may be required for retention in department files. Two recent passport-size photos (2 inches by 2 inches) of the applicant shall be submitted for department use. No person determined to fall within a prohibited class described in Penal Code § 29800, Penal Code § 29900, Welfare and Institutions Code § 8100 or Welfare and Institutions Code § 8103 will be

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

issued a license to carry a firearm. A license shall not be issued if the California DOJ determines that the applicant is prohibited by state or federal law from possessing, receiving, owning or purchasing a firearm (Penal Code § 26195).

(d) The applicant should submit at least three signed letters of character reference from individuals other than relatives.

(e) The applicant shall submit proof of ownership or registration of each firearm to be licensed.

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

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

### 218.4.2 PHASE TWO

This phase is to be completed only by those applicants successfully completing phase one.

(a) Upon successful completion of phase one, the applicant shall be scheduled for a personal interview with the Chief of Police or authorized designee. During this stage, there will be further discussion of the applicant's statement of good cause and any potential restrictions or conditions that might be placed on the license.

1. The determination of good cause should consider the totality of circumstances in each individual case.
2. Any denial for lack of good cause should be rational, articulable and not arbitrary in nature.
3. The Department will provide written notice to the applicant as to the determination of good cause (Penal Code § 26202).

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

(c) The applicant shall complete a course of training approved by the department, which complies with Penal Code § 26165. The applicant will not be required to complete and pay for any training courses prior to any determination of good cause (Penal Code § 26165; Penal Code § 26202).

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

(d) The applicant shall submit any firearm to be considered for a license to the Rangemaster or other department authorized gunsmith, at no cost to the applicant, for a full safety inspection. The Chief of Police reserves the right to deny a license for any firearm that has been altered from the manufacturer's specifications or that is unsafe (Penal Code § 31910).

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

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

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

### 218.5 LIMITED BUSINESS LICENSE TO CARRY A CONCEALED FIREARM

The authority to issue a limited business license to carry a concealed firearm to a non-resident applicant is granted only to the Sheriff of the county in which the applicant works. A chief of a municipal police department may not issue limited licenses (Penal Code § 26150). Therefore, such applicants may be referred to the Sheriff for processing.

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

(a) The applicant physically spends a substantial period of working hours in the applicant's principal place of employment or business within the City of Brentwood (Penal Code § 26150).

(b) Such a license will be valid for a period not to exceed 90 days from the date of issuance (Penal Code § 26220).

(c) The applicant shall provide a copy of the license to the licensing authority of the city or county in which the applicant resides (Penal Code § 26220).

(d) Any application for renewal or reissuance of such a license may be granted only upon concurrence of the original issuing authority and the licensing authority of the city or county in which the applicant resides (Penal Code § 26220).

### 218.6 ISSUED FIREARMS PERMITS

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

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

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

1. All such restrictions or conditions shall be conspicuously noted on any license issued (Penal Code § 26200).
2. The licensee will be required to sign a Restrictions and Conditions Agreement. Any violation of any of the restrictions and conditions may result in the immediate revocation of the license.

(b) The license shall be laminated, bearing a photograph of the licensee with the expiration date, type of firearm, restrictions and other pertinent information clearly visible.

1. Each license shall be numbered and clearly identify the licensee.
2. All licenses shall be subjected to inspection by the Chief of Police or any law enforcement officer.

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

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

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

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

### 218.6.1 LICENSE RESTRICTIONS

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

1. Consuming any alcoholic beverage while armed.
2. Falsely representing him/herself as a peace officer.
3. Unjustified or unreasonable displaying of a firearm.
4. Committing any crime.

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

5. Being under the influence of any medication or drug while armed.
6. Interfering with any law enforcement officer's duties.
7. Refusing to display his/her license or firearm for inspection upon demand of any peace officer.
8. Loading the permitted firearm with illegal ammunition.

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

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

### 218.6.2 AMENDMENTS TO LICENSES

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

(a) Add or delete authority to carry a firearm listed on the license.

(b) Change restrictions or conditions previously placed on the license.

(c) Change the address or other personal information of the licensee (Penal Code § 26210).

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

### 218.6.3 REVOCATION OF LICENSES

Any license issued pursuant to this policy may be immediately revoked by the Chief of Police for any of the following reasons:

(a) The licensee has violated any of the restrictions or conditions placed upon the license.

(b) The licensee becomes psychologically unsuitable to carry a firearm.

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

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

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

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

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

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

218.6.4 LICENSE RENEWAL

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

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

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

(c) Submitting any firearm to be considered for a license renewal to the Rangemaster for a full safety inspection. The Chief of Police reserves the right to deny a license for any firearm that has been altered from the manufacturer's specifications or that is unsafe (Penal Code § 31910).

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

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

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

## 218.7 DEPARTMENT REPORTING AND RECORDS

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

(a) The denial of a license

(b) The denial of an amendment to a license

(c) The issuance of a license

(d) The amendment of a license

(e) The revocation of a license

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

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

### 218.8 CONFIDENTIAL RECORDS

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

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

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

# Retiree Concealed Firearms

## 220.1 PURPOSE AND SCOPE

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

## 220.2 POLICY

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

## 220.3 LEOSA

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

(a) Separated from service in good standing from this department as an officer.

(b) Before such separation, had regular employment as a law enforcement officer for an aggregate of 10 years or more or, if employed as a law enforcement officer for less than 10 years, separated from service after completing any applicable probationary period due to a service-connected disability as determined by this department.

(c) Has not been disqualified for reasons related to mental health.

(d) Has not entered into an agreement with this department where the officer acknowledges that he/she is not qualified to receive a firearm qualification certificate for reasons related to mental health.

(e) Is not prohibited by federal law from receiving or possessing a firearm.

### 220.3.1 LEOSA IDENTIFICATION CARD FORMAT

The LEOSA identification card should contain a photograph of the former officer and identify him/her as having been employed as an officer.

If the Brentwood Police Department qualifies the former officer, the LEOSA identification card or separate certification should indicate the date the former officer was tested or otherwise found by the Department to meet the active duty standards for qualification to carry a firearm.

### 220.3.2 AUTHORIZATION

Any qualified former law enforcement officer, including a former officer of this department, may carry a concealed firearm under 18 USC § 926C when he/she is:

(a) In possession of photographic identification that identifies him/her as having been employed as a law enforcement officer, and one of the following:

1. An indication from the person's former law enforcement agency that he/she has, within the past year, been tested or otherwise found by the law enforcement

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

agency to meet agency-established active duty standards for qualification in firearms training to carry a firearm of the same type as the concealed firearm.

2. A certification, issued by either the state in which the person resides or by a certified firearms instructor who is qualified to conduct a firearms qualification test for active duty law enforcement officers within that state, indicating that the person has, within the past year, been tested or otherwise found to meet the standards established by the state or, if not applicable, the standards of any agency in that state.

(b) Not under the influence of alcohol or another intoxicating or hallucinatory drug or substance.

(c) Not prohibited by federal law from receiving a firearm.

(d) Not in a location prohibited by California law or by a private person or entity on his/her property if such prohibition is permitted by California law.

## 220.4 CALIFORNIA IDENTIFICATION CARD ISSUANCE

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

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

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

### 220.4.1 CALIFORNIA IDENTIFICATION CARD FORMAT

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

(a) A photograph of the retiree.

(b) The retiree’s name and date of birth.

(c) The date of retirement.

(d) The name and address of this department.

(e) A stamped CCW Approved endorsement along with the date by which the endorsement must be renewed (not more than one year). If a CCW endorsement has been denied or revoked, the identification card shall be stamped “No CCW Privilege.”

### 220.4.2 QUALIFIED RETIREES FROM INCORPORATED JURISDICTION

The Brentwood Police Department shall provide an identification card with a CCW Approved endorsement to honorably retired peace officers from any jurisdiction that this department now serves under the following conditions (Penal Code § 25905):

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

(a) The retiree's previous agency is no longer providing law enforcement services or the relevant government body is dissolved.

(b) This department is in possession of the retiree's complete personnel record or can verify the retiree's honorably retired status.

(c) The retiree is in compliance with all of the requirements of this department for the issuance of a CCW Approved endorsement.

220.4.3 QUALIFIED RETIRED RESERVES

Qualified retired reserve officers who meet the department requirements shall be provided an identification card with a CCW Approved endorsement (Penal Code § 26300).

## 220.5 FORMER OFFICER RESPONSIBILITIES

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

220.5.1 RESPONSIBILITIES UNDER LEOSA

In order to obtain or retain a LEOSA identification card, the former officer shall:

(a) Sign a waiver of liability of the Department for all acts taken related to carrying a concealed firearm, acknowledging both his/her personal responsibility as a private person for all acts taken when carrying a concealed firearm as permitted by LEOSA and also that these acts were not taken as an employee or former employee of the Department.

(b) Remain subject to all applicable department policies and federal, state and local laws.

(c) Demonstrate good judgment and character commensurate with carrying a loaded and concealed firearm.

(d) Successfully pass an annual criminal history background check indicating that he/she is not prohibited by law from receiving or possessing a firearm.

220.5.2 MAINTAINING A CALIFORNIA IDENTIFICATION CARD CCW ENDORSEMENT

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

(a) Qualify annually with the authorized firearm at a course approved by this department at the retired officer's expense.

(b) Remain subject to all applicable department policies and federal, state and local laws.

(c) Not engage in conduct that compromises public safety.

(d) Only be authorized to carry a concealed firearm inspected and approved by the Department.

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

A LEOSA identification card may be denied or revoked upon a showing of good cause as determined by the Department. In the event that an identification card is denied, suspended, or

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

revoked, the former officer may request a review by the Chief of Police. The decision of the Chief of Police is final.

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

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

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

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

1. The retiree shall have 15 days from the date of service to file a written request for a hearing.
2. The hearing, absent written agreement between the parties, shall be held no later than 120 days after the request is received (Penal Code § 26315).
3. The failure to submit a timely written request for a hearing shall be deemed a waiver of such right.

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

1. The decision of such hearing board shall be binding on the Department and the retiree.
2. Any retiree who waives the right to a hearing or whose CCW endorsement has been revoked at a hearing shall immediately surrender his/her identification card. The Department will then reissue a new identification card which shall be stamped "No CCW Privilege."

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

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

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

2. The Watch Commander should document the investigation, the actions taken and, if applicable, any notification made to the retiree. The memo should be forwarded to the Chief of Police.
3. The personal and written notification should be as follows:
   (a) The retiree's CCW endorsement is immediately and temporarily suspended.
   (b) The retiree has 15 days to request a hearing to determine whether the temporary suspension should become permanent revocation.
   (c) The retiree will forfeit his/her right to a hearing and the CCW endorsement will be permanently revoked if the retiree fails to respond to the notice of hearing within the 15-day period.
4. In the event that personal contact with the retiree cannot be reasonably achieved in a timely manner, the Watch Commander should attempt to make the above notice of temporary suspension through another law enforcement officer. For example, if a retiree was arrested or detained by a distant agency, the Watch Commander may request that a law enforcement officer from that agency act as the agent of the Department to deliver the written notification.

### 220.8 FIREARM QUALIFICATIONS

The Rangemaster may provide former officers from this department an opportunity to qualify. Written evidence of the qualification and the weapons used will be provided and will contain the date of the qualification. The Rangemaster will maintain a record of the qualifications and weapons used.

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

# Chapter 3 - General Operations

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

# 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 Weapon policies.

### 300.1.1 DEFINITIONS

Definitions related to this policy include:

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

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

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

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

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

## 300.2 POLICY

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

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

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

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

### 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 to prevent the use of unreasonable force.

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

### 300.2.2 FAIR AND UNBIASED USE OF FORCE

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

### 300.2.3 DUTY TO REPORT EXCESSIVE FORCE

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

## 300.3 USE OF FORCE

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

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

Given that no policy can realistically predict every possible situation an officer might encounter, officers are entrusted to use well-reasoned discretion in determining the appropriate use of force in each incident. Officers may only use a level of force that they reasonably believe is proportional to 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 tools, weapons, or methods provided by the Department. Officers may find it more effective or reasonable to improvise their response to rapidly unfolding conditions that they are confronting. In such circumstances, the use of any improvised device or method must nonetheless be objectively reasonable and utilized only to the degree that reasonably appears necessary to accomplish a legitimate law enforcement purpose.

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

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

### 300.3.1 USE OF FORCE TO EFFECT AN ARREST

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

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

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

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

(b) The conduct of the individual being confronted, as reasonably perceived by the officer at the time (Penal Code § 835a).

(c) Officer/subject factors (age, size, relative strength, skill level, injuries sustained, level of exhaustion or fatigue, the number of officers available vs. subjects).

(d) The conduct of the involved officer leading up to the use of force (Penal Code § 835a).

(e) The effects of suspected drugs or alcohol.

(f) The individual's apparent mental state or capacity (Penal Code § 835a).

(g) The individual’s apparent ability to understand and comply with officer commands (Penal Code § 835a).

(h) Proximity of weapons or dangerous improvised devices.

(i) The degree to which the subject has been effectively restrained and his/her ability to resist despite being restrained.

(j) The availability of other reasonable and feasible options and their possible effectiveness (Penal Code § 835a).

(k) Seriousness of the suspected offense or reason for contact with the individual prior to and at the time force is used.

(l) Training and experience of the officer.

(m) Potential for injury to officers, suspects, bystanders, and others.

(n) Whether the person appears to be resisting, attempting to evade arrest by flight, or is attacking the officer.

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

(o) The risk and reasonably foreseeable consequences of escape.

(p) The apparent need for immediate control of the subject or a prompt resolution of the situation.

(q) Whether the conduct of the individual being confronted no longer reasonably appears to pose an imminent threat to the officer or others.

(r) Prior contacts with the subject or awareness of any propensity for violence.

(s) Any other exigent circumstances.

### 300.3.3 PAIN COMPLIANCE TECHNIQUES

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

(a) The degree to which the application of the technique may be controlled given the level of resistance.

(b) Whether the person can comply with the direction or orders of the officer.

(c) Whether the person has been given sufficient opportunity to comply.

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

### 300.3.4 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.

### 300.3.5 ALTERNATIVE TACTICS - DE-ESCALATION

As time and circumstances reasonably permit, and when community and officer safety would not be compromised, [officers_deputies] 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 officeror citizen 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

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

need to use a higher level of force to resolve the situation before applying force (Government Code § 7286(b)(1)). Such alternatives may include but are not limited to:

(a) Attempts to de-escalate a situation.

(b) If reasonably available, the use of crisis intervention techniques by properly trained personnel.

## 300.4 DEADLY FORCE APPLICATIONS

Where feasible, the officer shall, prior to the use of deadly force, make reasonable efforts to identify him/herself as a peace officer and to warn that deadly force may be used, unless the officer has objectively reasonable grounds to believe the person is aware of those facts (Penal Code 835a(5)(c)(1)(B)).

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

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

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

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

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

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

### 300.4.1 SHOOTING AT OR FROM MOVING VEHICLES

Shots fired at or from a moving vehicle are rarely effective and may involve additional considerations and risks. When feasible, officers should take reasonable steps to move out of the path of an approaching vehicle instead of discharging their firearm at the vehicle or any of its occupants. An officer should only discharge a firearm at a moving vehicle or its occupants

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

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.

300.4.2 USE OF FORCE REPORT FORM

(a) All uses of force shall be reported on the department's Use of Force report form.

(b) The on-duty sergeant is responsible for the completion of the Use of Force Report.

(c) All Use of Force Reports will be completed by the end of the sergeant's shift or as soon as practical.

300.4.3 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 imminent threat until the officer no longer perceives such threat.

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

## 300.5 REPORTING THE USE OF FORCE

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

300.5.1 NOTIFICATION TO SUPERVISORS

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

(a) The application caused a visible injury.

(b) The application would lead a reasonable officer to conclude that the individual may have experienced more than momentary discomfort.

(c) The individual subjected to the force complained of injury or continuing pain.

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

(d) The individual indicates intent to pursue litigation.

(e) Any application of a Taser 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.

(j) Pointing a firearm at an individual.

(k) When the force used results in the subject being treated by medical staff.

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 Bureau Policy.

## 300.6 MEDICAL CONSIDERATION

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

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

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

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

Persons who exhibit extreme agitation, violent irrational behavior accompanied by profuse sweating, extraordinary strength beyond their physical characteristics and imperviousness to pain (sometimes called "excited delirium"), or who require a protracted physical encounter with multiple officers to be brought under control, may be at an increased risk of sudden death. Calls involving

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

these persons should be considered medical emergencies. Officers who reasonably suspect a medical emergency should request medical assistance as soon as practicable and have medical personnel stage away if appropriate.

### 300.7 USE OF FORCE REVIEW

In addition to the review of force by a supervisor, a Use of Force Review Board has been established to review all Use of Force incidents, including every discharge of a firearm, whether the employee was on or off duty, excluding training and recreational use.

(a) The Professional Standards Unit Sergeant will convene the Use of Force Board as necessary, or as directed by the Chief of Police.

(b) The Professional Standards Sergeant shall chair the Use of Force Review Board and members should be from the following as appropriate:

1. The Support Division Captain
2. The Operations Division Captain
3. Professional Standards Unit Sergeant, chair
4. Operations Division Lieutenant
5. The Defensive Tactics Program Supervisor
6. Any other member of the Department deemed necessary to provide information on a particular incident or event

c. The Board will review and critique each use of force including the crime report, video, witness statements and any other pertinant information. The board shall make one of the following recommended findings:

- The employee's actions were within departmental policy and procedure.
- The employee's actions were in violation of departmental policy and procedure.

d. The Board may also recommend additional investigations or reviews, such as administarive investigations, individual or departmental retraining or changes to departmental policies and procedures.

e. The Board chairperson will submit the written recommendation to the Chief of Police. The Chief of Police shall review the recommendation, make a final determination as to whether the empolyee's actions were within policy and procedure or in violation of policy and procedure and will determine as to whether any additional actions, investigations or reviews are appropriate. Any recommendation action will be forwarded to the Professional Standards Unit for proper follow up.

f. At the conclusion of all reviews, copies of all relevant reports and information will be filed with the Professional Standards Unit.

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

## 300.8 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.

1.

2.

3.

(c) 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.

(d) Identify any witnesses not already included in related reports.

(e) Review and approve all related reports.

(f) 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.

(g) 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.

### 300.8.1 WATCH COMMANDER RESPONSIBILITY

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

## 300.9 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 Manager 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.

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

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

## 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)).

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

# 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 Brentwood 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 Brentwood 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

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

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

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

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

## 306.4 APPLICATION OF HANDCUFFS OR PLASTIC CUFFS

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

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

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

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

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

## 306.5 APPLICATION OF SPIT HOODS

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

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

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

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

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

## 306.6 APPLICATION OF AUXILIARY RESTRAINT DEVICES

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

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

## 306.7 APPLICATION OF LEG RESTRAINT DEVICES

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

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

(a) Whether the officer or others could be exposed to injury due to the assaultive or resistant behavior of a person.

(b) Whether it is reasonably necessary to protect the person from his/her own actions (e.g., hitting his/her head against the interior of the patrol vehicle, running away from the arresting officer while handcuffed, kicking at objects or officers).

(c) Whether it is reasonably necessary to avoid damage to property (e.g., kicking at windows of the patrol vehicle).

### 306.7.1 GUIDELINES FOR USE OF LEG RESTRAINTS

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

(a) If practicable, officers should notify a supervisor of the intent to apply the leg restraint device. In all cases, a supervisor shall be notified as soon as practicable after the application of the leg restraint device.

(b) Once applied, absent a medical or other emergency, restraints should remain in place until the officer arrives at the jail or other facility or the person no longer reasonably appears to pose a threat.

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

(c) Once secured, the person should be placed in a seated or upright position, secured with a seat belt, and shall not be placed on his/her stomach for an extended period, as this could reduce the person's ability to breathe.

(d) The restrained person should be continually monitored by an officer while in the leg restraint. The officer should ensure that the person does not roll onto and remain on his/her stomach.

(e) The officer should look for signs of labored breathing and take appropriate steps to relieve and minimize any obvious factors contributing to this condition.

(f) When transported by emergency medical services, the restrained person should be accompanied by an officer when requested by medical personnel. The transporting officer should describe to medical personnel any unusual behaviors or other circumstances the officer reasonably believes would be potential safety or medical risks to the person (e.g., prolonged struggle, extreme agitation, impaired respiration).

## 306.8 REQUIRED DOCUMENTATION

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

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 Manager should ensure that officers receive periodic training on the proper use of handcuffs and other restraints, including:

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

(b) Response to complaints of pain by restrained persons.

(c) Options for restraining those who may be pregnant without the use of leg irons, waist chains, or handcuffs behind the body.

(d) Options for restraining amputees or those with medical conditions or other physical conditions that may be aggravated by being restrained.

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

# Wrap Restraint

## 307.1 PURPOSE AND SCOPE

The Safe WRAP provides a safe and quick method of controlling and immobilizing a violent or potentially violent/combative subject who has been taken into custody and handcuffed. This policy will familiarize Department personnel with the capabilities of the Safe WRAP and procedural guidelines for its use.

## 307.2 DESCRIPTION

The Safe WRAP, manufactured by Safe Restraints, Inc., was designed as a temporary restraining device which, if properly used, can increase the safety of officers as well as that of the suspect and reduce risk of liability due to injuries and in-custody deaths. The Safe WRAP immobilizes the lower torso of the body and restricts a subject's ability to kick or do harm to oneself and others. The Safe WRAP minimizes the time required to ensure a person is safely returned to an upright position, and prepare for transport.

## 307.3 POLICY

It is the policy of the Brentwood Police Department that our officers use objectively reasonable force and authority when making an arrest, preventing an escape of a suspected offender, overcoming resistance and in maintaining order. The Department has approved the use of the Safe WRAP within the provisions of this policy.

## 307.4 FIELD USE

The Safe WRAP can be used prior to or after a violent or potentially violent/combative subject is controlled using approved departmental procedures. It should only be used on the subject's lower torso. Like other restraining devices, the Safe WRAP is not 100% escape-proof. Once applied, **the subject should never be left unattended**.

The safe WRAP may be used in the following situations:

(a) To immobilize a violent/combative subject.

(b) To limit violent/combative subjects from causing injury to themselves or others.

(c) To prevent violent/combative subjects from causing property damage by kicking.

(d) To restrain subjects after a chemical spray or stunning device is used.

(e) When conventional methods of restraint are not effective.

(f) In transportation of violent/combative subjects.

(g) To assist with cell extraction of violent/combative subjects.

(h) Whenever a violent/combative behavior is anticipated.

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

A subject, once properly restrained in the Safe WRAP, can be placed on his/her side or in a sitting position to increase the oxygen recovery rate, thus reducing the incidence of positional asphyxia often caused by a subject being restrained in the prone position. If the restrained subject is placed in a sitting position, back support should be provided. **Failure to supply back support may adversely affect the recovery time of the subject.**

### 307.5 APPLICATION

Although the Safe WRAP can be applied by one person on a passive subject, to apply on violent/ combative subjects, three or more persons will most likely be needed. Only qualified personnel who have received training in the use of the Safe WRAP should use this restraining device.

(a) Prior to using the Safe WRAP, the subject must be initially controlled using departmental procedures. While controlling the subject face down and handcuffed behind their back, the ankle strap can be placed around the ankles to help secure the legs. The Safe WRAP should then be placed on the ground adjacent to the subject's legs.

(b) Either roll/lift or adjust the subject to allow the Safe WRAP to be slipped under the subject's legs.

(c) Attach and secure the leg bands first, starting with the lower band and then work your way up. Tighten straps sufficiently to stop movement of the legs.

(d) Once the leg bands have been secured, attach the shoulder harness. Ensure that the straps are snug, however, not so tight as to interfere with the subject's ability to breathe. The "D" ring should be to the rear of the subject and centered on the back.

(e) If the subject is handcuffed, attach the handcuffs to the D ring at the rear of the harness by inserting the chain between the handcuffs in the D ring and securing the D ring locking mechanism. If hinge cuffs do not fit in the D ring, attach the cuffs to the D ring with a flex cuff or similar device to get the same result.

(f) Once securely restrained in the Safe WRAP, the subject should be moved into an upright seated position. The tether on the harness of the Safe WRAP is then connected to the D ring at the base of the WRAP. Pull the tether towards the subject bringing the individual to an upright seated position. Secure the D ring locking mechanism. The subject is then ready for transport.

(g) Movement of the subject can be accomplished in two ways depending on the cooperation of the subject. The subject can either be carried or allowed to shuffle to the mode of transportation.

1. To carry the subject, it is recommended that at least two, but preferably three or more personnel be used depending on the size and weight of the subject. Lift the subject by the arms and the ankles. A "log lift" carrying technique may be

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

used when moving the subject. **Proper lifting techniques should be followed to prevent unnecessary injury.**

2. As an option to lifting, the subject may be moved by means of a shuffle. If the subject has become compliant, the lower WRAP leg strap can be loosened to allow some leg movement below the knees without compromising security or safety concerns. By loosening the tether on the shoulder harness, the subject can be brought to a standing position with the help of officers and then allowed to shuffle to or from a vehicle or holding cell. **If this method is used, appropriate support must be given to the subject to prevent unnecessary injury to the subject.**

(h) Prior to vehicle transportation, recheck all belts to ensure they are securely fastened. **The use of a seat belt may be helpful in limiting movement, reducing the risk of injury to the subject.** Whenever possible, one person should ride as an observer with the subject to ensure all straps remain tight and the subject has no medical problems.

## 307.6 TRAINING

Only qualified personnel who have received training in the use of the Safe WRAP should use this restraining device. The Department's training staff provides this training.

## 307.7 PRECAUTIONS

(a) The shoulder harness should never be tightened such that it interferes with the subject's ability to breathe.

(b) The leg bands and shoulder harness must be checked frequently for tightness and re-tightened or loosened as necessary until the Safe WRAP has been removed by jail or medical personnel. Personnel should make sure there are no blood flow restrictions at the wrist.

(c) If the restrained subject complains of or show signs of breathing distress (shortness of breath, sudden calmness, a change in facial color, etc.) medical attention should be provided immediately.

(d) **The subject should NOT be left unattended.**

(e) Subjects should be placed in an upright position or on the side as soon as possible to allow for recovery.

(f) The WRAP is a **temporary restraining device and is not 100% escape proof.**

(g) The WRAP is to be used by **trained personnel only**.

## 307.8 CARE AND MAINTENANCE

The Safe WRAP should be inspected by the officer after each use for signs of wear and/or fatigue. All belts should be free from tears, fraying, worn or damaged fasteners, or damaged stitching. If

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

cleaning is necessary after use, use a mild soapy solution or other approved disinfectant (Cavide, Envirocide). Thoroughly rinse all disinfectant from the unit prior to drying. the WRAP should be allowed to thoroughly air dry in an area not exposed to direct sunlight. Do not dry clean or attempt to dry the WRAP with a heated device (i.e., clothes dryer). Store in a dry place and avoid prolonged exposure to direct sunlight.

### 307.9 STORAGE AND PREPARATION FOR RE-USE

It is extremely important that the WRAP is immediately ready for use and prepared for storage in a way that prevents the loop fastening material on the straps from becoming dirty or entangled. Once properly folded, the WRAP can be quickly laid out next to the subject and applied without having to untangle the straps. Remember, the WRAP should be completely dry prior to storage.

(a) Lay the WRAP on a flat surface with the leg band side up and detach the shoulder harness. Lay each of the leg bands out flat.

(b) Individually fold each of the legs straps back onto itself such that the fold of the strap protrudes an inch or two from the edge of the WRAP body.

(c) Be sure the retaining D ring on the body of the WRAP and harness is open and ready for use.

(d) Keeping the straps inside, roll the WRAP tightly towards the buckle and secure with the ankle strap and place in the carrying bag.

(e) Fully extend the harness buckles and tether. Attach buckles to it's counter part and roll the harness up and place it in the carrying compartment.

**Remember,** like all tools of the trade, it is important to keep the Safe WRAP in good condition and available for use when needed.

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

# Control Devices and Techniques

## 308.1 PURPOSE AND SCOPE

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

## 308.2 POLICY

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

### 308.2.1 OTHER

The Department issues all sworn personnel a 29” straight Dymonwood or similar baton, baton ring and grommet. These issued items are City property. Additionally, Officers may carry a 26” ASP brand, expandable baton, 26” Peacekeeper brand, expandable, Rapid Containment Baton (RCB), or 13” short wooden baton (special order).

Officers who opt to carry the ASP, RCB or short baton will be required to purchase the device and holder at their own expense. Only the 26” ASP or 26” RCB are approved for uniformed personnel; however, plain clothes personnel may carry the 21” in either brand, as authorized and in accordance with the needs of their assignment or at the direction of their supervisor.

## 308.3 ISSUING, CARRYING AND USING CONTROL DEVICES

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

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

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

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

## 308.4 RESPONSIBILITIES

### 308.4.1 WATCHCOMMANDER RESPONSIBILITIES

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

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

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

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

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

Any damaged, inoperative, outdated or expended control devices or munitions, along with documentation explaining the cause of the damage, shall be returned to the Rangemaster for disposition. Damage to City property forms shall also be prepared and forwarded through the chain of command, when appropriate, explaining the cause of damage.

## 308.5 BATON GUIDELINES
The need to immediately control a suspect must be weighed against the risk of causing serious injury. The head, neck, throat, spine, heart, kidneys and groin should not be intentionally targeted except when the officer reasonably believes the suspect poses an imminent threat of serious bodily injury or death to the officer or others.

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

Sworn personnel may choose to carry the 29” straight baton or 26” expandable baton, or both simultaneously, at their discretion. When carrying a baton, uniformed personnel shall carry the baton in its authorized holder on the equipment belt or exterior shell of the ballistic vest. Uniformed personnel assigned in an enforcement capacity (e.g. Patrol, SRO, Traffic, SWAT) shall have at least one of the above listed Department approved impact weapons available to them at all times.

The side-handle metal baton, expandable or straight version is not authorized, except for sworn personnel previously grandfathered in.

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

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

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

## 308.7 OLEORESIN CAPSICUM (OC) GUIDELINES

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

### 308.7.1 OC SPRAY

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

### 308.7.2 PEPPER PROJECTILE SYSTEMS

Pepper projectiles are plastic spheres that are filled with a derivative of OC powder. Because the compressed gas launcher delivers the projectiles with enough force to burst the projectiles on impact and release the OC powder, the potential exists for the projectiles to inflict injury if they strike the head, neck, spine or groin. Therefore, personnel using a pepper projectile system should not intentionally target those areas, except when the officer reasonably believes the suspect poses an imminent threat of serious bodily injury or death to the officer or others.

Officers encountering a situation that warrants the use of a pepper projectile system shall notify a supervisor as soon as practicable. A supervisor shall respond to all pepper projectile system incidents where the suspect has been hit or exposed to the chemical agent. The supervisor shall ensure that all notifications and reports are completed as required by the Use of Force Policy.

Each deployment of a pepper projectile system shall be documented. This includes situations where the launcher was directed toward the suspect, whether or not the launcher was used. Unintentional discharges shall be promptly reported to a supervisor and documented on the appropriate report form. Only non-incident use of a pepper projectile system, such as training and product demonstrations, is exempt from the reporting requirement.

### 308.7.3 TREATMENT FOR OC SPRAY EXPOSURE

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

## 308.8 POST-APPLICATION NOTICE

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

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

## 308.9 KINETIC ENERGY PROJECTILE GUIDELINES

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

### 308.9.1 DEPLOYMENT AND USE

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

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

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

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

(b) The suspect has made credible threats to harm him/herself or others.

(c) The suspect is engaged in riotous behavior or is throwing rocks, bottles or other dangerous projectiles at people and/or officers.

(d) There is probable cause to believe that the suspect has already committed a crime of violence and is refusing to comply with lawful orders.

### 308.9.2 DEPLOYMENT CONSIDERATIONS

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

(a) Distance and angle to target.

(b) Type of munitions employed.

(c) Type and thickness of subject’s clothing.

(d) The subject’s proximity to others.

(e) The location of the subject.

(f) Whether the subject’s actions dictate the need for an immediate response and the use of control devices appears appropriate.

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

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

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

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

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

### 308.10 TRAINING FOR CONTROL DEVICES

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

(a) Proficiency training shall be monitored and documented by a certified, control-device weapons or tactics instructor.

(b) All training and proficiency for control devices will be documented in the officer's training file.

(c) Officers who fail to demonstrate proficiency with the control device or knowledge of this agency's Use of Force Policy will be provided remedial training. If an officer cannot demonstrate proficiency with a control device or knowledge of this agency's Use of Force Policy after remedial training, the officer will be restricted from carrying the control device and may be subject to discipline.

### 308.11 REPORTING USE OF CONTROL DEVICES AND TECHNIQUES

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

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

# Conducted Energy Weapon (CEW/TASER)

## 309.1 PURPOSE AND SCOPE

This policy provides guidelines for the issuance and use of Tasers.

## 309.2 POLICY

The TASER is the Conducted Energy Weapon which is used by the Brentwood Police Department and is intended to control a violent or potentially violent individual, while minimizing the risk of serious injury. The appropriate use of such a device should result in fewer serious injuries to officers and suspects.

## 309.3 ISSUANCE AND CARRYING TASER DEVICES

Only sworn personnel who have successfully completed department-approved training may be issued and carry the Taser.

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

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

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

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

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

(b) Whenever practicable, officers should carry two or more cartridges on their person when carrying the Taser.

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

(d) Officers should not hold both a firearm and the Taser at the same time.

## 309.4 VERBAL AND VISUAL WARNINGS

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

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

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

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

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

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

## 309.5 USE OF THE TASER

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

### 309.5.1 APPLICATION OF THE TASER

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

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

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

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

### 309.5.2 SPECIAL DEPLOYMENT CONSIDERATIONS

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

(a) Individuals who are known to be pregnant.

(b) Elderly individuals or obvious juveniles.

(c) Individuals with obviously low body mass.

(d) Individuals who are handcuffed or otherwise restrained.

(e) Individuals who have been recently sprayed with a flammable chemical agent or who are otherwise in close proximity to any known combustible vapor or flammable material, including alcohol-based oleoresin capsicum (OC) spray.

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

(f) Individuals whose position or activity may result in collateral injury (e.g., falls from height, operating vehicles).

Use on Two Subjects

(a) While the Taser 7 can be used on two subjects at the same time, the user must be aware that BOTH deployed cartridges will be energized when either the trigger or arc switch is pressed

(b) As with all CEW deployments, each deployment and/or continued cycle must be justified as to each subject.

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

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

### 309.5.3 TARGETING CONSIDERATIONS

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

### 309.5.4 MULTIPLE APPLICATIONS OF THE TASER

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

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

(a) Whether the probes are making proper contact.

(b) Whether the individual has the ability and has been given a reasonable opportunity to comply.

(c) Whether verbal commands, other options or tactics may be more effective.

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

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

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

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

309.5.7 OFF-DUTY CONSIDERATIONS
Officers are not authorized to carry department Tasers while off-duty.

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

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

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

(a) Identification of all personnel firing Tasers

(b) Identification of all witnesses

(c) Medical care provided to the subject

(d) Observations of the subject's physical and physiological actions

(e) Any known or suspected drug use, intoxication or other medical problems

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

All persons who have been struck by Taser probes or who have been subjected to the electric discharge of the device shall be medically assessed prior to booking. Additionally, any such

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

individual who falls under any of the following categories should, as soon as practicable, be examined by paramedics or other qualified medical personnel:

(a) The person is suspected of being under the influence of controlled substances and/or alcohol.

(b) The person may be pregnant.

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

(d) The Taser probes are lodged in a sensitive area (e.g., groin, female breast, head, face, neck).

(e) The person requests medical treatment.

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

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

## 309.8 SUPERVISOR RESPONSIBILITIES

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

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

## 309.9 TRAINING

Personnel who are authorized to carry the Taser shall be permitted to do so only after successfully completing the initial department-approved training. Any personnel who have not carried the Taser as a part of their assignment for a period of six months or more shall be recertified by a department-approved Taser instructor prior to again carrying or using the device.

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

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

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

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

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

The Training Manager should ensure that all training includes:

(a) A review of this policy.

(b) A review of the Use of Force Policy.

(c) Performing weak-hand draws or cross-draws to reduce the possibility of accidentally drawing and firing a firearm.

(d) Target area considerations, to include techniques or options to reduce the accidental application of probes near the head, neck, chest and groin.

(e) Handcuffing a subject during the application of the Taser and transitioning to other force options.

(f) De-escalation techniques.

(g) Restraint techniques that do not impair respiration following the application of the Taser.

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

# Officer-Involved Shootings and Deaths

## 310.1 PURPOSE AND SCOPE

The purpose of this policy is to establish policy and procedures for the investigation of an incident in which a person is injured as the result of a police shooting and to ensure that such incidents be investigated in a fair and impartial manner.

## 310.2 INVESTIGATION RESPONSIBILITY

This department conforms to the Contra Costa County Protocol for Law Enforcement Involved Fatal Incidents (2014) for investigating officer-involved shootings.

## 310.3 TYPES OF INVESTIGATIONS

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

- A criminal investigation of the incident by the agency having jurisdiction where the incident occurred. This department may relinquish its criminal investigation to an outside agency with the approval of the Chief of Police or a Division Commander
- A criminal investigation of the involved officers conducted by an outside agency
- A civil investigation to determine potential liability conducted by the involved officer's agency
- An administrative investigation conducted by the involved officer's agency, to determine if there were any violations of departmental policy

## 310.4 JURISDICTION

Jurisdiction is determined by the location of the shooting and the agency employing the involved officer(s). The following scenarios outline the jurisdictional responsibilities for investigating officer-involved shootings:

See attachment: Lexipol chart OIS.xls

### 310.4.1 BRENTWOOD POICE DEPARTMENT OFFICER WITHIN THIS JURISDICTION

The Brentwood Police Department is responsible for the criminal investigation of the suspect's actions, the civil investigation, and the administrative investigation. The criminal investigation of the officer-involved shooting will be conducted in conjunction with the District Attorney's Office.

### 310.4.2 CRIMINAL INVESTIGATION OF OFFICER ACTIONS

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

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

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

310.4.3 BRENTWOOD POLICE DEPARTMENT OFFICER IN ANOTHER JURISDICTION
The agency where the incident occurred has criminal jurisdiction and is responsible for the criminal investigation of the incident. That agency may relinquish its criminal investigation of the suspect(s) to another agency. The Brentwood Police Department will conduct timely civil and/or administrative investigations.

310.4.4 INVESTIGATION RESPONSIBILITY MATRIX
See matrix attachment

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

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

(a) Secure the scene and identify and eliminate hazards for all those involved.

(b) Take reasonable steps to obtain emergency medical attention for injured individuals.

(c) Request additional resources from the Department or other agencies.

(d) Coordinate a perimeter or pursuit of suspects.

(e) Check for injured persons and evacuate as needed.

(f) Brief the supervisor upon arrival.

310.5.2 WATCH COMMANDER RESPONSIBILITIES
Upon learning of an officer-involved shooting or death, the Watch Commander shall be responsible for coordinating all aspects of the incident until he/she is relieved by the Chief of Police or a Division Commander.

All outside inquiries about the incident shall be directed to the Watch Commander.

310.5.3 NOTIFICATIONS

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

- Chief of Police
- Operations Division Commander
- Support Division Commander

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

- Special Services Bureau (Investigations) Lieutenant
- District Attorney OIS rollout team
- Professional Standards Unit supervisor
- Civil Liability Response Team
- Psychological/Peer support personnel
- Coroner (if necessary)
- Officer representative (if requested)

All outside inquiries about the incident shall be directed to the Watch Commander or his/her designee.

### 310.5.4 MEDIA RELATIONS

A single press release should be prepared with input and concurrence from the supervisor and agency representative responsible for each phase of the investigation. This release will be available to the Watch Commander, the Division Commanders and Public Information Officer in the event of inquiries from the media.

It will be the policy of this department to not release the identities of involved officers absent their consent or as required by law. Moreover, no involved officer shall be subjected to contact from the media (Government Code § 3303(e)) and no involved officer shall make any comments to the press unless authorized by the Chief of Police or a Division Commander.

Law enforcement officials receiving inquiries regarding incidents occurring in other agency jurisdictions shall refrain from public comment and will direct those inquiries to the agency having jurisdiction and primary responsibility for the investigation.

### 310.5.5 INVOLVED OFFICERS

The following shall be considered for the involved officer:

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

  1. Involved BPD officers shall not be permitted to meet collectively or in a group with an attorney or any representative prior to providing a formal interview or report.
  2. Requests from involved non-BPD officers should be referred to their employing agency.

(b) Discussions with licensed attorneys will be considered privileged as attorney-client communications.

(c) Discussions with agency representatives/employee groups will be privileged only as to the discussion of non-criminal information (Government Code § 3303(i)).

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

(d) A licensed psychotherapist shall be provided by the Department to each involved BPD officer. A licensed psychotherapist may also be provided to any other affected BPD members, upon request.

1. Interviews with a licensed psychotherapist will be considered privileged.
2. An interview or session with a licensed psychotherapist may take place prior to the member providing a formal interview or report. However, involved members shall not be permitted to consult or meet collectively or in a group with a licensed psychotherapist prior to providing a formal interview or report.
3. A separate fitness-for-duty exam may also be required (see the Fitness for Duty Policy).

(e) Peer counselors are cautioned against discussing the facts of any incident with an involved or witness officer (Government Code § 8669.4).

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

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

### 310.6 CRIMINAL INVESTIGATION

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

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

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

(a) BPD supervisors and Professional Standards Unit personnel should not participate directly in any voluntary interview of BPD officers. This will not prohibit such personnel from monitoring interviews or providing the criminal investigators with topics for inquiry.

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

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

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

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

### 310.6.1 REPORTS BY INVOLVED BPD OFFICERS

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

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

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

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

### 310.6.2 WITNESS IDENTIFICATION AND INTERVIEWS

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

(a) Identification of all persons present at the scene and in the immediate area.

1. When feasible, a recorded statement should be obtained from those persons who claim not to have witnessed the incident but who were present at the time it occurred.

2. Any potential witness who is unwilling or unable to remain available for a formal interview should not be detained absent reasonable suspicion to detain or probable cause to arrest. Without detaining the individual for the sole purpose of identification, officers should attempt to identify the witness prior to his/her departure.

(b) Witnesses who are willing to provide a formal interview should be asked to meet at a suitable location where criminal investigators may obtain a recorded statement. Such witnesses, if willing, may be transported by a member of the Department.

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

1. A written, verbal or recorded statement of consent should be obtained prior to transporting a witness. When the witness is a minor, consent should be obtained from the parent or guardian, if available, prior to transportation.

(c) Promptly contacting the suspect's known family and associates to obtain any available and untainted background information about the suspect's activities and state of mind prior to the incident.

### 310.6.3 INVESTIGATIVE PERSONNEL

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

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

### 310.6.4 WITNESS IDENTIFICATION AND INTERVIEWS

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

(a) Identify all persons present at the scene and in the immediate area.

1. When feasible, a recorded statement should be obtained from those persons who claim not to have witnessed the incident but who were present at the time it occurred.

2. Any potential witness who is unwilling or unable to remain available for a formal interview should not be detained absent reasonable suspicion to detain or probable cause to arrest. Without detaining the individual for the sole purpose of identification, officers should attempt to identify the witness prior to his/her departure.

(b) Witnesses who are willing to provide a formal interview should be asked to meet at a suitable location where criminal investigators may obtain a recorded statement. Such witnesses, if williing, may be transported by department personnel.

1. A written, verbal or recorded statement of consent should be obtained prior to transporting a witness in a department vehicle. When the witness is a minor, consent should be obtained from the parent or guardian, if available, prior to transportation.

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

(c) Assign available personnel to promptly contact the suspect's known family and associates to obtain any available and untainted background information about the suspect's activities and state of mind prior to contact with officers.

### 310.7 ADMINISTRATIVE INVESTIGATION

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

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

(a) Any officer involved in a shooting or death may be requested or administratively compelled to provide a blood sample for alcohol/drug screening. Absent consent from the officer, such compelled samples and the results of any such testing shall not be disclosed to any criminal investigative agency.

(b) If any officer has voluntarily elected to provide a statement to criminal investigators, the assigned administrative investigator should review that statement before proceeding with any further interview of that involved officer.

1. If a further interview of the officer is deemed necessary to determine policy compliance, care should be taken to limit the inquiry to new areas with minimal, if any, duplication of questions addressed in the voluntary statement. The involved officer shall be provided with a copy of his/her prior statement before proceeding with any subsequent interviews.

(c) In the event that an involved officer has elected to not provide criminal investigators with a voluntary statement, the assigned administrative investigator shall conduct an administrative interview to determine all relevant information.

1. Although this interview should not be unreasonably delayed, care should be taken to ensure that the officer’s physical and psychological needs have been addressed before commencing the interview.

2. If requested, the officer shall have the opportunity to select an uninvolved representative to be present during the interview. However, in order to maintain the integrity of each individual officer's statement, involved officers shall not consult or meet with a representative or attorney collectively or in groups prior to being interviewed (Government Code § 3303(i)).

3. Administrative interviews should be recorded by the investigator. The officer may also record the interview (Government Code § 3303(g)).

4. The officer shall be informed of the nature of the investigation. If an officer refuses to answer questions, he/she should be given his/her *Lybarger* or *Garrity* rights and ordered to provide full and truthful answers to all questions. The officer shall be informed that the interview will be for administrative purposes only and that the statement cannot be used criminally.

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

5. The Professional Standards Unit shall compile all relevant information and reports necessary for the Department to determine compliance with applicable policies.
6. Regardless of whether the use of force is an issue in the case, the completed administrative investigation shall be submitted to the Use of Force Review Board, which will restrict its findings as to whether there was compliance with the Use of Force Policy.
7. Any other indications of potential policy violations shall be determined in accordance with standard disciplinary procedures.

## 310.8 CIVIL LIABILITY RESPONSE

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

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

## 310.9 AUDIO AND VIDEO RECORDINGS

In the event of an officer involved shooting, the viewing of Mobile Audio/Video (MAV), body-worn video, or other video or audio recordings will be in compliance with the Contra Costa County Law Enforcement Fatal Incident Protocol.

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

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

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

# Firearms

## 311.1 PURPOSE AND SCOPE

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

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

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

## 311.2 POLICY

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

## 311.3 AUTHORIZED FIREARMS, AMMUNITION AND OTHER WEAPONS

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

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

### 311.3.1 HANDGUNS

The authorized department-issued sidearm is the Glock Model 17.9mm caliber pistol. Additionally, the following firearms are approved for authorized personnel and/or specialized assignments:

- Glock Model 45 .9mm caliber
- Glock Model 19 .9mm caliber

### 311.3.2 PATROL RIFLES

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

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

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

(a) Situations where the member reasonably anticipates an armed encounter.

(b) When a member is faced with a situation that may require accurate and effective fire at long range.

(c) Situations where a member reasonably expects the need to meet or exceed a suspect's firepower.

(d) When a member reasonably believes that there may be a need to fire on a barricaded person or a person with a hostage.

(e) When a member reasonably believes that a suspect may be wearing body armor.

(f) When authorized or requested by a supervisor.

(g) When needed to euthanize an animal.

When not deployed, the patrol rifle shall be properly secured in a locking weapons rack in the patrol vehicle with the chamber empty,chamber safety device inserted, magazine loaded and inserted into the magazine well, the bolt forward with the dust cover closed, and the selector lever in the safe position.

311.3.3 AUTHORIZED SECONDARY HANDGUN

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

(a) The handgun shall be in good working order and on the department list of approved firearms.

(b) Only one secondary handgun may be carried at a time.

(c) The purchase of the handgun and ammunition shall be the responsibility of the member unless the handgun and ammunition are provided by the Department.

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

(e) The handgun shall be inspected by the Rangemaster prior to being carried and thereafter shall be subject to inspection whenever it is deemed necessary.

(f) Ammunition shall be the same as department issue. If the caliber of the handgun is other than department issue, the Chief of Police or the authorized designee shall approve the ammunition.

(g) Prior to carrying the secondary handgun, members shall qualify under range supervision and thereafter shall qualify in accordance with the department qualification schedule. Members must demonstrate proficiency and safe handling, and that the handgun functions properly.

(h) Members shall provide written notice of the make, model, color, serial number and caliber of a secondary handgun to the Rangemaster, who will maintain a list of the information.

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

311.3.4 AUTHORIZED OFF-DUTY FIREARMS

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

(a) The member may use his/her duty firearm or may use a personally owned firearm that has been inspected and approved by the Range Master.

1. The purchase of the personally owned firearm and ammunition shall be the responsibility of the member.

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

(c) It will be the responsibility of the member to submit the firearm to the Rangemaster for inspection prior to being personally carried. Thereafter the firearm shall be subject to periodic inspection by the Rangemaster.

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

(e) The member will successfully qualify with the firearm prior to it being carried.

(f) Members shall provide written notice of the make, model, color, serial number and caliber of the firearm to the Rangemaster, who will maintain a list of the information.

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

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

(i) When armed, officers shall carry their Brentwood Police Department identification cards under circumstances requiring possession of such identification.

311.3.5 AMMUNITION

Members shall carry only department-authorized ammunition. Replacements for unserviceable or depleted ammunition issued by the Department shall be dispensed by the Rangemaster when needed, in accordance with established policy.

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

## 311.4 EQUIPMENT

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

311.4.1 REPAIRS OR MODIFICATIONS

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

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

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

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

311.4.2 HOLSTERS

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

311.4.3 TACTICAL LIGHTS

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

311.4.4 OPTICS OR LASER SIGHTS

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

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

## 311.5 SAFE HANDLING, INSPECTION AND STORAGE

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

(a) Members shall not unnecessarily display or handle any firearm.

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

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

(d) Shotguns or rifles removed from vehicles or the equipment storage room shall be loaded and unloaded in the parking lot and outside of the vehicle, using clearing barrels.

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

(e) Members shall not place or store any firearm or other weapon on department premises except where the place of storage is locked. No one shall carry firearms into the jail section or any part thereof when securing or processing an arrestee, but shall place all firearms in a secured location. Members providing access to the jail section to persons from outside agencies are responsible for ensuring firearms are not brought into the jail section.

(f) Members shall not use any automatic firearm, heavy caliber rifle, gas or other type of chemical weapon or firearm from the armory, except with approval of a supervisor.

(g) Any firearm authorized by the Department to be carried on- or off-duty that is determined by a member to be malfunctioning or in need of service or repair shall not be carried. It shall be promptly presented to the Department or a Rangemaster approved by the Department for inspection and repair. Any firearm deemed in need of repair or service by the Rangemaster will be immediately removed from service. If the firearm is the member's primary duty firearm, a replacement firearm will be issued to the member until the duty firearm is serviceable.

### 311.5.1 INSPECTION AND STORAGE

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

Firearms may be safely stored in lockers or another approved location at the end of the shift. Handguns may remain loaded if they are secured in an appropriate holster. Rifles shall be unloaded in a safe manner outside the building and then stored in the appropriate equipment storage room.

### 311.5.2 STORAGE AT HOME

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

### 311.5.3 ALCOHOL AND DRUGS

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

### 311.5.4 STORAGE IN VEHICLES

When leaving a handgun in an unattended vehicle, members shall ensure that it is locked in the trunk, or in a locked container that is placed out of view, or in a locked container that is permanently

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

affixed to the vehicle's interior and not in plain view, or in a locked toolbox or utility box permanently affixed to the vehicle (Penal Code § 16850; Penal Code § 25140; Penal Code § 25452).

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

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

## 311.6 FIREARMS TRAINING AND QUALIFICATIONS

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

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

### 311.6.1 NON-CERTIFICATION OR NON-QUALIFICATION

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

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

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

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

(c) No range credit will be given for the following:

1. Unauthorized range make-up
2. Failure to meet minimum standards or qualify after remedial training

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

## 311.7 FIREARM DISCHARGE

Except during training or recreational use, any member who discharges a firearm intentionally or unintentionally, on- or off-duty, shall make a verbal report to his/her supervisor as soon as circumstances permit. If the discharge results in injury or death to another person, additional statements and reports shall be made in accordance with the Officer-Involved Shootings and

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

Deaths Policy. If a firearm was discharged as a use of force, the involved member shall adhere to the additional reporting requirements set forth in the Use of Force Policy.

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

(a) If on-duty at the time of the incident, the member shall file a written report with his/her Division Commander or provide a recorded statement to investigators prior to the end of shift, unless otherwise directed.

(b) If off-duty at the time of the incident, the member shall file a written report or provide a recorded statement no later than the end of the next regularly scheduled shift, unless otherwise directed by a supervisor.

311.7.1 DESTRUCTION OF ANIMALS

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

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

311.7.2 INJURED ANIMALS

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

Stray or abandoned injured animals that may be moved or taken to an available veterinarian should not be euthanized. With supervisor approval, abandoned injured animals (with the exception of dogs and cats) may only be euthanized after a reasonable search to locate the owner has been made. Injured dogs and cats found without their owners shall be taken to an appropriate veterinarian for determination of whether they should be treated or humanely destroyed (Penal Code § 597.1).

311.7.3 WARNING AND OTHER SHOTS

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

## 311.8 RANGEMASTER DUTIES

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

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

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

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

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

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

### 311.9 FLYING WHILE ARMED

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

(a) Officers wishing to fly while armed must be flying in an official capacity, not for vacation or pleasure, and must have a need to have the firearm accessible, as determined by the Department based on the law and published TSA rules.

(b) Officers must carry their Brentwood Police Department identification card, bearing the officer's name, a full-face photograph, identification number, the officer's signature and the signature of the Chief of Police or the official seal of the Department and must present this identification to airline officials when requested. The officer should also carry the standard photo identification needed for passenger screening by airline and TSA officials (e.g., driver license, passport).

(c) The Brentwood Police Department must submit a National Law Enforcement Telecommunications System (NLETS) message prior to the officer's travel. If approved, TSA will send the Brentwood Police Department an NLETS message containing a unique alphanumeric identifier. The officer must present the message on the day of travel to airport personnel as authorization to travel while armed.

(d) An official letter signed by the Chief of Police authorizing armed travel may also accompany the officer. The letter should outline the officer's need to fly armed, detail his/her itinerary, and include that the officer has completed the mandatory TSA training for a law enforcement officer flying while armed.

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

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

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

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

(h) Discretion must be used to avoid alarming passengers or crew by displaying a firearm. The officer must keep the firearm concealed on his/her person at all times. Firearms are not permitted in carry-on luggage and may not be stored in an overhead compartment.

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

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

### 311.10 CARRYING FIREARMS OUT OF STATE

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

(a) The officer shall carry his/her Brentwood Police Department identification card whenever carrying such firearm.

(b) The officer is not the subject of any current disciplinary action.

(c) The officer may not be under the influence of alcohol or any other intoxicating or hallucinatory drug.

(d) The officer will remain subject to this and all other department policies (including qualifying and training).

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

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

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

# Vehicle Pursuits

## 313.1 PURPOSE AND SCOPE

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

### 313.1.1 DEFINITIONS

**Blocking** - A low-speed tactic where one or more authorized police department emergency vehicles intentionally restrict the movement of a suspect vehicle, with the goal of containment or preventing a pursuit. Blocking is not boxing in or a roadblock.

**Boxing-in** - A tactic designed to stop a suspect's moving vehicle by surrounding it with law enforcement vehicles and then slowing all vehicles to a stop.

**Pursuit Intervention** - An attempt to stop the suspect's ability to continue to flee in a vehicle through tactical application of technology, tire deflation devices, blocking or vehicle intercept, boxing-in, the PIT (known as Pursuit Intervention Technique or Precision Immobilization Technique), ramming, or roadblock procedures.

**Pursuit Intervention Technique (PIT)** - A low-speed tactic intentionally applied to cause the suspect vehicle to spin out and terminate the pursuit.

**Ramming** - The deliberate act of impacting a suspect's vehicle with another vehicle to functionally damage or otherwise force the suspect's vehicle to stop.

**Roadblocks** - A tactic designed to stop a suspect's vehicle by intentionally placing an emergency vehicle or other immovable object in the path of the suspect's vehicle.

**Tire deflation device** - A device that extends across the roadway designed to puncture the tires of the pursued vehicle, sometimes referred to as spike strips.

**Terminate** - To discontinue a pursuit or stop chasing fleeing vehicles.

**Trail** - Following the path of the pursuit at a safe speed while obeying all traffic laws and without activating emergency equipment. If the pursuit is at a slow rate of speed, the trailing vehicle will maintain sufficient distance from the pursuit vehicles so as to clearly indicate an absence of participation in the pursuit

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

## 313.2 OFFICER RESPONSIBILITIES

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

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

§ 21055. Officers are responsible for continuously driving with due regard and caution for the safety of all persons and property (Vehicle Code § 21056).

### 313.2.1 WHEN TO INITIATE A PURSUIT

A vehicle pursuit may only be initiated when there is reasonable suspicion to detain, or probable cause to arrest, a suspect in a fleeing vehicle during any of the following situations:

(a) Felony assault crimes (this includes felony sexual assault and felony domestic violence)

(b) Robbery and carjacking, where the suspect was armed or indicated he was armed.

(c) Residential burglary.

(d) Hit and run involving a serious injury to someone other than the fleeing suspect.

(e) Any crime involving a credible threat of imminent serious bodily injury against a person.

(f) Pursuits of suspected intoxicated drivers where the driving of the subject PRIOR to the attempted stop already presented an intolerable risk of injury or death to persons other than the subject.

(g) Any crime where the suspect, threatened use, possession of or brandished a firearm.

A monitoring supervisor or watch commander may authorize a pursuit for a crime not involving a violent crime (as outlined above), under exigent circumstances, when the fleeing suspect's actions pose an immediate and serious threat to officers or the public.(The mere act of fleeing does not constitute an immediate and serious threat to officers and the public.)

### 313.2.2 WHEN TO TERMINATE A PURSUIT

Pursuits should be terminated whenever the totality of objective circumstances known or which reasonably ought to be known to the officer or supervisor during the pursuit indicates that the present risks of continuing the pursuit reasonably appear to outweigh the risks resulting from the suspect's escape.

The factors listed in this policy on when to initiate a pursuit will apply equally to the decision to terminate a pursuit. Officers and supervisors must objectively and continuously weigh the seriousness of the offense against the potential danger to innocent motorists, themselves, and the public when electing to continue a pursuit.

In addition to the factors that govern when to initiate a pursuit, other factors should be considered in deciding whether to terminate a pursuit, including:

(a) The distance between the pursuing vehicle and the fleeing vehicle is so great that further pursuit would be futile or require the pursuit to continue for an unreasonable time and/or distance.

(b) The pursued vehicle's location is no longer definitely known.

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

(c) The pursuing vehicle sustains damage or a mechanical failure that renders it unsafe to drive.

(d) The pursuing vehicle's emergency lighting equipment or siren becomes partially or completely inoperable.

(e) Hazards to uninvolved bystanders or motorists.

(f) The danger that the continued pursuit poses to the public, the officers, or the suspect, balanced against the risk of allowing the suspect to remain at large.

(g) The identity of the suspect is known and it does not reasonably appear that the need for immediate capture outweighs the risks associated with continuing the pursuit.

(h) Extended pursuits of violators for misdemeanors not involving violence, risk of serious harm, or weapons (independent of the pursuit) are generally discouraged.

#### 313.2.3 SPEED LIMITS

The speed of a pursuit is a factor that should be evaluated on a continuing basis by the officer and supervisor. Evaluation of vehicle speeds should take into consideration public safety, officer safety, and the safety of the occupants of the fleeing vehicle.

Should high vehicle speeds be reached during a pursuit, officers and supervisors should also consider these factors when determining the reasonableness of the speed of the pursuit:

(a) Pursuit speeds have become unreasonably unsafe for the surrounding conditions.

(b) Pursuit speeds have exceeded the driving ability of the officer.

(c) Pursuit speeds are beyond the capabilities of the pursuit vehicle thus making its operation unsafe.

### 313.3 PURSUIT UNITS

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

Vehicle pursuits should be limited to three vehicles (two units and a supervisor); however, the number of units involved may vary with the circumstances.

An officer or supervisor may request additional units to join a pursuit if, after assessing the factors outlined above, it reasonably appears that the number of officers involved may be insufficient to safely arrest the suspects. All other officers should stay out of the pursuit, but should remain alert to its progress and location. Any officer who drops out of a pursuit may then, if necessary, proceed to the termination point at legal speeds, following the appropriate rules of the road.

#### 313.3.1 MOTORCYCLE OFFICERS

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

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

### 313.3.2 VEHICLES WITHOUT EMERGENCY EQUIPMENT

Officers operating vehicles not equipped with red light and siren are prohibited from initiating or joining in any pursuit.

### 313.3.3 PRIMARY UNIT RESPONSIBILITIES

The initial pursuing unit will be designated as the primary pursuit unit and will be responsible for the conduct of the pursuit unless the officer is unable to remain reasonably close to the suspect's vehicle. The primary responsibility of the officer initiating the pursuit is the apprehension of the suspects without unreasonable danger to any person.

The primary unit should notify the dispatcher commencing with a request for priority radio traffic, that a vehicle pursuit has been initiated, and as soon as practicable provide information including but not limited to:

(a) The location, direction of travel, and estimated speed of the suspect's vehicle.

(b) The description of the suspect's vehicle including license plate number, if known.

(c) The reason for the pursuit.

(d) Known or suspected weapons. Threat of force, violence, injuries, hostages, or other unusual hazards.

(e) The suspected number of occupants and identity or description.

(f) The weather, road, and traffic conditions.

(g) The need for any additional resources or equipment.

(h) The identity of other law enforcement agencies involved in the pursuit.

Until relieved by a supervisor or secondary unit, the officer in the primary unit is responsible for the broadcasting of the progress of the pursuit. Unless circumstances reasonably indicate otherwise, the primary pursuing officer should, as soon as practicable, relinquish the responsibility of broadcasting the progress of the pursuit to a secondary unit or air support joining the pursuit to minimize distractions and allow the primary pursuing officer to concentrate foremost on safe pursuit tactics.

### 313.3.4 SECONDARY UNIT RESPONSIBILITIES

The second officer in the pursuit will be designated as the secondary unit and is responsible for:

(a) The officer in the secondary unit should immediately notify the dispatcher of entry into the pursuit as soon as reasonably practicable.

(b) Remaining a safe distance behind the primary unit unless directed to assume the role of primary pursuit vehicle or if the primary pursuit vehicle is unable to continue the pursuit.

(c) Broadcasting the progress, updating known or critical information, and providing changes in the pursuit, unless the situation indicates otherwise.

(d) Identifying the need for additional resources or equipment as appropriate.

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

(e) Serving as backup to the primary pursuing officer once the suspect has been stopped.

### 313.3.5 PURSUIT DRIVING

The decision to use specific driving tactics requires the same assessment of the factors the officer considered when determining whether to initiate and/or terminate a pursuit. The following are tactics for units involved in the pursuit:

(a) Officers, considering their driving skills and vehicle performance capabilities, will space themselves from other involved vehicles such that they are able to see and avoid hazards or react safely to maneuvers by the fleeing vehicle.

(b) Because intersections can present increased risks, the following tactics should be considered:

1. Available units not directly involved in the pursuit may proceed safely to controlled intersections ahead of the pursuit in an effort to warn cross traffic.
2. Pursuing units should exercise due regard and caution when proceeding through controlled intersections.

(c) As a general rule, officers should not pursue a vehicle driving left of center (wrong way) against traffic. In the event that the pursued vehicle does so, the following tactics should be considered:

1. Requesting assistance from available air support.
2. Maintain visual contact with the pursued vehicle by paralleling it on the correct side of the roadway.
3. Request other units to observe exits available to the suspects.

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

(e) Officers involved in a pursuit should not attempt to pass other units unless the situation indicates otherwise or they are requested to do so by the primary unit and with a clear understanding of the maneuver process between the involved units.

### 313.3.6 PURSUIT TRAILING

In the event the initiating unit from this agency either relinquishes control of the pursuit to another unit or jurisdiction, that initiating unit may, with permission of a supervisor, trail the pursuit to the termination point in order to provide information and assistance for the arrest of the suspects and reporting the incident.

### 313.3.7 AIR SUPPORT ASSISTANCE

When available, air support assistance should be requested. Once the air unit has established visual contact with the pursued vehicle, the unit should assume control over the pursuit. The primary and secondary ground units, or involved supervisor, will maintain operational control but should consider whether the participation of air support warrants the continued close proximity and/or involvement of ground units in the pursuit.

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

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

313.3.8 UNITS NOT INVOLVED IN THE PURSUIT

There should be no paralleling of the pursuit route. Officers are authorized to use emergency equipment at intersections along the pursuit path to clear intersections of vehicular and pedestrian traffic to protect the public. Officers should remain in their assigned area and should not become involved with the pursuit unless directed otherwise by a supervisor.

The primary and secondary units should be the only units operating under emergency conditions (red light and siren) unless other units are assigned to the pursuit.

## 313.4 SUPERVISORY CONTROL AND RESPONSIBILITIES

Available supervisory and management control will be exercised over all vehicle pursuits involving officers from this department.

The field supervisor of the officer initiating the pursuit, or if unavailable, the nearest field supervisor will be responsible for:

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

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

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

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

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

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

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

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

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

(j) Controlling and managing Brentwood Police Department units when a pursuit enters another jurisdiction.

(k) Preparing a post-pursuit review and documentation of the pursuit.

    1. Supervisors should initiate follow up or additional review when appropriate.

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

#### 313.4.1 WATCH COMMANDER RESPONSIBILITIES

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

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

### 313.5 DISPATCH

If the pursuit is confined within the City limits, radio communications will be conducted on the primary channel unless instructed otherwise by a supervisor or dispatcher. If the pursuit leaves the jurisdiction of this department or such is imminent, involved units should, whenever available, switch radio communications to a tactical or emergency channel most accessible by participating agencies and units.

#### 313.5.1 DISPATCH RESPONSIBILITIES

Upon notification or becoming aware that a pursuit has been initiated, the dispatcher is responsible for:

(a) Clearing the radio channel of non-emergency traffic.

(b) Coordinating pursuit communications of the involved units and personnel.

(c) Broadcasting pursuit updates as well as other pertinent information as necessary.

(d) Ensuring that a field supervisor is notified of the pursuit.

(e) Notifying and coordinating with other involved or affected agencies as practicable.

(f) Notify the Watch Commander as soon as practicable.

(g) Assigning an incident number and logging all pursuit activities.

#### 313.5.2 LOSS OF PURSUED VEHICLE

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

### 313.6 INTER-JURISDICTIONAL CONSIDERATIONS

When a pursuit enters another agency's jurisdiction, the primary officer or supervisor, taking into consideration distance traveled, unfamiliarity with the area and other pertinent facts, should determine whether to request the other agency to assume the pursuit. Unless entry into another jurisdiction is expected to be brief, it is generally recommended that the primary officer or supervisor ensure that notification is provided to each outside jurisdiction into which the pursuit is reasonably expected to enter, regardless of whether such jurisdiction is expected to assist.

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

### 313.6.1 ASSUMPTION OF PURSUIT BY ANOTHER AGENCY

Officers will relinquish control of the pursuit when another agency has assumed the pursuit, unless the continued assistance of the Brentwood Police Department is requested by the agency assuming the pursuit. Upon relinquishing control of the pursuit, the involved officers may proceed, with supervisory approval, to the termination point of the pursuit to assist in the investigation. The supervisor should coordinate such assistance with the assuming agency and obtain any information that is necessary for any reports. Notification of a pursuit in progress should not be construed as a request to join the pursuit. Requests to or from another agency to assume a pursuit should be specific.

### 313.6.2 PURSUITS EXTENDING INTO THIS JURISDICTION

The agency that initiates a pursuit is responsible for conducting the pursuit. Units from this department should not join a pursuit unless specifically requested to do so by the pursuing agency and with approval from a supervisor. The exception to this is when a single unit from the initiating agency is in pursuit. Under this circumstance, a supervisor may authorize units from this department to join the pursuit until sufficient units from the initiating agency join the pursuit or until additional information is provided allowing withdrawal of the pursuit.

When a request is made for this department to assist or take over a pursuit that has entered the jurisdiction of Brentwood Police Department, the supervisor should consider:

(a) The public's safety within this jurisdiction.

(b) The safety of the pursuing officers.

(c) Whether the circumstances are serious enough to continue the pursuit.

(d) Whether there is adequate staffing to continue the pursuit.

(e) The ability to maintain the pursuit.

As soon as practicable, a supervisor or the Watch Commander should review a request for assistance from another agency. The Watch Commander or supervisor, after considering the above factors, may decline to assist in, or assume the other agency’s pursuit.

Assistance to a pursuing allied agency by officers of this department will terminate at the City limits provided that the pursuing officers have sufficient assistance from other sources. Ongoing participation from this department may continue only until sufficient assistance is present.

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

## 313.7 WHEN PURSUIT INTERVENTION IS AUTHORIZED

Whenever practicable, an officer shall seek approval from a supervisor before employing any intervention to stop the pursued vehicle. In deciding whether to use intervention tactics, officers/supervisors should balance the risks of allowing the pursuit to continue with the potential hazards

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

to the public arising from the use of each tactic, the officers, and persons in or on the pursued vehicle to determine which, if any, intervention tactic may be reasonable.

### 313.7.1 USE OF FIREARMS

An officer should only discharge a firearm at a moving vehicle or its occupants when the officer reasonably believes there are no other reasonable means available to avert the threat of the vehicle, or if deadly force other than the vehicle is directed at the officer or others.

Officers should not shoot at any part of a vehicle in an attempt to disable the vehicle (see the Use of Force Policy).

### 313.7.2 PURSUIT MANAGEMENT SYSTEMS

The pursuit management system allows an officer to remotely affix a GPS tracking device to a pursued (or about to be pursued) vehicle using an air pressure system to discharge the tracker from the front of the pursuit management equipped patrol car to the vehicle in front of it. Once the tracker is affixed, its location can be tracked by an employee (a pursuit management monitor) using a computer with an internet connection.The Brentwood Police Department currently uses “StarChase” for pursuit management.This may change at any time at the discretion of the Chief of Police.

(a) For the purpose of clarity of communications, radio traffic should identify the device as "StarChase."

(b) Pursuit management equipment will only be operated by officers who have been trained in its use.

(c) Except as specified below, officers shall use their own judgment regarding affixing a pursuit management tag upon a pursued vehicle and do not need prior approval from a supervisor.

(d) All safety decisions related to the discharge of a pursuit management tag shall be evaluated by the operator prior to deployment. While supervisors may direct or approve the deployment of a pursuit management equipped patrol car in a pursuit and/or the discharge of a tag, safety decisions related to passing other involved vehicles and the actual discharge of the device will be evaluated by the operator prior to deployment.In accordance with policy, the safety of officers, uninvolved persons and persons inside the pursued vehicle shall be considered. The following decisions are specifically included:

    1. Whether the officer can safely maneuver close enough to the suspect vehicle to come within targeting range.

    2. Whether the officer can safely pass any other vehicle involved in the pursuit.

    3. Whether any circumstance would indicate the device would not work (e.g. weather conditions, suspect vehicle weaving, etc.)

(e) Pursuit management equipped patrol cars, with approval from a supervisor, are authorized to respond Code 3 to join a pursuit for potential use of the device.Code

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

3 responses will be done in accordance with existing Brentwood PD Policy and Procedures.

1. Unless directed otherwise, the pursuit management equipped vehicle will join the pursuit at the rear of authorized pursuing vehicles until cleared to pass.
2. Once a pursuit management equipped vehicle joins a pursuit, it becomes an authorized additional unit as it relates to the number of authorized pursuing vehicles.
3. Pursuit management equipped vehicles may pass other pursuing vehicles when safe to do so.Officers driving the pursuit management equipped vehicle will identify and communicate which side of the overtaken vehicle they will pass.

(f) Pursuit management tags will be deployed in accordance with training.

1. Once the pursuit management tag has been successfully deployed, pursing vehicles should normally drop back significantly from the suspect vehicle and deactivate all emergency equipment in an effort to deescalate the actions of the pursued driver.
2. Officers will maintain constant communication with BPD Dispatch for speed/ direction/location updates of the suspect vehicle.
3. The supervisor will coordinate with BPD Dispatch to direct resources and officers to appropriate locations to apprehend the suspect.
4. The extent to which a pursuit management tag is actively monitored by BPD Dispatch will be determined at the discretion of a supervisor (considerations include but are not limited to staffing, distance, severity of offense, etc.)
5. No officer who is driving a moving patrol car will access the pursuit management Monitor data as this creates an unnecessary hazard.

(g) The pursuit management tag will not normally be deployed in the following situations unless the suspect poses a substantial risk to the public:

1. During heavy rain.
2. While driving on exceptionally rough terrain.
3. On a motorcycle.
4. When pedestrians are between or very near the suspect vehicle and the pursuit management equipped vehicle.

(h) In addition to the normal pursuit reporting procedures required by policy, Officers who use the pursuit management system will report all tag deployments to their supervisor so that proper notifications can be made.

1. The reporting Officer will include the following information in their report:
   (a) Location of pursuit management tag deployment.
   (b) Speed at the time of pursuit management tag deployment.
   (c) Serial number of pursuit management tag.

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

(d) Photograph of the pursuit management tag on the suspect vehicle (note:pursuit management tag should be collected and given to a supervisor).

313.7.3 INTERVENTION STANDARDS

Any intervention tactic, depending upon the conditions and circumstances under which it is used, may present dangers to the officers, the public, or anyone in or on the vehicle being pursued. Certain applications of intervention tactics may be construed to be a use of force, including deadly force, and subject to the policies guiding such use. Officers should consider these facts and requirements prior to deciding how, when, where, and if an intervention tactic should be employed.

(a) Blocking should only be used after giving consideration to the following:

1. The technique should only be used by officers who have received training in the technique.
2. The need to immediately stop the suspect vehicle or prevent it from leaving reasonably appears to outweigh the risks of injury or death to occupants of the suspect vehicle, officers, or other members of the public.
3. It reasonably appears the technique will contain or prevent the pursuit.

(b) The PIT should only be used after giving consideration to the following:

1. The technique should only be used by officers who have received training in the technique, including speed restrictions.
2. Supervisory approval should be obtained before using the technique.
3. The need to immediately stop the suspect vehicle reasonably appears to outweigh the risks of injury or death to occupants of the suspect vehicle, officers, or other members of the public.
4. It reasonably appears the technique will terminate or prevent the pursuit.

(c) Ramming a fleeing vehicle should only be done after giving consideration to the following:

1. Supervisory approval should be obtained before using the technique.
2. The need to immediately stop the suspect vehicle reasonably appears to substantially outweigh the risks of injury or death to occupants of the suspect vehicle, officers, or other members of the public.
3. It reasonably appears the technique will terminate or prevent the pursuit.
4. Ramming may be used only under circumstances when deadly force would be authorized.
5. Ramming may be used when all other reasonable alternatives have been exhausted or reasonably appear ineffective.

(d) Before attempting to box a suspect vehicle during a pursuit the following should be considered:

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

1. The technique should only be used by officers who have received training in the technique.
2. Supervisory approval should be obtained before using the technique.
3. The need to immediately stop the suspect vehicle reasonably appears to outweigh the risks of injury or death to occupants of the suspect vehicle, officers, or other members of the public.
4. It reasonably appears the technique will terminate or prevent the pursuit.

(e) Tire deflation devices should only be used after considering the following:

1. Tire deflation devices should only be used by officers who have received training in their use.
2. Supervisory approval should be obtained before using tire deflation devices.
3. The need to immediately stop the suspect vehicle reasonably appears to outweigh the risks of injury or death to occupants of the suspect vehicle, officers, or other members of the public.
4. It reasonably appears the use will terminate or prevent the pursuit.
5. Tire deflation devices should not be used when the pursued vehicle is a motorcycle, a vehicle transporting hazardous materials, or a school bus transporting children, except in extraordinary circumstances.
6. Due to the increased risk to officers deploying tire deflation devices, such deployment should be communicated to all involved personnel.

(f) Roadblocks should only be used after considering the following:

1. Roadblocks should only be used by officers who have received training in their use.
2. Supervisory approval should be obtained before using the technique.
3. The need to immediately stop the suspect vehicle reasonably appears to substantially outweigh the risks of injury or death to occupants of the suspect vehicle, officers, or other members of the public.
4. It reasonably appears the technique will terminate or prevent the pursuit. Roadblocks may be used only under circumstances when deadly force would be authorized.
5. Roadblocks may be used when all other reasonable alternatives have been exhausted or reasonably appear ineffective.

### 313.7.4 CAPTURE OF SUSPECTS

Proper self-discipline and sound professional judgment are the keys to a successful conclusion of a pursuit and apprehension of evading suspects. Officers shall use only that amount of force, which reasonably appears necessary under the circumstances, to accomplish a legitimate law enforcement purpose.

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

Unless relieved by a supervisor, the primary pursuing officer should coordinate efforts to apprehend the suspects following the pursuit. Officers should consider safety of the public and the involved officers when formulating plans for setting up perimeters or for containing and capturing the suspects.

### 313.8 REPORTING REQUIREMENTS

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

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

(b) The Watch Commander shall ensure that an Allied Agency Vehicle Pursuit Report (form CHP 187A) is filed with the CHP not later than 30 days following the pursuit (Vehicle Code § 14602.1). The primary officer should complete as much of the required information on the form as is known and forward the report to the Watch Commander for review and distribution.

(c) After first obtaining the available information, the involved, or if unavailable on-duty, field supervisor shall promptly complete a Supervisor's Log or interoffice memorandum, briefly summarizing the pursuit to the Chief of Police or the authorized designee. This log or memorandum should include, at a minimum:

1. Date and time of pursuit.
2. Initial reason and circumstances surrounding the pursuit.
3. Length of pursuit in distance and time, including the starting and termination points.
4. Involved units and officers.
5. Alleged offenses.
6. Whether a suspect was apprehended, as well as the means and methods used.
7. Any use of force that occurred during the vehicle pursuit.
   (a) Any use of force by a member should be documented in the appropriate report (See the Use of Force Policy).
8. Any injuries and/or medical treatment.
9. Any property or equipment damage.
10. Name of supervisor at scene or who handled the incident.

(d) After receiving copies of reports, logs, and other pertinent information, the Chief of Police or the authorized designee should conduct or assign the completion of a post-pursuit review.

Annually, the Chief of Police should direct a documented review and analysis of department vehicle pursuit reports to minimally include policy suitability, policy compliance, and training or equipment needs.

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

### 313.8.1 REGULAR AND PERIODIC PURSUIT TRAINING

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

(a) This policy.

(b) The importance of vehicle safety and protecting the public.

(c) The need to balance the known offense and the need for immediate capture against the risks to officers and others (Vehicle Code § 17004.7(d)).

### 313.8.2 POLICY REVIEW

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

### 313.8.3 POST-PURSUIT ANALYSIS AND RECOMMENDATIONS

All vehicle pursuits involving personnel from this Department shall be reviewed by the Vehicle Pursuit Review Board. The Professional Standards Sergeant will convene the Vehicle Pursuit Review Board as necessary, or as directed by the Chief of Police. The board may consist of the following members:

(a) Operations Division Commander

(b) Support Division Commander

(c) Traffic Unit Supervisor

(d) Professional Standards Unit Supervisor

(e) Any other member of the Department deemed necessary to provide information on a particular incident

The Board shall review pertinent information regarding the pursuit including the pursuit report, applicable video and any other material that may help determine whether the pursuit was was within department policy and procedure, or in violation of departmental policy and procedure. A recommended finding requires a majority vote of the board.

All reports and video pertaining to the pursuit should be forwarded to the Professional Standards Unit as soon as practical.

Once the Board makes a determination, the findings will be documented in a memo and forwarded to the Chief of Police. The Chief of Police will make a final disposition and decide if corrective or adverse action, is applicable. At the conclusion of the review and final disposition, all original copies will be forwarded to Professional Standards Bureau for retention.

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

### 313.9 APPLICATION OF VEHICLE PURSUIT POLICY

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

### 313.10 POLICY

It is the policy of this department to balance the importance of apprehending suspects who unlawfully flee from law enforcement against the risks associated with vehicle pursuits.

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

# Spike Strip Deployment

## 314.1 PURPOSE AND SCOPE

The Brentwood Police Department may utilize a spike strip to terminate the pursuit of fleeing suspect vehicles in cases where continuing pursuit, or the escape of the suspect, would endanger the public to a greater extent than the intervention.

## 314.2 AUTHORIZATION

It is the responsibility of the on-duty supervisor to authorize and/or deploy the spike strip to terminate a pursuit. Only authorized officers who have been trained in the use and deployment of the spike strip may authorize its use.

## 314.3 DEPLOYMENT CONSIDERATIONS

Prior to deploying the spike strip, the supervisor or authorized officer should consider the following:

(a) The spike strip shall not be used to stop motorcycles, mopeds, or similar vehicles.

(b) The spike strip should not be used to stop the following vehicles unless the continued movement of the pursued vehicle would result in an unusual hazard to others.

1. Any vehicle transporting a hazardous material as defined in Vehicle Code Section 2402.7.
2. Any passenger bus transporting passengers.
3. Any school bus transporting pupils or other passengers.
4. Any vehicle that would pose an unusual hazard to innocent parties.

## 314.4 DEPLOYMENT PROCEDURE

Spike strip deployment shall include the following:

(a) The on-duty supervisor should coordinate between the pursuing units prior to deploying the spike strip with communications being on the radio main channel.

(b) The spike strip shall not be used in locations where geographic configurations increase the risk of injury to suspects; e.g., on roadways bounded by steep descending embankments, curves or any location where the safety of the proceeding or opposing traffic cannot be assured.

(c) Pursuing units should notify the deploying unit as far in advance a possible.

(d) The supervisor or authorized officer deploying the spike strip should be in a position at a predetermined location to allow sufficient time for deployment.

(e) The supervisor or authorized officer with the spike strip, should not attempt to overtake and pass a high speed pursuit in order to position the spike strip.

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

(f) Deployment locations should have reasonably good sight distances to enable a person deploying the spike strip to observe the pursuit and other traffic as it approaches.

(g) Extreme care should be exercised when deploying the spike strip to reduce the possibility of damage to uninvolved vehicles and pedestrians. After deploying the spike strip, personnel shall immediately seek protective cover.

### 314.5 STORAGE AND MAINTENANCE

The spike strip should be stored in the patrol vehicle.

After deployment, it will be the responsibility of the supervisor authorizing deployment to ensure that the spike strip is repaired, repackaged, and returned to the storage area.

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

# Officer Response to Calls

## 315.1 PURPOSE AND SCOPE

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

## 315.2 RESPONSE TO CALLS

Officers dispatched "Code-3" shall consider the call an emergency response and proceed immediately. Officers responding Code-3 shall continuously operate emergency lighting equipment, including at minimum a steady forward facing red light, and shall sound the siren as reasonably necessary pursuant to Vehicle Code § 21055.

Responding with emergency light(s) and siren does not relieve the officer of the duty to continue to drive with due regard for the safety of all persons. The use of any other warning equipment without a red light and siren does not provide any exemption from the Vehicle Code.

Officers should only respond Code-3 when so dispatched or when circumstances reasonably indicate an emergency response is required. Officers not authorized to respond Code-3 shall observe all traffic laws and proceed without the use of emergency lights and siren.

## 315.3 REQUESTING EMERGENCY ASSISTANCE

Requests for emergency assistance should be limited to those situations where the involved personnel reasonably believe that there is an immediate threat to the safety of officers, or assistance is needed to prevent imminent serious harm to a citizen. In any event, where a situation has stabilized and emergency response is not required, the requesting officer shall immediately notify Dispatch.

If circumstances permit, the requesting officer should give the following information:

- The unit number
- The location
- The reason for the request and type of emergency
- The number of units required

### 315.3.1 NUMBER OF UNITS ASSIGNED

Normally, only one unit should respond to an emergency call Code-3 unless the Watch Commander or the field supervisor authorizes an additional unit(s).

## 315.4 INITIATING CODE 3 RESPONSE

If an officer believes a Code-3 response to any call is appropriate, the officer shall immediately notify Dispatch. Generally, only one unit should respond Code-3 to any situation. Should another officer believe a Code-3 response is appropriate, Dispatch shall be notified and the Watch

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

Commander or field supervisor will make a determination as to whether one or more officers driving Code-3 is appropriate.

### 315.5 RESPONSIBILITIES OF RESPONDING OFFICERS

Officers shall exercise sound judgment and care with due regard for life and property when responding to an emergency call. Officers shall reduce speed at all street intersections to such a degree that they shall have complete control of the vehicle.

The decision to continue a Code-3 response is at the discretion of the officer. If, in the officer's judgment, the roadway conditions or traffic congestion does not permit such a response without unreasonable risk, the officer may elect to respond to the call without the use of red lights and siren at the legal speed limit. In such an event, the officer should immediately notify Dispatch. An officer shall also discontinue the Code-3 response when directed by a supervisor.

Upon receiving authorization or determining a Code-3 response is appropriate, an officer shall immediately give the location from which he/she is responding.

### 315.6 COMMUNICATIONS RESPONSIBILITIES

A dispatcher should assign a Code-3 response when an officer requests emergency assistance or available information reasonably indicates that the public is threatened with serious injury or death and immediate police response is needed. In all other circumstances, the dispatcher shall obtain authorization from the Watch Commander or a field supervisor prior to assigning units Code-3 . The dispatcher should:

(a) Attempt to assign the closest available unit to the location requiring assistance

(b) Immediately notify the Watch Commander or field supervisor

(c) Confirm the location from which the unit is responding

(d) Notify and coordinate allied emergency services (e.g., fire and ambulance)

(e) Continue to obtain and broadcast information as necessary concerning the response and monitor the situation until it is stabilized or terminated

(f) Control all radio communications during the emergency and coordinate assistance under the direction of the Watch Commander or field supervisor

### 315.7 SUPERVISORY RESPONSIBILITIES

Upon being notified that a Code-3 response has been initiated, the Watch Commander or the field supervisor shall verify the following:

(a) The proper response has been initiated

(b) No more than those units reasonably necessary under the circumstances are involved in the response

(c) Affected outside jurisdictions are being notified as practical

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

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

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

When making the decision to authorize a Code-3 response, the Watch Commander or the field supervisor should consider the following:

- The type of call
- The necessity of a timely response
- Traffic and roadway conditions
- The location of the responding units

### 315.8 FAILURE OF EMERGENCY EQUIPMENT

If the emergency equipment on the vehicle should fail to operate, the officer must terminate the Code-3 response and respond accordingly. In all cases, the officer shall notify the Watch Commander, field supervisor, or Dispatch of the equipment failure so that another unit may be assigned to the emergency response.

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

# Canines

## 317.1 PURPOSE AND SCOPE

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

## 317.2 POLICY

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

## 317.3 REQUEST FOR USE OF CANINE TEAMS

Personnel within the Department are encouraged to freely solicit the use of the canines when appropriate. Requests for a canine team from outside of the Patrol Bureau shall go through the Watch Commander or field supervisor.

### 317.3.1 EMPLOYEE RESPONSIBILITIES

Employees and officers assisting the canine handler or coming in contact with a canine are subject to the following provisions:

(a) When a canine is in search or pursuit of a subject, persons other than the handler are to remain clear. Officers shall not attempt to take control of a suspect until told to do so by the handler.

(b) When a concern arises regarding the behavior of a canine, such concern is to be brought to the prompt attention of the canine handler or the Canine Unit Coordinator. Employees are not to directly interfere with the canine or handler unless an exigent circumstance exists.

(c) No employee shall provoke, tease, or abuse a canine.

(d) Unless expressly permitted by the handler, no employee shall feed or attempt to give orders to a Department canine.

## 317.4 CANINE COORDINATOR

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

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

(a) Reviewing all canine use reports to ensure compliance with policy and to identify training issues and other needs of the program.

(b) Maintaining a liaison with the vendor kennel.

(c) Maintaining a liaison with command staff and functional supervisors.

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

(d) Maintaining a liaison with other agency canine coordinators.

(e) Maintaining accurate records to document canine activities.

(f) Recommending and overseeing the procurement of equipment and services for the teams of handlers and canines.

(g) Scheduling all canine-related activities.

(h) Ensuring the canine teams are scheduled for regular training to maximize their capabilities.

## 317.5 REQUESTS FOR CANINE TEAMS

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

### 317.5.1 OUTSIDE AGENCY REQUEST

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

(a) Canine teams shall not be used for any assignment that is not consistent with this policy.

(b) The canine handler shall have the authority to decline a request for any specific assignment that he/she deems unsuitable.

(c) Calling out off-duty canine teams is discouraged.

(d) It shall be the responsibility of the canine handler to coordinate operations with agency personnel in order to minimize the risk of unintended injury.

(e) It shall be the responsibility of the canine handler to complete all necessary reports or as directed.

### 317.5.2 PUBLIC DEMONSTRATION

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

## 317.6 APPREHENSION GUIDELINES

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

(a) There is a reasonable belief the suspect poses an imminent threat of violence or serious harm to the public, any officer, or the handler.

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

(b) The suspect is physically resisting or threatening to resist arrest and the use of a canine reasonably appears to be necessary to overcome such resistance.

(c) The suspect is believed to be concealed in an area where entry by other than the canine would pose a threat to the safety of officers or the public.

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

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

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

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

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

### 317.6.1 PREPARATION FOR DEPLOYMENT

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

(a) The nature and seriousness of the suspected offense.

(b) Whether violence or weapons were used or are anticipated.

(c) The degree of resistance or threatened resistance, if any, the suspect has shown.

(d) The suspect’s known or perceived age.

(e) The potential for injury to officers or the public caused by the suspect if the canine is not utilized.

(f) Any potential danger to the public and/or other officers at the scene if the canine is released.

(g) The potential for the suspect to escape or flee if the canine is not utilized.

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

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

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

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

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

### 317.6.2 WARNINGS AND ANNOUNCEMENTS

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

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

### 317.6.3 REPORTING DEPLOYMENTS, BITES, AND INJURIES

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

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

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

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

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

## 317.7 NON-APPREHENSION GUIDELINES

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

(a) Absent a change in circumstances that presents an imminent threat to officers, the canine, or the public, such applications should be conducted on-leash or under conditions that minimize the likelihood the canine will bite or otherwise injure the individual, if located.

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

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

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

### 317.7.1 ARTICLE DETECTION

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

### 317.7.2 NARCOTICS DETECTION

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

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

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

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

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

### 317.7.3 BOMB/EXPLOSIVE DETECTION

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

(a) Assisting in the search of a building, structure, area, vehicle, or article where an actual or suspected explosive device has been reported or located.

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

(b) Assisting with searches at transportation facilities and vehicles (e.g., buses, airplanes, trains).

(c) Preventive searches at special events, VIP visits, official buildings, and other restricted areas. Searches of individuals should remain minimally intrusive and shall be strictly limited to the purpose of detecting explosives.

(d) Assisting in the search of scenes where an explosion has occurred and an explosive device or secondary explosive device is suspected.

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

### 317.8 HANDLER SELECTION

The minimum qualifications for the assignment of canine handler include:

(a) An officer who is currently off probation.

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

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

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

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

(f) Ability to successfully pass an approved physical agility test.

### 317.9 HANDLER RESPONSIBILITIES

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

The canine handler will be responsible for the following:

(a) Except as required during appropriate deployment, the handler shall not expose the canine to any foreseeable and unreasonable risk of harm.

(b) The handler shall maintain all department equipment under his/her control in a clean and serviceable condition.

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

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

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

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

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

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

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

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

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

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

#### 317.9.1 CANINE IN PUBLIC AREAS

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

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

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

### 317.10 CANINE INJURY AND MEDICAL CARE

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

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

### 317.11 TRAINING

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

The canine coordinator shall be responsible for scheduling periodic training for all department members in order to familiarize them with how to conduct themselves in the presence of department canines. Because canines may be exposed to dangerous substances such as opioids,

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

as resources are available, the canine coordinator should also schedule periodic training for the canine handlers about the risks of exposure and treatment for it.

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

### 317.11.1 CONTINUED TRAINING

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

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

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

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

### 317.11.2 FAILURE TO SUCCESSFULLY COMPLETE TRAINING

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

### 317.11.3 TRAINING RECORDS

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

### 317.11.4 TRAINING AIDS

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

### 317.11.5 CONTROLLED SUBSTANCE TRAINING AIDS

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

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

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

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

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

### 317.11.6 CONTROLLED SUBSTANCE PROCEDURES

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

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

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

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

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

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

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

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

(h) All controlled substance training samples shall be returned to the dispensing agency upon the conclusion of the training or upon demand by the dispensing agency.

### 317.11.7 EXPLOSIVE TRAINING AIDS

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

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

(a) All explosive training aids, when not in use, shall be properly stored in a secure facility appropriate for the type of materials.

(b) An inventory ledger shall be maintained to document the type and quantity of explosive training aids that are stored.

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

(c) The canine coordinator shall be responsible for verifying the explosive training aids on hand against the inventory ledger once each quarter.

(d) Only members of the canine team shall have access to the explosive training aids storage facility.

(e) A primary and secondary custodian will be designated to minimize the possibility of loss of explosive training aids during and after the training. Generally, the handler will be designated as the primary custodian while the trainer or authorized second person on-scene will be designated as the secondary custodian.

(f) Any lost or damaged explosive training aids shall be promptly reported to the canine coordinator, who will determine if any further action will be necessary. Any loss of explosives will be reported to the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF).

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

# Domestic Violence

## 319.1 PURPOSE AND SCOPE

The purpose of this policy is to provide the guidelines necessary to deter, prevent and reduce domestic violence through vigorous enforcement and to address domestic violence as a serious crime against society. The policy specifically addresses the commitment of this department to take enforcement action when appropriate, to provide assistance to victims and to guide officers in the investigation of domestic violence.

### 319.1.1 DEFINITIONS

The Brentwood Police Department "Domestic Violence" policy is drafted in compliance with guidelines established and approved by the Commission on Peace Officer Standards and Training. The following definitions are provided by Penal Code § 13700:

**Abuse -** means intentionally or recklessly causing or attempting to cause bodily injury, or placing another person in reasonable apprehension of imminent serious bodily injury.

**Domestic Violence -** is abuse committed against an adult or minor who is a spouse, former spouse, cohabitant, former cohabitant, or a person with whom the suspect has had a child or is having or has had a dating or engagement relationship.

**Cohabitant -** means two unrelated adult persons living together for a substantial period of time, resulting in some permanence of relationship. Factors that may determine whether persons are cohabiting include, but are not limited to:

- Sexual relations between the parties while sharing the same living quarters
- Sharing of income or expenses
- Joint use or ownership of property
- Whether the parties hold themselves out as husband and wife
- The continuity of the relationship
- The length of the relationship

The above definition of cohabitant is used for the application of enforcing Penal Code § 273.5. Family Code § 6209 expands the definition of cohabitant to include a person who regularly resides in the household for the application of enforcing Penal Code § 836(d).

**Court order** - All forms of orders related to domestic violence that have been issued by a court of this state or another, whether civil or criminal, regardless of whether service has been made.

**Officer/Agent/Deputy -** means any local, State or Federal law enforcement officer.

**Victim -** means a person who is a victim of domestic violence.

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

## 319.2 POLICY

The Brentwood Police Department's response to incidents of domestic violence and violations of related court orders shall stress enforcement of the law to protect the victim and shall communicate the philosophy that domestic violence is criminal behavior. It is also the policy of this department to facilitate victims' and offenders' access to appropriate civil remedies and community resources whenever feasible.

## 319.3 OFFICER SAFETY

The investigation of domestic violence cases often places officers in emotionally charged and sometimes highly dangerous environments. No provision of this policy is intended to supersede the responsibility of all officers to exercise due caution and reasonable care in providing for the safety of any officers and parties involved.

## 319.4 INVESTIGATIONS

The following guidelines should be followed by officers when investigating domestic violence cases:

(a) Calls of reported, threatened, imminent, or ongoing domestic violence and the violation of any court order are of extreme importance and should be considered among the highest response priorities. This includes incomplete 9-1-1 calls.

(b) When practicable, officers should obtain and document statements from the victim, the suspect, and any witnesses, including children, in or around the household or location of occurrence.

(c) Officers should list the full name and date of birth (and school if available) of each child who was present in the household at the time of the offense. The names of other children who may not have been in the house at that particular time should also be obtained for follow-up.

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

(e) All injuries should be photographed, regardless of severity, taking care to preserve the victim's personal privacy. Where practicable, photographs should be taken by a person of the same sex. Victims whose injuries are not visible at the time of the incident should be asked to contact the Investigative Bureau in the event that the injuries later become visible.

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

(g) If the suspect is no longer at the scene, officers should make reasonable efforts to locate the suspect to further the investigation, provide the suspect with an opportunity to make a statement, and make an arrest or seek an arrest warrant if appropriate.

(h) Seize any firearms or other dangerous weapons in the home, if appropriate and legally permitted, for safekeeping or as evidence. If the domestic violence involved threats

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

of bodily harm, any firearm discovered in plain view or pursuant to consent or other lawful search must be taken into temporary custody (Penal Code § 18250).

(i) When completing an incident or arrest report for violation of a court order, officers should include specific information that establishes that the offender has been served, including the date the offender was served, the name of the agency that served the order, and the provision of the order that the subject is alleged to have violated. When reasonably available, the arresting officer should attach a copy of the order to the incident or arrest report.

(j) Officers should take appropriate enforcement action when there is probable cause to believe an offense has occurred. Factors that should not be used as sole justification for declining to take enforcement action include:

1. Whether the suspect lives on the premises with the victim.
2. Claims by the suspect that the victim provoked or perpetuated the violence.
3. The potential financial or child custody consequences of arrest.
4. The physical or emotional state of either party.
5. Use of drugs or alcohol by either party.
6. Denial that the abuse occurred where evidence indicates otherwise.
7. A request by the victim not to arrest the suspect.
8. Location of the incident (public/private).
9. Speculation that the complainant may not follow through with the prosecution.
10. Actual or perceived characteristics such as race, ethnicity, national origin, religion, sex, sexual orientation, gender identity or expression, economic status, age, cultural group, disability, or marital status of the victim or suspect.
11. The social status, community status, or professional position of the victim or suspect.

### 319.4.1 IF A SUSPECT IS ARRESTED

If a suspect is arrested, officers should:

(a) Advise the victim that there is no guarantee the suspect will remain in custody.

(b) Provide the victim’s contact information to the jail staff to enable notification of the victim upon the suspect’s release from jail.

(c) Advise the victim whether any type of court order will be in effect when the suspect is released from jail.

### 319.4.2 IF NO ARREST IS MADE

If no arrest is made, the officer should:

(a) Advise the parties of any options, including but not limited to:

1. Voluntary separation of the parties.

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

2. Appropriate resource referrals (e.g., counselors, friends, relatives, shelter homes, victim witness unit).

(b) Document the resolution in a report.

## 319.5 VICTIM ASSISTANCE

Victims may be traumatized or confused. Officers should:

(a) Recognize that a victim's behavior and actions may be affected.

(b) Provide the victim with the department's domestic violence information handout, even if the incident may not rise to the level of a crime.

(c) Alert the victim to any available victim advocates, shelters and community resources.

(d) Stand by for a reasonable amount of time when an involved person requests law enforcement assistance while removing essential items of personal property.

(e) Seek medical assistance as soon as practicable for the victim if he/she has sustained injury or complains of pain.

(f) Ask the victim whether he/she has a safe place to stay. Assist in arranging to transport the victim to an alternate shelter if the victim expresses a concern for his/her safety or if the officer determines that a need exists.

(g) Make reasonable efforts to ensure that children or dependent adults who are under the supervision of the suspect or victim are being properly cared for.

(h) Seek or assist the victim in obtaining an emergency order if appropriate.

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

## 319.6 DISPATCH ASSISTANCE

All calls of domestic violence, including incomplete 9-1-1 calls, should be dispatched as soon as practicable.

Dispatchers are not required to verify the validity of a court order before responding to a request for assistance. Officers should request that dispatchers check whether any of the involved persons are subject to the terms of a court order.

### 319.6.1 AWARE PROGRAM

The AWARE (Abused Women's Active Response Emergency) Program was created by ADT Security Systems, Inc. to help protect abused women by giving them emergency necklace pendants and electronic security systems to alert police in case of danger. The AWARE Program would not exist if not for the participation of law enforcement. The participation of law enforcement consists of:

(a) Each police department and sheriff's office will respond to AWARE calls on a priority basis.

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

(b) A sworn law enforcement officer, a uniformed officer in a marked vehicle preferred, will be present at the AWARE Program participant's home whenever an ADT associate in the residence is installing or uninstalling the device.

(c) Victims of domestic violence who meet the minimum criteria will be referred to STAND! Against Domestic Violence for the initial program screening. Victims must:

1. Have an order of protection with no contact.
2. Victim's abuser should have a history of criminal activity either within or outside the relationship.
3. Cooperate with civil contempt and/or criminal prosecution when use of the alarm results in the arrest of the abuser.

319.6.2 CHILD AND FAMILY SERVICES REFERRAL GUIDELINES

Children who live in homes where there is domestic violence are at a greater risk for physical injury, emotional harm, neglect, and sexual abuse than children who live in homes where there is no violence between adult members of the household. Officers should consider the risk factors that exist within a household when investigating domestic violence incidents.

(a) Officers should refer cases to the Contra Costa County Children and Family Services (CCCCFS) when it is apparent that the welfare of children within a household is being placed at risk due to the violent behavior of adults.

1. When an officer recognizes exigent circumstances concerning the well-being of a child, CCCCFS shall be notified immediately with a request for an emergency response by on call responders.
2. When risk factors are apparent, but an emergency response has not been determined to be necessary, a written report is to be sent to CCCCFS within 36 hours of receiving the information concerning the incident.

(b) Penal Code Section 11165.3 and 11166(a)/(i), along with Welfare and Institutions Code Section 300, provide definitions and guidance to be considered during the course of an investigation of domestic violence cases which potentially effect the welfare and wellbeing of children within those families. The following is a summary:

1. The definition of "child abuse or neglect" includes willful cruelty or unjustifiable punishment as defined in Penal Code Section 11165.3. "Willful cruelty or unjustifiable punishment" is defined as a situation where any person willfully causes or permits any child to suffer, or inflicts thereon, unjustifiable physical pain or mental suffering, or having the care or custody of any child, willfully causes or permits the person or health of the child to be placed in a situation such that his or her person or health is endangered.
2. Welfare and Institutions Code Section 300(c) states that a child would come within the jurisdiction of the juvenile court when the child is suffering serious

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

emotional damage, or is at substantial risk of suffering emotional damage, evidenced by severe anxiety, depression, withdrawal, or untoward aggressive behavior toward self or others, as a result of the conduct of the parent or guardian or who has no parent or guardian capable of providing appropriate care.

(c) Officers responding to domestic violence incidents should consider risk factors, such as, but not limited to, the following criteria when determining whether a referral to CCCCFS is warranted.

1. Severity of the incident, not limited to felony offenses
2. Previous domestic violence incidents in the household
3. Potential for future occurrences
4. Child's involvement in the dispute
5. Child's exposure to potential danger during the incident
6. Child's emotional state
7. Parent or guardian's use of alcohol or drugs
8. Parent or guardian's ability to provide immediate care

## 319.7 FOREIGN COURT ORDERS

Various types of orders may be issued in domestic violence cases. Any foreign court order properly issued by a court of another state, Indian tribe, or territory shall be enforced by officers as if it were the order of a court in this state. An order should be considered properly issued when it reasonably appears that the issuing court has jurisdiction over the parties and reasonable notice and opportunity to respond was given to the party against whom the order was issued (18 USC § 2265). An otherwise valid out-of-state court or foreign order shall be enforced, regardless of whether the order has been properly registered with this state (Family Code § 6403).

Canadian domestic violence protection orders shall also be enforced in the same manner as if issued in this state (Family Code § 6452).

## 319.8 VERIFICATION OF COURT ORDERS

Determining the validity of a court order, particularly an order from another jurisdiction, can be challenging. Therefore, in determining whether there is probable cause to make an arrest for a violation of any court order, officers should carefully review the actual order when available, and where appropriate and practicable:

(a) Ask the subject of the order about his/her notice or receipt of the order, his/her knowledge of its terms and efforts to respond to the order.

1. If a determination is made that a valid foreign order cannot be enforced because the subject has not been notified or served the order, the officer shall inform the subject of the order, make a reasonable effort to serve the order upon the subject, and allow the subject a reasonable opportunity to comply with the order

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

before enforcing the order. Verbal notice of the terms of the order is sufficient notice (Family Code § 6403).

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

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

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

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

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

## 319.9 LEGAL MANDATES AND RELEVANT LAWS

California law provides for the following:

### 319.9.1 STANDARDS FOR ARRESTS

Officers investigating a domestic violence report should consider the following:

(a) An arrest should be made when there is probable cause to believe that a felony or misdemeanor domestic violence offense has been committed (Penal Code § 13701). Any decision to not arrest an adult when there is probable cause to do so requires supervisor approval.

1. Officers are only authorized to make an arrest without a warrant for a misdemeanor domestic violence offense if the officer makes the arrest as soon as probable cause arises (Penal Code § 836).

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

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

1. Penal Code § 243(e)(1) (battery against spouse, cohabitant)

2. Penal Code § 273.5 (corporal injury on spouse, cohabitant, fiancé/fiancée, person of a previous dating or engagement relationship, mother/father of the offender's child)

3. Penal Code § 273.6 (violation of protective order) if violence or threats of violence have occurred or the suspect has gone to the workplace or residence of the protected party

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

4. Penal Code § 646.9 (stalking)
5. Other serious or violent felonies specified in Penal Code § 1270.1

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

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

(e) An arrest shall be made when there is probable cause to believe that a violation of a domestic violence court order has been committed (Penal Code § 13701; Penal Code § 836), regardless of whether the offense was committed in the officer's presence. After arrest, the officer shall confirm that a copy of the order has been registered, unless the victim provides a copy (Penal Code § 836).

### 319.9.2 COURT ORDERS

(a) An officer who obtains an emergency protective order from the court shall serve it on the restrained person if the person can be reasonably located, and shall provide the person protected or the person's parent/guardian with a copy of the order. The officer shall file a copy with the court as soon as practicable and shall have the order entered into the computer database system for protective and restraining orders maintained by the Department of Justice (Family Code § 6271; Penal Code § 646.91).

(b) At the request of the petitioner, an officer at the scene of a reported domestic violence incident shall serve a court order on a restrained person (Family Code § 6383; Penal Code § 13710).

(c) Any officer serving a protective order that indicates that the respondent possesses weapons or ammunition shall request that the firearm/ammunition be immediately surrendered (Family Code § 6389(c)(2)).

(d) During the service of a protective order any firearm discovered in plain view or pursuant to consent or other lawful search shall be taken into temporary custody (Penal Code § 18250).

(e) If a valid Canadian order cannot be enforced because the person subject to the order has not been notified or served with the order, the officer shall notify the protected individual that reasonable efforts shall be made to contact the person subject to the order. The officer shall make a reasonable effort to inform the person subject to the order of the existence and terms of the order and provide him/her with a record of the

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

order, if available, and shall allow the person a reasonable opportunity to comply with the order before taking enforcement action (Family Code § 6452).

### 319.9.3 PUBLIC ACCESS TO POLICY

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

### 319.9.4 REPORTS AND RECORDS

(a) A written report shall be completed on all incidents of domestic violence. All such reports should be documented on the appropriate form, which includes information and notations specific to domestic violence incidents as required by Penal Code § 13730.

(b) Reporting officers should provide the victim with the case number of the report. The case number may be placed in the space provided on the domestic violence victim information handout provided to the victim. If the case number is not immediately available, an explanation should be given regarding how the victim can obtain the information at a later time.

(c) Officers who seize any firearm or other deadly weapon in a domestic violence incident shall issue the individual possessing such weapon a receipt that includes the name and residential mailing address of the owner or person who possessed the weapon and notice of where the weapon may be recovered, along with the applicable time limit for recovery (Penal Code § 18250; Penal Code § 18255; Penal Code § 33800; Family Code § 6389(c)(2)).

### 319.9.5 RECORD-KEEPING AND DATA COLLECTION

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

### 319.9.6 DECLARATION IN SUPPORT OF BAIL INCREASE

Any officer who makes a warrantless arrest for a felony or misdemeanor violation of a domestic violence restraining order shall evaluate the totality of the circumstances to determine whether reasonable cause exists to seek an increased bail amount. If there is reasonable cause to believe that the scheduled bail amount is insufficient to assure the arrestee’s appearance or to protect the victim or family member of a victim, the officer shall prepare a declaration in support of increased bail (Penal Code § 1269c).

### 319.9.7 OFFICER INVOLVED INCIDENTS

No person, because of his or her occupation, is exempt from the application of the laws concerning domestic violence, or the duties prescribed in this protocol. Each law enforcement agency in

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

Contra Costa County will hold all of their employees accountable to the laws of this state, and all law enforcement employees will be held to the same standards as any other citizen.

(a) The department will adhere to a zero tolerance policy towards officer involved domestic violence and will not tolerate violations.

(b) All department employees have a duty to report any incidents involving officer involved domestic violence, whether the incident involves them or another employee or law enforcement officer.

(c) Officers who learn they are the subject of any protective order proceeding, whether or not the order is issued and regardless of jurisdiction, shall immediately notify their supervisor and provide a copy of the order, if issued. If the order is a qualifying protection order, the officer shall surrender all firearms to the department.

(d) All department employees shall accept, document and preserve all calls or reports, including those made anonymously.

(e) All reports indicating possible criminal activity by a police officer will be handled exactly the same as any report of criminal activity involving non-sworn

(f) If an incident involves an officer from a different jurisdiction and the officer is detained or arrested, a copy of that report shall be forwarded to that agency as soon as practical.

(g) If an incident involves an officer from a different jurisdiction and the officer is not detained or arrested, the report will only be released with the Division Commander's authorization.

(h) All reports will be made available to the victim without cost. The on duty supervisor shall respond to all officer involved incidents of domestic violence and take charge of scene. The on duty supervisor shall:

(a) Ensure the incident is fully and properly investigated.

(b) Ensure an arrest is made if probable cause exists.

(c) If the alleged offender has left the scene and probable cause to arrest exists, the supervisor shall exhaust all reasonable means to locate the alleged offender.

(d) If a Brentwood Police Officer is arrested, the supervisor shall relieve the accused officer of all service weapons and law enforcement identification card.

(e) When allowed under federal, state and local ordinances, all other firearms owned or at the disposal of the accused officer will be confiscated for safety reasons.

(f) When an officer from an outside agency is arrested, the on scene supervisor shall immediately contact the arrestee's supervisor and report the arrest. The coordination of the release of the arrestee's department issued equipment should be done at this time.

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

# Search and Seizure

## 321.1 PURPOSE AND SCOPE

Both the federal and state Constitutions provide every individual with the right to be free from unreasonable searches and seizures. This policy provides general guidelines for Brentwood Police Department personnel to consider when dealing with search and seizure issues.

## 321.2 POLICY

It is the policy of the Brentwood Police Department to respect the fundamental privacy rights of individuals. Members of this department will conduct searches in strict observance of the constitutional rights of persons being searched. All seizures by this department will comply with relevant federal and state law governing the seizure of persons and property.

The Department will provide relevant and current training to officers as guidance for the application of current law, local community standards and prosecutorial considerations regarding specific search and seizure situations, as appropriate.

## 321.3 SEARCHES

The U.S. Constitution generally provides that a valid warrant is required in order for a search to be valid. There are, however, several exceptions that permit a warrantless search.

Examples of law enforcement activities that are exceptions to the general warrant requirement include, but are not limited to, searches pursuant to the following:

- Valid consent
- Incident to a lawful arrest
- Legitimate community caretaking interests
- Vehicle searches under certain circumstances
- Exigent circumstances

Certain other activities are recognized by federal and state courts and by certain statutes as legitimate law enforcement activities that also do not require a warrant. Such activities may include seizure and examination of abandoned property, and observations of activities and property located on open public areas.

Because case law regarding search and seizure is constantly changing and subject to interpretation by the courts, each member of this department is expected to act in each situation according to current training and his/her familiarity with clearly established rights as determined by case law.

Whenever practicable, officers are encouraged to contact a supervisor to resolve questions regarding search and seizure issues prior to electing a course of action.

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

### 321.4 SEARCH PROTOCOL

Although conditions will vary and officer safety and other exigencies must be considered in every search situation, the following guidelines should be followed whenever circumstances permit:

(a) Members of this department will strive to conduct searches with dignity and courtesy.

(b) Officers should explain to the person being searched the reason for the search and how the search will be conducted.

(c) Searches should be carried out with due regard and respect for private property interests and in a manner that minimizes damage. Officers shall avoid excessive and unnecessary damage to property while performing searches.

(d) In order to minimize the need for forcible entry, an attempt should be made to obtain keys, combinations or access codes when a search of locked property is anticipated.

(e) When the person to be searched is of the opposite sex as the searching officer, a reasonable effort should be made to summon an officer of the same sex as the subject to conduct the search. When it is not practicable to summon an officer of the same sex as the subject, the following guidelines should be followed:

1. Another officer or a supervisor should witness the search.
2. The officer should not search areas of the body covered by tight-fitting clothing, sheer clothing or clothing that could not reasonably conceal a weapon.

### 321.5 DOCUMENTATION

Officers are responsible to document any search and to ensure that any required reports are sufficient including, at minimum, documentation of the following:

- Reason for the search
- Any efforts used to minimize the intrusiveness of any search (e.g., asking for consent or keys)
- What, if any, injuries or damage occurred
- All steps taken to secure property
- The results of the search, including a description of any property or contraband seized
- If the person searched is the opposite sex, any efforts to summon an officer of the same sex as the person being searched and the identification of any witness officer

Supervisors shall review reports to ensure the reports are accurate, that actions are properly documented and that current legal requirements and department policy have been met.

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

# Temporary Custody of Juveniles

## 323.1 PURPOSE AND SCOPE

This policy provides guidelines consistent with the Juvenile Justice and Delinquency Prevention Act for juveniles taken into temporary custody by members of the Brentwood Police Department (34 USC § 11133).

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

### 323.1.1 DEFINITIONS

Definitions related to this policy include:

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

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

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

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

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

Examples of secure custody include:

(a) A juvenile left alone in an unlocked room within the secure perimeter of the adult temporary holding area.

(b) A juvenile handcuffed to a rail.

(c) A juvenile placed in a room that contains doors with delayed egress devices that have a delay of more than 30 seconds.

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

(d) A juvenile being processed in a secure booking area when a non-secure booking area is available.

(e) A juvenile left alone in a secure booking area after being photographed and fingerprinted.

(f) A juvenile placed in a cell within the adult temporary holding area, whether or not the cell door is locked.

(g) A juvenile placed in a room that is capable of being locked or contains a fixed object designed for cuffing or restricting movement.

**Sight and sound separation** - Located or arranged to prevent physical, visual, or auditory contact.

**Status offender** - A juvenile suspected of committing a criminal violation of the law that would not be a criminal violation but for the age of the offender. Examples may include running away, underage possession of tobacco, curfew violation, and truancy. A juvenile in custody on a court order or warrant based upon a status offense is also a status offender. This includes the habitually disobedient or truant juvenile under Welfare and Institutions Code § 601 and any juvenile suspected of an offense that would not subject an adult to arrest (e.g., fine-only offense).

## 323.2 POLICY

Legal authority for taking custody of juvenile offenders is found in Welfare and Institutions Code § 625.

## 323.3 JUVENILES WHO SHOULD NOT BE HELD

Juveniles who exhibit any of the following conditions should not be held at the Brentwood Police Department:

(a) Unconscious

(b) Seriously injured

(c) A known suicide risk or obviously severely emotionally disturbed

(d) Significantly intoxicated except when approved by the Watch Commander. A medical clearance shall be obtained for minors who are under the influence of drugs, alcohol, or any other intoxicating substance to the extent that they are unable to care for themselves (15 CCR 1151).

(e) Extremely violent or continuously violent

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

These juveniles should not be held at the Brentwood Police Department unless they have been evaluated by a qualified medical and/or mental health professional (15 CCR 1142).

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

If the officer taking custody of the juvenile believes the juvenile may be a suicide risk, the juvenile shall be under continuous direct supervision until evaluation, release, or a transfer is completed (15 CCR 1142).

323.3.1 EMERGENCY MEDICAL CARE OF JUVENILES IN CUSTODY
When emergency medical attention is required for a juvenile, medical assistance will be called immediately. The Watch Commander shall be notified of the need for medical attention for the juvenile. Department members should administer first aid as applicable (15 CCR 1142).

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

## 323.4 CUSTODY OF JUVENILES

Officers should take custody of a juvenile and temporarily hold the juvenile at the Brentwood Police Department when there is no other lawful and practicable alternative to temporary custody. Refer to the Child Abuse Policy for additional information regarding detaining a juvenile that is suspected of being a victim.

No juvenile should be held in temporary custody at the Brentwood Police Department without authorization of the arresting officer's supervisor or the Watch Commander. Juveniles taken into custody shall be held in non-secure custody unless otherwise authorized by this policy.

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

323.4.1 CUSTODY OF JUVENILE NON-OFFENDERS
Non-offenders taken into protective custody in compliance with the Child Abuse Policy should generally not be held at the Brentwood Police Department. Custodial arrangements should be made for non-offenders as soon as reasonably possible. Juvenile non-offenders shall not be held in secure custody (34 USC § 11133; Welfare and Institutions Code § 206).

Juveniles 11 years of age or younger who have committed an offense that would subject an adult to arrest may be held in non-secure custody for the offenses listed in Welfare and Institutions Code § 602(b) (murder and the sexual assault offenses) and should be referred to a probation officer for a placement determination.

323.4.2 CUSTODY OF JUVENILE STATUS OFFENDERS
Status offenders should generally be released by citation or with a warning rather than taken into temporary custody. However, officers may take custody of a status offender if requested to do

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

so by a parent or legal guardian in order to facilitate reunification (e.g., transported home or to the station to await a parent). Juvenile status offenders shall not be held in secure custody (34 USC § 11133).

323.4.3 CUSTODY OF JUVENILE OFFENDERS

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

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

A juvenile offender who is 14 years of age or older and suspected of using a firearm in violation of Welfare and Institutions Code § 625.3 shall be transported to a juvenile facility.

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

In all other cases the juvenile offender may be:

(a) Released upon warning or citation.

(b) Released to a parent or other responsible adult after processing at the Department.

(c) Referred to a probation officer for a decision regarding whether to transport the juvenile offender to a juvenile facility.

(d) Transported to his/her home or to the place where the juvenile offender was taken into custody (Welfare and Institutions Code § 207.2).

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

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

## 323.5 ADVISEMENTS

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

Whenever a juvenile is taken into temporary custody, he/she shall be given the *Miranda* rights advisement regardless of whether questioning is intended (Welfare and Institutions Code § 625).

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

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

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

### 323.6 JUVENILE CUSTODY LOGS

Any time a juvenile is held in custody at the Department, the custody shall be promptly and properly documented in the juvenile custody log, including:

(a) Identifying information about the juvenile.

(b) Date and time of arrival and release from the Brentwood Police Department (15 CCR 1150).

(c) Watch Commander notification and approval to temporarily hold the juvenile.

(d) Any charges for which the juvenile is being held and classification of the juvenile as a juvenile offender, status offender, or non-offender.

(e) Any changes in status (e.g., emergency situations, unusual incidents).

(f) Time of all safety checks.

(g) Any medical and other screening requested and completed (15 CCR 1142).

(h) Circumstances that justify any secure custody (Welfare and Institutions Code § 207.1(d); 15 CCR 1145).

(i) Any other information that may be required by other authorities, such as compliance inspectors or a local juvenile court authority.

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

### 323.7 NO-CONTACT REQUIREMENTS

Sight and sound separation shall be maintained between all juveniles and adults while in custody at the Department (34 USC § 11133; Welfare and Institutions Code § 207.1(d); Welfare and Institutions Code § 208; 15 CCR 1144). There should also be sight and sound separation between non-offenders and juvenile and status offenders.

In situations where brief or accidental contact may occur (e.g., during the brief time a juvenile is being fingerprinted and/or photographed in booking), a member of the Brentwood Police

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

Department (trained in the supervision of persons in custody) shall maintain a constant, immediate, side-by-side presence with the juvenile or the adult to minimize any contact. If inadvertent or accidental contact does occur, reasonable efforts shall be taken to end the contact (15 CCR 1144).

### 323.8 TEMPORARY CUSTODY REQUIREMENTS

Members and supervisors assigned to monitor or process any juvenile at the Brentwood Police Department shall ensure the following:

(a) The Watch Commander should be notified if it is anticipated that a juvenile may need to remain at the Brentwood Police Department more than four hours. This will enable the Watch Commander to ensure no juvenile is held at the Brentwood Police Department more than six hours.

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

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

(d) Juveniles in custody are informed that they will be monitored at all times, except when using the toilet.

1. There shall be no viewing devices, such as peep holes or mirrors, of which the juvenile is not aware.

2. This does not apply to surreptitious and legally obtained recorded interrogations.

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

(f) Food shall be provided if a juvenile has not eaten within the past four hours or is otherwise in need of nourishment, including any special diet required for the health of the juvenile (15 CCR 1143).

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

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

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

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

(k) Blankets shall be provided as reasonably necessary (15 CCR 1143).

1. The supervisor should ensure that there is an adequate supply of clean blankets.

(l) Adequate shelter, heat, light, and ventilation should be provided without compromising security or enabling escape.

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

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

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

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

### 323.9 USE OF RESTRAINT DEVICES

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

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

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

### 323.10 PERSONAL PROPERTY

The officer taking custody of a juvenile offender or status offender at the Brentwood Police Department shall ensure a thorough search of the juvenile’s property is made and all property is removed from the juvenile, especially those items that could compromise safety, such as pens, pencils, and belts.

The personal property of a juvenile should be placed in a property bag. The property should be inventoried in the juvenile’s presence and sealed into the bag. The property should be kept in a monitored or secure location until the juvenile is released from the custody of the Brentwood Police Department.

### 323.11 SECURE CUSTODY

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

Secure custody should only be used for juvenile offenders when there is a reasonable belief that the juvenile is a serious risk of harm to him/herself or others. Factors to be considered when determining if the juvenile offender presents a serious security risk to him/herself or others include the following (15 CCR 1145):

(a) Age, maturity, and delinquent history

(b) Severity of offense for which the juvenile was taken into custody

(c) The juvenile offender’s behavior

(d) Availability of staff to provide adequate supervision or protection of the juvenile offender

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

(e) Age, type, and number of other individuals in custody at the facility

Members of this department shall not use secure custody for convenience when non-secure custody is, or later becomes, a reasonable option (15 CCR 1145).

When practicable and when no locked enclosure is available, handcuffing one hand of a juvenile offender to a fixed object while otherwise maintaining the juvenile in non-secure custody should be considered as the method of secure custody. An employee must be present at all times to ensure the juvenile's safety while secured to a stationary object (15 CCR 1148).

Juveniles shall not be secured to a stationary object for more than 60 minutes. Supervisor approval is required to secure a juvenile to a stationary object for longer than 60 minutes and every 30 minutes thereafter (15 CCR 1148). Supervisor approval should be documented.

The decision for securing a minor to a stationary object for longer than 60 minutes and every 30 minutes thereafter shall be based upon the best interests of the juvenile offender (15 CCR 1148).

### 323.11.1 LOCKED ENCLOSURES

A thorough inspection of the area shall be conducted before placing a juvenile into the enclosure. A second inspection shall be conducted after removing the juvenile. Any damage noted to the room should be photographed and documented in the crime report.

The following requirements shall apply to a juvenile offender who is held inside a locked enclosure:

(a) The juvenile shall constantly be monitored by an audio/video system during the entire custody.

(b) Juveniles shall have constant auditory access to department members (15 CCR 1147).

(c) Initial placement into and removal from a locked enclosure shall be logged (Welfare and Institutions Code § 207.1(d)).

(d) Unscheduled safety checks to provide for the health and welfare of the juvenile by a staff member, no less than once every 15 minutes, shall occur (15 CCR 1147; 15 CCR 1151).

1. All safety checks shall be logged.
2. The safety check should involve questioning the juvenile as to his/her well-being (sleeping juveniles or apparently sleeping juveniles should be awakened).
3. Requests or concerns of the juvenile should be logged.

(e) Males and females shall not be placed in the same locked room (15 CCR 1147).

(f) Juvenile offenders should be separated according to severity of the crime (e.g., felony or misdemeanor).

(g) Restrained juveniles shall not be mixed in a cell or room with unrestrained juveniles.

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

## 323.12 SUICIDE ATTEMPT, DEATH, OR SERIOUS INJURY OF A JUVENILE

The Watch Commander will ensure procedures are in place to address the suicide attempt, death, or serious injury of any juvenile held at the Brentwood Police Department (15 CCR 1142; 15 CCR 1047). The procedures will address:

(a) Immediate notification of the on-duty supervisor, Chief of Police, and Investigation Division Supervisor.

(b) Notification of the parent, guardian, or person standing in loco parentis of the juvenile.

(c) Notification of the appropriate prosecutor.

(d) Notification of the City attorney.

(e) Notification to the coroner.

(f) Notification of the juvenile court.

(g) In the case of a death, providing a report to the Attorney General under Government Code § 12525 within 10 calendar days of the death, and forwarding the same report to the Board of State and Community Corrections within the same time frame (15 CCR 1046).

(h) A medical and operational review of deaths and suicide attempts pursuant to 15 CCR 1046.

(i) Evidence preservation.

## 323.13 INTERVIEWING OR INTERROGATING JUVENILE SUSPECTS

No interview or interrogation of a juvenile should occur unless the juvenile has the apparent capacity to consent, and does consent to an interview or interrogation.

Prior to conducting a custodial interrogation, including the waiver of *Miranda* rights, an officer shall permit a juvenile 15 years of age or younger to consult with legal counsel in person, by telephone, or by video conference. The consultation may not be waived by the juvenile. The requirement to consult with legal counsel does not apply when (Welfare and Institutions Code § 625.6):

(a) Information is necessary to protect life or property from an imminent threat.

(b) The questions are limited to what is reasonably necessary to obtain the information relating to the threat.

### 323.13.1 MANDATORY RECORDINGS OF JUVENILES

Any interrogation of an individual under 18 years of age who is in custody and suspected of committing murder shall be audio and video recorded when the interview takes place at a department facility, jail, detention facility, or other fixed place of detention. The recording shall include the entire interview and a *Miranda* advisement preceding the interrogation (Penal Code § 859.5).

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

(a) Recording is not feasible because of exigent circumstances that are later documented in a report.

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

(b) The individual refuses to have the interrogation recorded, including a refusal any time during the interrogation, and the refusal is documented in a report. If feasible, the refusal shall be electronically recorded.

(c) The custodial interrogation occurred in another state by law enforcement officers of that state, unless the interrogation was conducted with the intent to avoid the requirements of Penal Code § 859.5.

(d) The interrogation occurs when no member conducting the interrogation has a reason to believe that the individual may have committed murder. Continued custodial interrogation concerning that offense shall be electronically recorded if the interrogating member develops a reason to believe the individual committed murder.

(e) The interrogation would disclose the identity of a confidential informant or would jeopardize the safety of an officer, the individual being interrogated, or another individual. Such circumstances shall be documented in a report.

(f) A recording device fails despite reasonable maintenance and the timely repair or replacement is not feasible.

(g) The questions are part of a routine processing or booking, and are not an interrogation.

(h) The suspect is in custody for murder and the interrogation is unrelated to a murder. However, if any information concerning a murder is mentioned during the interrogation, the remainder of the interrogation shall be recorded.

These recordings shall be retained until a conviction is final and all direct and habeas corpus appeals are exhausted, a court no longer has any jurisdiction over the individual, or the prosecution for that offense is barred (Penal Code § 859.5; Welfare and Institutions Code § 626.8).

### 323.14 RELEASE OF INFORMATION CONCERNING JUVENILES

Court decisions and legislation have combined to carefully specify situations in which information may be given out or exchanged when a case involves a juvenile. Members of this department shall not divulge any information regarding juveniles unless they are certain of the legal authority to do so.

A copy of the current policy of the juvenile court concerning authorized release of information and appropriate acknowledgment forms shall be kept with copies of this procedure in the Brentwood Police Department Policy Manual. Such releases are authorized by Welfare and Institutions Code § 827.

Welfare and Institutions Code § 828 authorizes the release of certain information to other agencies. It shall be the responsibility of the Records Supervisor and the appropriate Investigative Bureau supervisors to ensure that personnel of those bureaus act within legal guidelines.

### 323.15 BOARD OF STATE AND COMMUNITY CORRECTIONS CERTIFICATION

The Operations Division Commander shall coordinate the procedures related to the custody of juveniles held at the Brentwood Police Department and ensure any required certification is maintained (Welfare and Institution Code § 210.2).

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

### 323.16 RELIGIOUS ACCOMMODATION

Juveniles have the right to the same religious accommodation as adults in temporary custody (see the Temporary Custody of Adults Policy).

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

# Adult Abuse

## 325.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidelines for the investigation and reporting of suspected abuse of certain adults who may be more vulnerable than others. This policy also addresses mandatory notification for Brentwood Police Department members as required by law.

### 325.1.1 DEFINITIONS

Definitions related to this policy include:

**Adult abuse** - Any offense or attempted offense involving violence or neglect of an adult victim when committed by a person responsible for the adult's care, or any other act that would mandate reporting or notification to a social service agency or law enforcement (Penal Code § 368).

**Abuse of an elder (age 65 or older) or dependent adult** - Physical abuse, neglect, financial abuse, abandonment, isolation, abduction, or other treatment with resulting physical harm or pain or mental suffering; or the deprivation by a care custodian of goods or services that are necessary to avoid physical harm or mental suffering. Neglect includes self-neglect (Welfare and Institutions Code § 15610.07; Penal Code § 368.5).

## 325.2 POLICY

The Brentwood Police Department will investigate all reported incidents of alleged adult abuse and ensure proper reporting and notification as required by law.

## 325.3 INVESTIGATIONS AND REPORTING

All reported or suspected cases of adult abuse require investigation and a report, even if the allegations appear unfounded or unsubstantiated.

Investigations and reports related to suspected cases of adult abuse should address, as applicable:

(a) The overall basis for the contact. This should be done by the investigating officer in all circumstances where a suspected adult abuse victim is contacted.

(b) Any relevant statements the victim may have made and to whom he/she made the statements.

(c) If a person is taken into protective custody, the reasons, the name and title of the person making the decision, and why other alternatives were not appropriate.

(d) Documentation of any visible injuries or any injuries identified by the victim. This should include photographs of such injuries, if practicable.

(e) Whether the victim was transported for medical treatment or a medical examination.

(f) Whether the victim identified a household member as the alleged perpetrator, and a list of the names of any other potential victims or witnesses who may reside in the residence.

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

(g) Identification of any prior related reports or allegations of abuse, including other jurisdictions, as reasonably known.

(h) Previous addresses of the victim and suspect.

(i) Other potential witnesses who have not yet been interviewed, such as relatives or others close to the victim's environment.

(j) Results of investigations shall be provided to those agencies (Adult Protective Services (APS), long-term ombudsman) that referred or reported the adult abuse (Welfare and Institutions Code § 15640(f)).

(k) Whether a death involved the End of Life Option Act:

1. Whether or not assistance was provided to the person beyond that allowed by law (Health and Safety Code § 443.14)
2. Whether an individual knowingly altered or forged a request for an aid-in-dying drug to end a person's life without his/her authorization, or concealed or destroyed a withdrawal or rescission of a request for an aid-in-dying drug (Health and Safety Code § 443.17)
3. Whether coercion or undue influence was exerted on the person to request or ingest an aid-in-dying drug or to destroy a withdrawal or rescission of a request for such medication (Health and Safety Code § 443.17)
4. Whether an aid-in-dying drug was administered to a person without his/her knowledge or consent (Health and Safety Code § 443.17).

Any unexplained death of an adult who was in the care of a guardian or caretaker should be considered as potential adult abuse and investigated similarly.

## 325.4 QUALIFIED INVESTIGATORS

Qualified investigators should be available to investigate cases of adult abuse. These investigators should:

(a) Conduct interviews in appropriate interview facilities.

(b) Be familiar with forensic interview techniques specific to adult abuse investigations.

(c) Present all cases of alleged adult abuse to the prosecutor for review.

(d) Coordinate with other enforcement agencies, social service agencies and facility administrators as needed.

(e) Provide referrals to therapy services, victim advocates, guardians and support for the victim and family as appropriate.

(f) Participate in or coordinate with multidisciplinary investigative teams as applicable (Welfare and Institutions Code § 15610.55).

## 325.5 MANDATORY NOTIFICATION

Members of the Brentwood Police Department shall notify the local office of the California Department of Social Services (CDSS) APS agency when they reasonably suspect, have

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

observed, or have knowledge of an incident that reasonably appears to be abuse of an elder (age 65 or older) or dependent adult, or are told by an elder or dependent adult that he/she has experienced abuse (Welfare and Institutions Code § 15630(b)).

Notification shall be made by telephone as soon as practicable and a written report shall be provided within two working days as provided in Welfare and Institutions Code § 15630(b)(c)).

A dependent adult is an individual, regardless of whether the individual lives independently, between 18 and 64 years of age who has physical or mental limitations that restrict his/her ability to carry out normal activities or to protect his/her rights, including but not limited to persons who have physical or developmental disabilities or whose physical or mental abilities have diminished because of age. This also includes those admitted as inpatients to a 24-hour health facility, as defined in state law (Welfare and Institutions Code § 15610.23).

Notification shall also be made to the following agencies as soon as practicable or as provided below (Welfare and Institutions Code § 15630):

(a) If the abuse is physical abuse and occurred in a long-term care facility (not a state mental health hospital or a state developmental center) notification shall be made as follows (Welfare and Institutions Code § 15630(b)(1)):

1. If there is serious bodily injury, notification shall be made by telephone and, within two hours, a written report shall be made to the local ombudsman and the corresponding licensing agency.
2. If there is physical abuse and no serious bodily injury, notification shall be made by telephone and, within 24 hours, a written report shall be made to the local ombudsman and the corresponding licensing agency.
3. If the abuse is allegedly caused by a resident with dementia and there is no serious bodily injury, notification shall be made by telephone and a written report to the local ombudsman within 24 hours.
4. When a report of abuse is received by the Department, the local ombudsman shall be called to coordinate efforts to provide the most immediate and appropriate response (Welfare and Institutions Code § 15630(b)).

(b) If the abuse is in a long-term care facility (not a state mental health or a state developmental center) and is other than physical abuse, a telephone report and a written report shall be made to the local ombudsman as soon as practicable (Welfare and Institutions Code § 15630(b)).

(c) The California Department of Public Health (DPH) shall be notified of all known or suspected abuse in a long-term care facility.

(d) The SDSS shall be notified of all known or suspected abuse occurring in a residential care facility for the elderly or in an adult day program.

(e) If the abuse occurred in an adult day health care center, DPH and the California Department of Aging shall be notified.

(f) The Bureau of Medi-Cal Fraud and Elder Abuse shall be notified of all abuse that constitutes criminal activity in a long-term care facility.

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

(g) The District Attorney's office shall be notified of all cases of physical abuse and financial abuse in a long-term care facility.

(h) If the abuse occurred at a state mental hospital or a state developmental center, notification shall be made to the designated investigators of the California Department of State Hospitals or the California Department of Developmental Services as soon as practicable but no later than two hours after law enforcement becomes aware of the abuse (Welfare and Institutions Code § 15630(b)).

1. When a report of abuse is received by the Department, investigation efforts shall be coordinated with the designated investigators of the California Department of State Hospitals or the California Department of Developmental Services (Welfare and Institutions Code § 15630(b)).

(i) If during an investigation it is determined that the adult abuse is being committed by a licensed health practitioner as identified in Welfare and Institutions Code § 15640(b), the appropriate licensing agency shall be immediately notified (Welfare and Institutions Code 15640(b)).

(j) When the Department receives a report of abuse, neglect or abandonment of an elder or dependent adult alleged to have occurred in a long-term care facility, the licensing agency shall be notified by telephone as soon as practicable (Welfare and Institutions Code § 15640(e)).

The Investigative Bureau supervisor is responsible for ensuring that proper notifications have occurred to the District Attorney's Office and any other regulatory agency that may be applicable based upon where the abuse took place (e.g., care facility, hospital) per Welfare and Institutions Code § 15630(b).

Notification is not required for a person who was merely present when a person self-administered a prescribed aid-in-dying drug or a person prepared an aid-in-dying drug so long as the person did not assist the individual in ingesting the aid-in-dying drug (Health and Safety Code § 443.14; Health and Safety Code § 443.18).

### 325.5.1 NOTIFICATION PROCEDURE

Notification should include the following information, if known (Welfare and Institutions Code § 15630(e)):

(a) The name of the person making the report.

(b) The name and age of the elder or dependent adult.

(c) The present location of the elder or dependent adult.

(d) The names and addresses of family members or any other adult responsible for the care of the elder or dependent adult.

(e) The nature and extent of the condition of the elder or dependent adult.

(f) The date of incident.

(g) Any other information, including information that led the person to suspect elder or dependent adult abuse.

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

## 325.6 PROTECTIVE CUSTODY

Before taking an adult abuse victim into protective custody when facts indicate the adult may not be able to care for him/herself, the officer should make reasonable attempts to contact APS. Generally, removal of an adult abuse victim from his/her family, guardian or other responsible adult should be left to the welfare authorities when they are present or have become involved in an investigation.

Generally, members of this department should remove an adult abuse victim from his/her family or guardian without a court order only when no other effective alternative is reasonably available and immediate action reasonably appears necessary to protect the victim. Prior to taking an adult abuse victim into protective custody, the officer should take reasonable steps to deliver the adult to another qualified legal guardian, unless it reasonably appears that the release would endanger the victim or result in abduction. If this is not a reasonable option, the officer shall ensure that the adult is delivered to APS.

Whenever practicable, the officer should inform a supervisor of the circumstances prior to taking an adult abuse victim into protective custody. If prior notification is not practicable, officers should contact a supervisor promptly after taking the adult into protective custody.

When adult abuse victims are under state control, have a state-appointed guardian or there are other legal holdings for guardianship, it may be necessary or reasonable to seek a court order on behalf of the adult victim to either remove the adult from a dangerous environment (protective custody) or restrain a person from contact with the adult.

### 325.6.1 EMERGENCY PROTECTIVE ORDERS

In any situation which an officer reasonably believes that an elder or dependent adult is in immediate and present danger of abuse based on an allegation of a recent incident of abuse or threat of abuse (other than financial abuse alone), the officer may seek an emergency protective order against the person alleged to have committed or threatened such abuse (Family Code § 6250(d)).

## 325.7 INTERVIEWS

### 325.7.1 PRELIMINARY INTERVIEWS

Absent extenuating circumstances or impracticality, officers should audio record the preliminary interview with a suspected adult abuse victim. Officers should avoid multiple interviews with the victim and should attempt to gather only the information necessary to begin an investigation. When practicable, investigating officers should defer interviews until a person who is specially trained in such interviews is available.

### 325.7.2 DETAINING VICTIMS FOR INTERVIEWS

An officer should not detain an adult involuntarily who is suspected of being a victim of abuse solely for the purpose of an interview or physical exam without his/her consent or the consent of a guardian unless one of the following applies:

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

(a) Exigent circumstances exist, such as:

1. A reasonable belief that medical issues of the adult need to be addressed immediately.
2. A reasonable belief that the adult is or will be in danger of harm if the interview or physical exam is not immediately completed.
3. The alleged offender is a family member or guardian and there is reason to believe the adult may be in continued danger.

(b) A court order or warrant has been issued.

## 325.8 MEDICAL EXAMINATIONS

When an adult abuse investigation requires a medical examination, the investigating officer should obtain consent for such examination from the victim, guardian, agency or entity having legal custody of the adult. The officer should also arrange for the adult's transportation to the appropriate medical facility.

In cases where the alleged offender is a family member, guardian, agency or entity having legal custody and is refusing to give consent for the medical examination, officers should notify a supervisor before proceeding. If exigent circumstances do not exist or if state law does not provide for officers to take the adult for a medical examination, the supervisor should consider other government agencies or services that may obtain a court order for such an examination.

## 325.9 DRUG-ENDANGERED VICTIMS

A coordinated response by law enforcement and social services agencies is appropriate to meet the immediate and longer-term medical and safety needs of an adult abuse victim who has been exposed to the manufacturing, trafficking or use of narcotics.

### 325.9.1 OFFICER RESPONSIBILITIES

Officers responding to a drug lab or other narcotics crime scene where an adult abuse victim is present or where there is evidence that an adult abuse victim lives should:

(a) Document the environmental, medical, social and other conditions of the adult, using photography as appropriate and the checklist or form developed for this purpose.

(b) Notify the Investigative Bureau supervisor so an interagency response can begin.

### 325.9.2 SUPERVISOR RESPONSIBILITIES

The Investigative Bureau supervisor should:

(a) Work with professionals from the appropriate agencies, including APS, other law enforcement agencies, medical service providers and local prosecutors, to develop community specific procedures for responding to situations where there are adult abuse victims endangered by exposure to methamphetamine labs or the manufacture and trafficking of other drugs.

(b) Activate any available interagency response when an officer notifies the Investigative Bureau supervisor that he/she has responded to a drug lab or other narcotics crime

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

scene where an adult abuse victim is present or where evidence indicates that an adult abuse victim lives.

(c) Develop a report format or checklist for use when officers respond to drug labs or other narcotics crime scenes. The checklist will help officers document the environmental, medical, social and other conditions that may affect the adult.

## 325.10 RECORDS BUREAU RESPONSIBILITIES

The Records Bureau is responsible for:

(a) Providing a copy of the adult abuse report to the APS, ombudsman or other agency as applicable within two working days or as required by law (Welfare and Institutions Code § 15630; Welfare and Institutions Code § 15640(c)).

(b) Retaining the original adult abuse report with the initial case file.

## 325.11 JURISDICTION

The Brentwood Police Department has concurrent jurisdiction with state law enforcement agencies when investigating elder and dependent adult abuse and all other crimes against elder victims and victims with disabilities (Penal Code § 368.5).

Adult protective services agencies and local long-term care ombudsman programs also have jurisdiction within their statutory authority to investigate elder and dependent adult abuse and criminal neglect and may assist in criminal investigations upon request in such cases. However, this department will retain responsibility for the criminal investigations (Penal Code § 368.5).

## 325.12 RELEVANT STATUTES

**Penal Code § 368 (c)**

Any person who knows or reasonably should know that a person is an elder or dependent adult and who, under circumstances or conditions other than those likely to produce great bodily harm or death, willfully causes or permits any elder or dependent adult to suffer, or inflicts thereon unjustifiable physical pain or mental suffering, or having the care or custody of any elder or dependent adult, willfully causes or permits the person or health of the elder or dependent adult to be injured or willfully causes or permits the elder or dependent adult to be placed in a situation in which his or her person or health may be endangered, is guilty of a misdemeanor.

**Penal Code § 368 (f)**

(f) A person who commits the false imprisonment of an elder or a dependent adult by the use of violence, menace, fraud, or deceit is punishable by imprisonment pursuant to subdivision (h) of Section 1170 for two, three, or four years.

**Welfare and Institutions Code § 15610.05**

“Abandonment” means the desertion or willful forsaking of an elder or a dependent adult by anyone having care or custody of that person under circumstances in which a reasonable person would continue to provide care and custody.

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

**Welfare and Institutions Code § 15610.06**

"Abduction" means the removal from this state and the restraint from returning to this state, or the restraint from returning to this state, of any elder or dependent adult who does not have the capacity to consent to the removal from this state and the restraint from returning to this state, or the restraint from returning to this state, as well as the removal from this state or the restraint from returning to this state, of any conservatee without the consent of the conservator or the court.

**Welfare and Institutions Code § 15610.30**

(a) "Financial abuse" of an elder or dependent adult occurs when a person or entity does any of the following:

(1) Takes, secretes, appropriates, obtains, or retains real or personal property of an elder or dependent adult for a wrongful use or with intent to defraud, or both.

(2) Assists in taking, secreting, appropriating, obtaining, or retaining real or personal property of an elder or dependent adult for a wrongful use or with intent to defraud, or both.

(3) Takes, secretes, appropriates, obtains, or retains, or assists in taking, secreting, appropriating, obtaining, or retaining, real or personal property of an elder or dependent adult by undue influence, as defined in Section 15610.70.

(b) A person or entity shall be deemed to have taken, secreted, appropriated, obtained, or retained property for a wrongful use if, among other things, the person or entity takes, secretes, appropriates, obtains, or retains the property and the person or entity knew or should have known that this conduct is likely to be harmful to the elder or dependent adult.

(c) For purposes of this section, a person or entity takes, secretes, appropriates, obtains, or retains real or personal property when an elder or dependent adult is deprived of any property right, including by means of an agreement, donative transfer, or testamentary bequest, regardless of whether the property is held directly or by a representative of an elder or dependent adult.

(d) For purposes of this section, "representative" means a person or entity that is either of the following:

(1) A conservator, trustee, or other representative of the estate of an elder or dependent adult.

(2) An attorney-in-fact of an elder or dependent adult who acts within the authority of the power of attorney.

**Welfare and Institutions Code § 15610.43**

(a) "Isolation" means any of the following:

(1) Acts intentionally committed for the purpose of preventing, and that do serve to prevent, an elder or dependent adult from receiving his or her mail or telephone calls.

(2) Telling a caller or prospective visitor that an elder or dependent adult is not present, or does not wish to talk with the caller, or does not wish to meet with the visitor where the statement is false, is contrary to the express wishes of the elder or the dependent adult,

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

whether he or she is competent or not, and is made for the purpose of preventing the elder or dependent adult from having contact with family, friends, or concerned persons.

(3) False imprisonment, as defined in Section 236 of the Penal Code.

(4) Physical restraint of an elder or dependent adult, for the purpose of preventing the elder or dependent adult from meeting with visitors.

(b) The acts set forth in subdivision (a) shall be subject to a rebuttable presumption that they do not constitute isolation if they are performed pursuant to the instructions of a physician and surgeon licensed to practice medicine in the state, who is caring for the elder or dependent adult at the time the instructions are given, and who gives the instructions as part of his or her medical care.

(c) The acts set forth in subdivision (a) shall not constitute isolation if they are performed in response to a reasonably perceived threat of danger to property or physical safe

**Welfare and Institutions Code § 15610.57**

(a) “Neglect” means either of the following:

(1) The negligent failure of any person having the care or custody of an elder or a dependent adult to exercise that degree of care that a reasonable person in a like position would exercise.

(2) The negligent failure of an elder or dependent adult to exercise that degree of self care that a reasonable person in a like position would exercise.

(b) Neglect includes, but is not limited to, all of the following:

(1) Failure to assist in personal hygiene, or in the provision of food, clothing, or shelter.

(2) Failure to provide medical care for physical and mental health needs. No person shall be deemed neglected or abused for the sole reason that he or she voluntarily relies on treatment by spiritual means through prayer alone in lieu of medical treatment.

(3) Failure to protect from health and safety hazards.

(4) Failure to prevent malnutrition or dehydration.

(5) Failure of an elder or dependent adult to satisfy the needs specified in paragraphs (1) to (4), inclusive, for himself or herself as a result of poor cognitive functioning, mental limitation, substance abuse, or chronic poor health.

**Welfare and Institutions Code § 15610.63**

15610.63. “Physical abuse” means any of the following:

(a) Assault, as defined in Section 240 of the Penal Code.

(b) Battery, as defined in Section 242 of the Penal Code.

(c) Assault with a deadly weapon or force likely to produce great bodily injury, as defined in Section 245 of the Penal Code.

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

(d) Unreasonable physical constraint, or prolonged or continual deprivation of food or water.

(e) Sexual assault, that means any of the following:

(1) Sexual battery, as defined in Section 243.4 of the Penal Code.

(2) Rape, as defined in Section 261 of the Penal Code.

(3) Rape in concert, as described in Section 264.1 of the Penal Code.

(4) Spousal rape, as defined in Section 262 of the Penal Code.

(5) Incest, as defined in Section 285 of the Penal Code.

(6) Sodomy, as defined in Section 286 of the Penal Code.

(7) Oral copulation, as defined in Section 287 or former Section 288a of the Penal Code.

(8) Sexual penetration, as defined in Section 289 of the Penal Code.

(9) Lewd or lascivious acts as defined in paragraph (2) of subdivision (b) of Section 288 of the Penal Code.

(f) Use of a physical or chemical restraint or psychotropic medication under any of the following conditions:

(1) For punishment.

(2) For a period beyond that for which the medication was ordered pursuant to the instructions of a physician and surgeon licensed in the State of California, who is providing medical care to the elder or dependent adult at the time the instructions are given.

(3) For any purpose not authorized by the physician and surgeon.

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

# Discriminatory Harassment

## 327.1 PURPOSE AND SCOPE

The purpose of this policy is to prevent department members from being subjected to discriminatory harassment, including sexual harassment and retaliation. Nothing in this policy is intended to create a legal or employment right or duty that is not created by law.

## 327.2 POLICY

The Brentwood Police Department is an equal opportunity employer and is committed to creating and maintaining a work environment that is free of all forms of discriminatory harassment, including sexual harassment and retaliation (Government Code § 12940(k); 2 CCR 11023). The Department will not tolerate discrimination against a member in hiring, promotion, discharge, compensation, fringe benefits and other privileges of employment. The Department will take preventive and corrective action to address any behavior that violates this policy or the rights it is designed to protect.

The nondiscrimination policies of the Department may be more comprehensive than state or federal law. Conduct that violates this policy may not violate state or federal law but still could subject a member to discipline.

## 327.3 DEFINITIONS

Definitions related to this policy include:

### 327.3.1 DISCRIMINATION

The Department prohibits all forms of discrimination, including any employment-related action by a member that adversely affects an applicant or member and is based on 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.

Discriminatory harassment, including sexual harassment, is verbal or physical conduct that demeans or shows hostility or aversion toward an individual based upon that individual's protected class. It has the effect of interfering with an individual's work performance or creating a hostile or abusive work environment.

Conduct that may, under certain circumstances, constitute discriminatory harassment can include making derogatory comments; making crude and offensive statements or remarks; making slurs or off-color jokes, stereotyping; engaging in threatening acts; making indecent gestures, pictures, cartoons, posters, or material; making inappropriate physical contact; or using written material or department equipment and/or systems to transmit or receive offensive material, statements, or pictures. Such conduct is contrary to department policy and to a work environment that is free of discrimination.

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

### 327.3.2 SEXUAL HARASSMENT

The Department prohibits all forms of discrimination and discriminatory harassment, including sexual harassment. It is unlawful to harass an applicant or a member because of that person's sex.

Sexual harassment includes but is not limited to unwelcome sexual advances, requests for sexual favors, or other verbal, visual, or physical conduct of a sexual nature when:

(a) Submission to such conduct is made either explicitly or implicitly a term or condition of employment, position, or compensation.

(b) Submission to, or rejection of, such conduct is used as the basis for any employment decisions affecting the member.

(c) Such conduct has the purpose or effect of substantially interfering with a member's work performance or creating an intimidating, hostile, or offensive work environment.

### 327.3.3 ADDITIONAL CONSIDERATIONS

Discrimination and discriminatory harassment do not include actions that are in accordance with established rules, principles, or standards, including:

(a) Acts or omission of acts based solely upon bona fide occupational qualifications under the Equal Employment Opportunity Commission (EEOC) and the California Fair Employment and Housing Council guidelines.

(b) Bona fide requests or demands by a supervisor that the member improve the member's work quality or output, that the member report to the job site on time, that the member comply with City or department rules or regulations, or any other appropriate work-related communication between supervisor and member.

### 327.3.4 RETALIATION

Retaliation is treating a person differently or engaging in acts of reprisal or intimidation against the person because the person has engaged in protected activity, filed a charge of discrimination, participated in an investigation, or opposed a discriminatory practice. Retaliation will not be tolerated.

## 327.4 RESPONSIBILITIES

This policy applies to all department personnel. All members shall follow the intent of these guidelines in a manner that reflects department policy, professional standards, and the best interest of the Department and its mission.

Members are encouraged to promptly report any discriminatory, retaliatory, or harassing conduct or known violations of this policy to a supervisor. Any member who is not comfortable with reporting violations of this policy to the member's immediate supervisor may bypass the chain of command and make the report to a higher-ranking supervisor or manager. Complaints may also be filed with the Chief of Police, the Human Resource's Manager, or the City Manager.

Any member who believes, in good faith, that the member has been discriminated against, harassed, or subjected to retaliation, or who has observed harassment, discrimination, or

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

retaliation, is encouraged to promptly report such conduct in accordance with the procedures set forth in this policy.

Supervisors and managers receiving information regarding alleged violations of this policy shall determine if there is any basis for the allegation and shall proceed with resolution as stated below.

327.4.1 SUPERVISOR RESPONSIBILITIES

The responsibilities of supervisors and managers shall include but are not limited to:

(a) Continually monitoring the work environment and striving to ensure that it is free from all types of unlawful discrimination, including harassment or retaliation.

(b) Taking prompt, appropriate action within their work units to avoid and minimize the incidence of any form of discrimination, harassment, or retaliation.

(c) Ensuring that their subordinates understand their responsibilities under this policy.

(d) Ensuring that members who make complaints or who oppose any unlawful employment practices are protected from retaliation and that such matters are kept confidential to the extent possible.

(e) Making a timely determination regarding the substance of any allegation based upon all available facts.

(f) Notifying the Chief of Police or the Human Resource's Manager in writing of the circumstances surrounding any reported allegations or observed acts of discrimination, harassment, or retaliation no later than the next business day.

327.4.2 SUPERVISOR’S ROLE

Supervisors and managers shall be aware of the following:

(a) Behavior of supervisors and managers should represent the values of the Department and professional standards.

(b) False or mistaken accusations of discrimination, harassment, or retaliation can have negative effects on the careers of innocent members.

Nothing in this section shall be construed to prevent supervisors or managers from discharging supervisory or management responsibilities, such as determining duty assignments, evaluating or counseling members, or issuing discipline, in a manner that is consistent with established procedures.

327.4.3 QUESTIONS OR CLARIFICATION

Members with questions regarding what constitutes discrimination, sexual harassment, or retaliation are encouraged to contact a supervisor, a manager, the Chief of Police, the Human Resource's Manager, the City Manager, or the California Department of Fair Employment and Housing (DFEH) for further information, direction, or clarification (Government Code § 12950).

## 327.5 INVESTIGATION OF COMPLAINTS

Various methods of resolution exist. During the pendency of any such investigation, the supervisor of the involved member should take prompt and reasonable steps to mitigate or eliminate

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

any continuing abusive or hostile work environment. It is the policy of the Department that all complaints of discrimination, retaliation, or harassment shall be fully documented and promptly and thoroughly investigated.

### 327.5.1 SUPERVISOR RESOLUTION

Members who believe they are experiencing discrimination, harassment, or retaliation should be encouraged to inform the individual that the behavior is unwelcome, offensive, unprofessional, or inappropriate. However, if the member feels uncomfortable or threatened or has difficulty expressing the member's concern, or if this does not resolve the concern, assistance should be sought from a supervisor or manager who is a rank higher than the alleged transgressor.

### 327.5.2 FORMAL INVESTIGATION

If the complaint cannot be satisfactorily resolved through the supervisory resolution process, a formal investigation will be conducted.

The person assigned to investigate the complaint will have full authority to investigate all aspects of the complaint. Investigative authority includes access to records and the cooperation of any members involved. No influence will be used to suppress any complaint and no member will be subject to retaliation or reprisal for filing a complaint, encouraging others to file a complaint, or for offering testimony or evidence in an investigation.

Formal investigation of the complaint will be confidential to the extent possible and will include but is not limited to details of the specific incident, frequency and dates of occurrences, and names of any witnesses. Witnesses will be advised regarding the prohibition against retaliation, and that a disciplinary process, up to and including termination, may result if retaliation occurs.

Members who believe they have been discriminated against, harassed, or retaliated against because of their protected status, are encouraged to follow the chain of command but may also file a complaint directly with the Chief of Police, the Human Resource's Manager, or the City Manager.

### 327.5.3 ALTERNATIVE COMPLAINT PROCESS

No provision of this policy shall be construed to prevent any member from seeking legal redress outside the Department. Members who believe that they have been harassed, discriminated against, or retaliated against are entitled to bring complaints of employment discrimination to federal, state, and/or local agencies responsible for investigating such allegations. Specific time limitations apply to the filing of such charges. Members are advised that proceeding with complaints under the provisions of this policy does not in any way affect those filing requirements.

## 327.6 TRAINING

All new members shall be provided with a copy of this policy as part of their orientation. The policy shall be reviewed with each new member. The member shall certify by signing the prescribed form that the member has been advised of this policy, is aware of and understands its contents, and agrees to abide by its provisions during the member's term with the Department.

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

All members shall receive annual training on the requirements of this policy and shall certify by signing the prescribed form that they have reviewed the policy, understand its contents, and agree that they will continue to abide by its provisions.

327.6.1 STATE-REQUIRED TRAINING

The Training Manager should ensure that employees receive the required state training and education regarding sexual harassment, prevention of abusive conduct, and harassment based on gender identity, gender expression, and sexual orientation as follows (Government Code § 12950.1; 2 CCR 11024):

(a) Supervisory employees shall receive two hours of classroom or other effective interactive training and education within six months of assuming a supervisory position.

(b) All other employees shall receive one hour of classroom or other effective interactive training and education within six months of their employment or sooner for seasonal or temporary employees as described in Government Code § 12950.1.

(c) All employees shall receive refresher training every two years thereafter.

If the required training is to be provided by DFEH online training courses, the Training Manager should ensure that employees are provided the link or website address to the training course (Government Code § 12950).

327.6.2 TRAINING RECORDS

The Training Manager shall be responsible for maintaining records of all discriminatory harassment training provided to members. Records shall be retained in accordance with established records retention schedules and for a minimum of two years (2 CCR 11024).

## 327.7 WORKING CONDITIONS

The Administration Division Commander or the authorized designee should be responsible for reviewing facility design and working conditions for discriminatory practices. This person should collaborate with other City employees who are similarly tasked (2 CCR 11034).

## 327.8 REQUIRED POSTERS

The Department shall display the required posters regarding discrimination, harassment and transgender rights in a prominent and accessible location for members (Government Code § 12950).

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

# Child Abuse

## 329.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidelines for the investigation of suspected child abuse. This policy also addresses when Brentwood Police Department members are required to notify the county Child Protective Services (CPS) of suspected child abuse.

### 329.1.1 DEFINITIONS

Definitions related to this policy include:

**Child** - Unless otherwise specified by a cited statute, a child is any person under the age of 18 years.

**Child abuse** - Any offense or attempted offense involving violence or neglect with a child victim when committed by a person responsible for the child's care or any other act that would mandate notification to a social service agency or law enforcement (Penal Code § 11165.9; Penal Code § 11166).

## 329.2 POLICY

The Brentwood Police Department will investigate all reported incidents of alleged criminal child abuse and ensure CPS is notified as required by law.

## 329.3 MANDATORY NOTIFICATION

The child protection agency shall be notified when (Penal Code § 11166):

(a) There is a known or suspected instance of child abuse or neglect reported, which is alleged to have occurred as a result of the action of a person responsible for the child's welfare, or

(b) A person responsible for the child's welfare fails to adequately protect the child from abuse when the person knew or reasonably should have known that the child was in danger of abuse.

The District Attorney's office shall be notified in all instances of known or suspected child abuse or neglect reported to this department. Reports only involving neglect by a person, who has the care or custody of a child, to provide adequate food, clothing, shelter, medical care or supervision where no physical injury to the child has occurred should not be reported to the District Attorney (Penal Code § 11166).

When the abuse or neglect occurs at a licensed facility or is alleged to have resulted from the actions of a person who is required to have a state license (e.g., foster homes, group homes, day care), notification shall also be made to the California Department of Social Services or other applicable licensing authority (Penal Code 11166.1; Penal Code 11166.2).

For purposes of notification, the abuse or neglect includes physical injury or death inflicted by other than accidental means upon a child by another person; sexual abuse (Penal Code § 11165.1);

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

neglect (Penal Code § 11165.2); the willful harming or injuring of a child or the endangering of the person or health of a child (Penal Code § 11165.3); and unlawful corporal punishment or injury (Penal Code § 11165.4). Child abuse or neglect does not include a mutual affray between minors, nor does it include an injury caused by the reasonable and necessary force used by a peace officer acting within the course and scope of his/her employment as a peace officer.

329.3.1 NOTIFICATION PROCEDURE
Notification should occur as follows (Penal Code § 11166):

(a) Notification shall be made immediately, or as soon as practicable, by telephone, fax or electronic transmission.

(b) A written follow-up report should be forwarded within 36 hours of receiving the information concerning the incident.

## 329.4 QUALIFIED INVESTIGATORS

Qualified investigators should be available for child abuse investigations. These investigators should:

(a) Conduct interviews in child appropriate interview facilities.

(b) Be familiar with forensic interview techniques specific to child abuse investigations.

(c) Present all cases of alleged child abuse to the prosecutor for review.

(d) Coordinate with other enforcement agencies, social service agencies and school administrators as needed.

(e) Provide referrals to therapy services, victim advocates, guardians and support for the child and family as appropriate.

(f) Participate in or coordinate with multidisciplinary investigative teams as applicable (Welfare and Institutions Code § 18961.7).

## 329.5 INVESTIGATIONS AND REPORTING

In all reported or suspected cases of child abuse, a report will be written. Officers shall write a report even if the allegations appear unfounded or unsubstantiated.

Investigations and reports related to suspected cases of child abuse should address, as applicable:

(a) The overall basis for the contact. This should be done by the investigating officer in all circumstances where a suspected child abuse victim was contacted.

(b) The exigent circumstances that existed if officers interviewed the child victim without the presence of a parent or guardian.

(c) Any relevant statements the child may have made and to whom he/she made the statements.

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

(d) If a child was taken into protective custody, the reasons, the name and title of the person making the decision, and why other alternatives were not appropriate.

(e) Documentation of any visible injuries or any injuries identified by the child. This should include photographs of such injuries, if practicable.

(f) Whether the child victim was transported for medical treatment or a medical examination.

(g) Whether the victim identified a household member as the alleged perpetrator, and a list of the names of any other children who may reside in the residence.

(h) Identification of any prior related reports or allegations of child abuse, including other jurisdictions, as reasonably known.

(i) Previous addresses of the victim and suspect.

(j) Other potential witnesses who have not yet been interviewed, such as relatives or others close to the victim's environment.

All cases of the unexplained death of a child should be investigated as thoroughly as if it had been a case of suspected child abuse (e.g., a sudden or unexplained death of an infant).

#### 329.5.1 EXTRA JURISDICTIONAL REPORTS

If a report of known or suspected child abuse or neglect that is alleged to have occurred outside this jurisdiction is received, department members shall ensure that the caller is immediately transferred to the agency with proper jurisdiction for the investigation of the case. If the caller cannot be successfully transferred to the appropriate agency, a report shall be taken and immediately referred by telephone, fax or electronic transfer to the agency with proper jurisdiction (Penal Code 11165.9).

### 329.6 PROTECTIVE CUSTODY

Before taking any child into protective custody, the officer should make reasonable attempts to contact CPS. Generally, removal of a child from his/her family, guardian or other responsible adult should be left to the child welfare authorities when they are present or have become involved in an investigation.

Generally, members of this department should remove a child from his/her parent or guardian without a court order only when no other effective alternative is reasonably available and immediate action reasonably appears necessary to protect the child. Prior to taking a child into protective custody, the officer should take reasonable steps to deliver the child to another qualified parent or legal guardian, unless it reasonably appears that the release would endanger the child or result in abduction. If this is not a reasonable option, the officer shall ensure that the child is delivered to CPS.

Whenever practicable, the officer should inform a supervisor of the circumstances prior to taking a child into protective custody. If prior notification is not practicable, officers should contact a supervisor promptly after taking a child into protective custody.

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

Children may only be removed from a parent or guardian in the following situations when a court order cannot reasonably be obtained in a timely manner (Welfare and Institutions Code § 305):

(a) The officer reasonably believes the child is a person described in Welfare and Institutions Code § 300, or a commercially exploited child under Penal Code § 647 and Penal Code § 653.22, and further has good cause to believe that any of the following conditions exist:

1. The child has an immediate need for medical care.
2. The child is in immediate danger of physical or sexual abuse.
3. The physical environment or the fact that the child is left unattended poses an immediate threat to the child's health or safety. In the case of a child left unattended, the officer shall first attempt to locate and determine if a responsible parent or guardian is available and capable of assuming custody before taking the child into protective custody.

(b) The officer reasonably believes the child requires protective custody under the provisions of Penal Code § 279.6, in one of the following circumstances:

1. It reasonably appears to the officer that a person is likely to conceal the child, flee the jurisdiction with the child or, by flight or concealment, evade the authority of the court.
2. There is no lawful custodian available to take custody of the child.
3. There are conflicting custody orders or conflicting claims to custody and the parties cannot agree which party should take custody of the child.
4. The child is an abducted child.

(c) The child is in the company of, or under the control of, a person arrested for Penal Code § 278 (Detainment or concealment of child from legal custodian) or Penal Code § 278.5 (Deprivation of custody of a child or right to visitation) (Penal Code § 279.6).

A child taken into protective custody shall be delivered to CPS unless otherwise directed by court order.

### 329.6.1 CALIFORNIA SAFELY SURRENDERED BABY LAW

An individual having lawful custody of an infant less than 72 hours old is not guilty of abandonment if the individual voluntarily surrenders physical custody of the infant to personnel on-duty at a safe-surrender site, such as a hospital or fire department (Penal Code § 271.5). The law requires the surrender site to notify CPS.

### 329.6.2 NEWBORNS TESTING POSITIVE FOR DRUGS

Under certain circumstances, officers can be prohibited from taking a newborn who is the subject of a proposed adoption into protective custody, even when the newborn has tested positive for illegal drugs or the birth mother tested positive for illegal drugs.

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

Officers shall instead follow the provisions of Welfare and Institutions Code § 305.6 to ensure that the newborn is placed with the adoptive parents when it is appropriate.

## 329.7 INTERVIEWS

### 329.7.1 PRELIMINARY INTERVIEWS

Absent extenuating circumstances or impracticality, officers should record the preliminary interview with suspected child abuse victims. Officers should avoid multiple interviews with a child victim and should attempt to gather only the information necessary to begin an investigation. When practicable, investigating officers should defer interviews until a person who is specially trained in such interviews is available. Generally, child victims should not be interviewed in the home or location where the alleged abuse occurred.

### 329.7.2 DETAINING SUSPECTED CHILD ABUSE VICTIMS FOR AN INTERVIEW

An officer should not detain a child involuntarily who is suspected of being a victim of child abuse solely for the purpose of an interview or physical exam without the consent of a parent or guardian unless one of the following applies:

(a) Exigent circumstances exist, such as:

1. A reasonable belief that medical issues of the child need to be addressed immediately.
2. A reasonable belief that the child is or will be in danger of harm if the interview or physical exam is not immediately completed.
3. The alleged offender is the custodial parent or guardian and there is reason to believe the child may be in continued danger.

(b) A court order or warrant has been issued.

### 329.7.3 INTERVIEWS AT A SCHOOL

Any student at school who is a suspected victim of child abuse shall be afforded the option of being interviewed in private or selecting any qualified available adult member of the school staff to be present. The purpose of the staff member's presence is to provide comfort and support. The staff member shall not participate in the interview. The selection of a staff member should be such that it does not burden the school with costs or hardship (Penal Code § 11174.3).

## 329.8 MEDICAL EXAMINATIONS

If the child has been the victim of abuse that requires a medical examination, the investigating officer should obtain consent for such examination from the appropriate parent, guardian or agency having legal custody of the child. The officer should also arrange for the child's transportation to the appropriate medical facility.

In cases where the alleged offender is the custodial parent or guardian and is refusing consent for the medical examination, officers should notify a supervisor before proceeding. If exigent circumstances do not exist or if state law does not provide for officers to take the child for a

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

medical examination, the notified supervisor should consider obtaining a court order for such an examination.

## 329.9 DRUG-ENDANGERED CHILDREN

A coordinated response by law enforcement and social services agencies is appropriate to meet the immediate and longer-term medical and safety needs of children exposed to the manufacturing, trafficking or use of narcotics.

### 329.9.1 SUPERVISOR RESPONSIBILITIES

The Investigative Bureau supervisor should:

(a) Work with professionals from the appropriate agencies, including CPS, other law enforcement agencies, medical service providers and local prosecutors to develop community specific procedures for responding to situations where there are children endangered by exposure to methamphetamine labs or the manufacture and trafficking of other drugs.

(b) Activate any available interagency response when an officer notifies the Investigative Bureau supervisor that the officer has responded to a drug lab or other narcotics crime scene where a child is present or where evidence indicates that a child lives there.

(c) Develop a report format or checklist for use when officers respond to drug labs or other narcotics crime scenes. The checklist will help officers document the environmental, medical, social and other conditions that may affect the child.

### 329.9.2 OFFICER RESPONSIBILITIES

Officers responding to a drug lab or other narcotics crime scene where a child is present or where there is evidence that a child lives should:

(a) Document the environmental, medical, social and other conditions of the child using photography as appropriate and the checklist or form developed for this purpose.

(b) Notify the Investigative Bureau supervisor so an interagency response can begin.

## 329.10 STATE MANDATES AND OTHER RELEVANT LAWS

California requires or permits the following:

### 329.10.1 RELEASE OF REPORTS

Information related to incidents of child abuse or suspected child abuse shall be confidential and may only be disclosed pursuant to state law and the Records Maintenance and Release Policy (Penal Code 841.5; Penal Code § 11167.5).

### 329.10.2 REQUESTS FOR REMOVAL FROM THE CHILD ABUSE CENTRAL INDEX (CACI)

Any person whose name has been forwarded to the California Department of Justice (DOJ) for placement in California's CACI, as a result of an investigation, may request that his/her name be removed from the CACI list. Requests shall not qualify for consideration if there is an active

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

case, ongoing investigation or pending prosecution that precipitated the entry to CACI (Penal Code § 11169). All requests for removal shall be submitted in writing by the requesting person and promptly routed to the CACI hearing officer.

### 329.10.3 CACI HEARING OFFICER

The Investigative Bureau supervisor will normally serve as the hearing officer but must not be actively connected with the case that resulted in the person's name being submitted to CACI. Upon receiving a qualified request for removal, the hearing officer shall promptly schedule a hearing to take place during normal business hours and provide written notification of the time and place of the hearing to the requesting party.

### 329.10.4 CACI HEARING PROCEDURES

The hearing is an informal process where the person requesting removal from the CACI list will be permitted to present relevant evidence (e.g., certified copy of an acquittal, factual finding of innocence) as to why his/her name should be removed. The person requesting the hearing may record the hearing at his/her own expense.

Formal rules of evidence will not apply and the hearing officer may consider, in addition to evidence submitted by the person requesting the hearing, any relevant information including, but not limited to, the following:

(a) Case reports including any supplemental reports

(b) Statements by investigators

(c) Statements from representatives of the District Attorney's Office

(d) Statements by representatives of a child protective agency who may be familiar with the case

After considering all information presented, the hearing officer shall make a determination as to whether the requesting party's name should be removed from the CACI list. Such determination shall be based on a finding that the allegations in the investigation are not substantiated (Penal Code § 11169).

If, after considering the evidence, the hearing officer finds that the allegations are not substantiated, he/she shall cause a request to be completed and forwarded to the DOJ that the person's name be removed from the CACI list. A copy of the hearing results and the request for removal will be attached to the case reports.

The findings of the hearing officer shall be considered final and binding.

### 329.10.5 CHILD DEATH REVIEW TEAM

This department should cooperate with any interagency child death review team investigation. Written and oral information relating to the death of a child that would otherwise be subject to release restrictions may be disclosed to the child death review team upon written request and approval of a supervisor (Penal Code § 11174.32).

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

### 329.11 TRAINING

The Department should provide training on best practices in child abuse investigations to members tasked with investigating these cases. The training should include:

(a) Participating in multidisciplinary investigations, as appropriate.

(b) Conducting forensic interviews.

(c) Availability of therapy services for children and families.

(d) Availability of specialized forensic medical exams.

(e) Cultural competence (including interpretive services) related to child abuse investigations.

(f) Availability of victim advocate or guardian ad litem support.

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

# Missing Persons

## 331.1 PURPOSE AND SCOPE

This policy provides guidance for handling missing person investigations.

### 331.1.1 DEFINITIONS

**At risk** - Includes, but is not limited to (Penal Code § 14215):

- A victim of a crime or foul play.
- A person missing and in need of medical attention.
- A missing person with no pattern of running away or disappearing.
- A missing person who may be the victim of parental abduction.
- A mentally impaired missing person, including cognitively impaired or developmentally disabled.

**Missing person** - Any person who is reported missing to law enforcement when the person's location is unknown. This includes a child who has been taken, detained, concealed, enticed away or kept by a parent in violation of the law (Penal Code § 277 et seq.). It also includes any child who is missing voluntarily, involuntarily or under circumstances that do not conform to his/her ordinary habits or behavior, and who may be in need of assistance (Penal Code § 14215).

**Missing person networks** - Databases or computer networks available to law enforcement and that are suitable for information related to missing persons investigations. These include the National Crime Information Center (NCIC), the California Law Enforcement Telecommunications System (CLETS), Missing Person System (MPS) and the Unidentified Persons System (UPS).

## 331.2 POLICY

The Brentwood Police Department does not consider any report of a missing person to be routine and assumes that the missing person is in need of immediate assistance until an investigation reveals otherwise. The Brentwood Police Department gives missing person cases priority over property-related cases and will not require any time frame to pass before beginning a missing person investigation (Penal Code § 14211).

## 331.3 REQUIRED FORMS AND BIOLOGICAL SAMPLE COLLECTION KITS

The Investigation supervisor should ensure the forms and kits are developed and available in accordance with this policy, state law, federal law and the California Peace Officer Standards and Training (POST) Missing Persons Investigations guidelines, including:

- Department report form for use in missing person cases
- Missing person investigation checklist that provides investigation guidelines and resources that could be helpful in the early hours of a missing person investigation (Penal Code § 13519.07)

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

- Missing person school notification form
- Medical records release form from the California Department of Justice
- California DOJ missing person forms as appropriate
- Biological sample collection kits

## 331.4 ACCEPTANCE OF REPORTS

Any member encountering a person who wishes to report a missing person or runaway shall render assistance without delay (Penal Code § 14211). This can be accomplished by accepting the report via telephone or in-person and initiating the investigation. Those members who do not take such reports or who are unable to render immediate assistance shall promptly dispatch or alert a member who can take the report.

A report shall be accepted in all cases and regardless of where the person was last seen, where the person resides or any other question of jurisdiction (Penal Code § 14211).

## 331.5 INITIAL INVESTIGATION

Officers or other members conducting the initial investigation of a missing person should take the following investigative actions, as applicable:

(a) Respond to a dispatched call for service as soon as practicable.

(b) Interview the reporting party and any witnesses to determine whether the person qualifies as a missing person and, if so, whether the person may be at risk.

(c) Notify a supervisor immediately if there is evidence that a missing person is either at risk or may qualify for a public alert, or both (see the Public Alerts Policy).

(d) Broadcast a "Be on the Look-Out" (BOLO) bulletin if the person is under 21 years of age or there is evidence that the missing person is at risk. The BOLO should be broadcast as soon as practicable but in no event more than one hour after determining the missing person is under 21 years of age or may be at risk (Penal Code § 14211).

(e) Ensure that entries are made into the appropriate missing person networks as follows:

1. Immediately, when the missing person is at risk.
2. In all other cases, as soon as practicable, but not later than two hours from the time of the initial report.

(f) Complete the appropriate report forms accurately and completely and initiate a search as applicable under the facts.

(g) Collect and/or review:

1. A photograph and a fingerprint card of the missing person, if available.
2. A voluntarily provided biological sample of the missing person, if available (e.g., toothbrush, hairbrush).

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

3. Any documents that may assist in the investigation, such as court orders regarding custody.
4. Any other evidence that may assist in the investigation, including personal electronic devices (e.g., cell phones, computers).

(h) When circumstances permit and if appropriate, attempt to determine the missing person's location through his/her telecommunications carrier.

(i) Contact the appropriate agency if the report relates to a previously made missing person report and another agency is actively investigating that report. When this is not practical, the information should be documented in an appropriate report for transmission to the appropriate agency. If the information relates to an at-risk missing person, the member should notify a supervisor and proceed with reasonable steps to locate the missing person.

## 331.6 REPORT PROCEDURES AND ROUTING

Employees should complete all missing person reports and forms promptly and advise the appropriate supervisor as soon as a missing person report is ready for review.

### 331.6.1 SUPERVISOR RESPONSIBILITIES

The responsibilities of the supervisor shall include, but are not limited to:

(a) Reviewing and approving missing person reports upon receipt.
   1. The reports should be promptly sent to the Records Bureau.

(b) Ensuring resources are deployed as appropriate.

(c) Initiating a command post as needed.

(d) Ensuring applicable notifications and public alerts are made and documented.

(e) Ensuring that records have been entered into the appropriate missing persons networks.

(f) Taking reasonable steps to identify and address any jurisdictional issues to ensure cooperation among agencies.

If the case falls within the jurisdiction of another agency, the supervisor should facilitate transfer of the case to the agency of jurisdiction.

### 331.6.2 RECORDS BUREAU RESPONSIBILITIES

The receiving member shall:

(a) As soon as reasonable under the circumstances, notify and forward a copy of the report to the law enforcement agency having jurisdiction over the missing person's residence in cases where the missing person is a resident of another jurisdiction (Penal Code § 14211).

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

(b) Notify and forward a copy of the report to the law enforcement agency in whose jurisdiction the missing person was last seen (Penal Code § 14211).

(c) Notify and forward a copy of the report to the law enforcement agency having jurisdiction over the missing person's intended or possible destination, if known.

(d) Forward a copy of the report to the Investigative Bureau.

(e) Coordinate with the NCIC Terminal Contractor for California to have the missing person record in the NCIC computer networks updated with additional information obtained from missing person investigations (34 USC § 41308).

## 331.7 INVESTIGATIVE BUREAU FOLLOW-UP

In addition to completing or continuing any actions listed above, the investigator assigned to a missing person investigation:

(a) Shall ensure that the missing person's school is notified within 10 days if the missing person is a juvenile.

1. The notice shall be in writing and should also include a photograph (Education Code § 49068.6).

2. The investigator should meet with school officials regarding the notice as appropriate to stress the importance of including the notice in the child's student file, along with contact information if the school receives a call requesting the transfer of the missing child's files to another school.

(b) Should recontact the reporting person and/or other witnesses within 30 days of the initial report and within 30 days thereafter to determine if any additional information has become available via the reporting party.

(c) Should consider contacting other agencies involved in the case to determine if any additional information is available.

(d) Shall verify and update CLETS, NCIC, and any other applicable missing person networks within 30 days of the original entry into the networks and every 30 days thereafter until the missing person is located (34 USC § 41308).

(e) Should continue to make reasonable efforts to locate the missing person and document these efforts at least every 30 days.

(f) Shall maintain a close liaison with state and local child welfare systems and the National Center for Missing and Exploited Children® (NCMEC) if the missing person is under the age of 21 and shall promptly notify NCMEC when the person is missing from a foster care family home or childcare institution (34 USC § 41308).

(g) Should make appropriate inquiry with the Coroner.

(h) Should obtain and forward medical and dental records, photos, X-rays, and biological samples pursuant to Penal Code § 14212 and Penal Code § 14250.

(i) Shall attempt to obtain the most recent photograph for persons under 18 years of age if it has not previously been obtained and forward the photograph to California DOJ (Penal Code § 14210) and enter the photograph into applicable missing person networks (34 USC § 41308).

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

(j) Should consider making appropriate entries and searches in the National Missing and Unidentified Persons System (NamUs).

(k) In the case of an at-risk missing person or a person who has been missing for an extended time, should consult with a supervisor regarding seeking federal assistance from the FBI and the U.S. Marshals Service (28 USC § 566).

## 331.8 WHEN A MISSING PERSON IS FOUND

When any person reported missing is found, the assigned investigator shall document the location of the missing person in the appropriate report, notify the relatives and/or reporting party, as appropriate, and other involved agencies and refer the case for additional investigation if warranted.

The Records Supervisor shall ensure that, upon receipt of information that a missing person has been located, the following occurs (Penal Code § 14213):

(a) Notification is made to California DOJ.

(b) The missing person's school is notified.

(c) Entries are made in the applicable missing person networks.

(d) Immediately notify the Attorney General's Office.

(e) Notification shall be made to any other law enforcement agency that took the initial report or participated in the investigation within 24 hours.

### 331.8.1 UNIDENTIFIED PERSONS

Department members investigating a case of an unidentified person who is deceased or a living person who cannot assist in identifying him/herself should:

(a) Obtain a complete description of the person.

(b) Enter the unidentified person's description into the NCIC Unidentified Person File.

(c) Use available resources, such as those related to missing persons, to identify the person.

## 331.9 CASE CLOSURE

The Investigative Bureau supervisor may authorize the closure of a missing person case after considering the following:

(a) Closure is appropriate when the missing person is confirmed returned or evidence has matched an unidentified person or body.

(b) If the missing person is a resident of Brentwood or this department is the lead agency, the case should be kept under active investigation for as long as the person may still be alive. Exhaustion of leads in the investigation should not be a reason for closing a case.

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

(c) If this department is not the lead agency, the case can be made inactivate if all investigative leads have been exhausted, the lead agency has been notified and entries are made in the applicable missing person networks as appropriate.

(d) A missing person case should not be closed or reclassified because the person would have reached a certain age or adulthood or because the person is now the subject of a criminal or civil warrant.

**331.10 TRAINING**

Subject to available resources, the Training Manager should ensure that members of this department whose duties include missing person investigations and reports receive regular training that includes:

(a) The initial investigation:

1. Assessments and interviews
2. Use of current resources, such as Mobile Audio Video (MAV)
3. Confirming missing status and custody status of minors
4. Evaluating the need for a heightened response
5. Identifying the zone of safety based on chronological age and developmental stage

(b) Briefing of department members at the scene.

(c) Identifying NCIC Missing Person File categories (e.g., disability, endangered, involuntary, juvenile and catastrophe).

(d) Verifying the accuracy of all descriptive information.

(e) Initiating a neighborhood investigation.

(f) Investigating any relevant recent family dynamics.

(g) Addressing conflicting information.

(h) Key investigative and coordination steps.

(i) Managing a missing person case.

(j) Additional resources and specialized services.

(k) Update procedures for case information and descriptions.

(l) Preserving scenes.

(m) Internet and technology issues (e.g., Internet use, cell phone use).

(n) Media relations.

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

## 331.11 MISSING AND UNIDENTIFIED PERSONS REPORTING REFERENCE CHART

All local police and sheriffs' departments shall accept any report of a missing person (MP) without delay, per Penal Code § 14205(a). Report types are listed by age group; note the applicable code section: Penal Code (PC), Education Code (EC), or federal statute (U.S.C.).

| MISSING PERSON AGE | "Be On the LookOut" Bulletin | Missing Person System (MPS) Entry | Missing Person Report Forwarded to Appropriate Jurisdiction | Initial Coroner Check | Missing Person Report with Photograph and X-rays Submitted to DOJ | Written Notice to School | DNA - Advise of Right to Submit Sample[3] |
|---|---|---|---|---|---|---|---|
| **At Risk** | **Without Delay** PC §14205(a) | **Within 2 Hours** PC § 14205(b) | **Within 24 Hours** PC § 14205 (c) | **Immediately** [3] PC § 14206(a)(2)[3] | **Within 24 hours submitted to DOJ** PC § 14206(a)(2) | **If a child, within 10 days** EC 49068.6 | **30 Days** PC 14250(c)(2) |
| **0 to 15** | **Without Delay** PC § 14205 (a) | **Within 2 Hours** PC § 14205(b) | **Within 24 Hours** PC § 14205(c) | **Immediately** [3] PC § 14206(a)(2) | **Within 24 Hours submitted to DOJ** [2] PC § 14206(a)(2) | **Within 10 Days** EC 49068.6 | **30 Days** PC § 14250(c)(2) |
| **16 to 17** | **Without Delay PC § 14205 (a)** | **Within 2 Hours** PC § 14205(b) | **Within 24 Hours** PC § 14205(c) | **Immediately** PC 14206(a)(2) | **Within 24 Hours submitted to DOJ** PC § 14206(a)(2) | **Within 10 Days** EC 49068.6 | **30 Days** PC § 14250(c)(2) |
| **18 to 20** | **Without Delay PC § 14205 (a)** | **Within 2 Hours** PC § 14205(b) | **Within 24 Hours** PC § 14205(c) | **Witin 40 Days** PC § 14206(a)(1) | **Within 45 days submitted to DOJ** PC § 14206(a)(2) | **NA** | **30 Days** PC 14250(c)(2) |
| **Age 21 and Over** | **Law Enforcement Discretion** | **Without Unreasonable Delay** | **Within 24 Hours** PC § 14205(c) | **Within 40 Days** PC § 14206(a)(1) | **Within 45 Days submitted to DOJ** PC § 14206(a)(2) | **NA** | **30 Days** PC § 14250(c)(2) |

[1] Evidence that a person is at risk includes, but is not limited to, evidence or indications that the missing person is one of the following: (1) is a victim of a crime or foul play, (2) is in need of medical attention, (3) has no pattern of running away or disappearing, (4) may be the victim of a parental abduction, or (5) is mentally impaired, per PC § 14213(b),

[2] The DOJ shall act as a repository for dental examination records of missing and unidentified person(s) and will compare the records for the purposes of identification, per California Health and Safety code 102870

[3] Immediately and then periodically throughout the course of the investigation

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

# Public Alerts

## 333.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidelines for alerting the public to important information and soliciting public aid when appropriate.

## 333.2 POLICY

Public alerts may be employed using the Emergency Alert System (EAS), local radio, television and press organizations and other groups to notify the public of incidents, or enlist the aid of the public, when the exchange of information may enhance the safety of the community. Various types of alerts may be available based upon each situation and the alert system's individual criteria.

## 333.3 RESPONSIBILITIES

### 333.3.1 EMPLOYEE RESPONSIBILITIES

Employees of the Brentwood Police Department should notify their supervisor, Watch Commander or Investigative Bureau Supervisor as soon as practicable upon learning of a situation where public notification, a warning or enlisting the help of the media and public could assist in locating a missing person, apprehending a dangerous person or gathering information.

### 333.3.2 SUPERVISOR RESPONSIBILITIES

A supervisor apprised of the need for a public alert is responsible to make the appropriate notifications based upon the circumstances of each situation. The supervisor shall promptly notify the Chief of Police, the appropriate Division Commander and the Public Information Officer when any public alert is generated.

The supervisor in charge of the investigation to which the alert relates is responsible for the following:

(a) Updating alerts

(b) Canceling alerts

(c) Ensuring all appropriate reports are completed

(d) Preparing an after-action evaluation of the investigation to be forwarded to the Division Commander

## 333.4 AMBER ALERTS

The AMBER Alert™ Program is a voluntary partnership between law enforcement agencies, broadcasters, transportation agencies and the wireless industry, to activate urgent bulletins in child abduction cases.

### 333.4.1 CRITERIA FOR AMBER ALERT

The following conditions must be met before activating an AMBER Alert (Government Code § 8594(a)):

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

(a) A child has been abducted or taken by anyone, including but not limited to a custodial parent or guardian.

(b) The victim is 17 years of age or younger, or has a proven mental or physical disability.

(c) The victim is in imminent danger of serious injury or death.

(d) There is information available that, if provided to the public, could assist in the child's safe recovery.

333.4.2 PROCEDURE FOR AMBER ALERT

The supervisor in charge will ensure the following:

(a) An initial press release is prepared that includes all available information that might aid in locating the child:

1. The child's identity, age and description
2. Photograph if available
3. The suspect's identity, age and description, if known
4. Pertinent vehicle description
5. Detail regarding location of incident, direction of travel, potential destinations, if known
6. Name and telephone number of the Public Information Officer or other authorized individual to handle media liaison
7. A telephone number for the public to call with leads or information

(b) The local California Highway Patrol communications center should be contacted to initiate a multi-regional or statewide EAS broadcast, following any policies and procedures developed by CHP (Government Code § 8594).

(c) The press release information is forwarded to the Sheriff's Department Emergency Communications Bureau so that general broadcasts can be made to local law enforcement agencies.

(d) Information regarding the missing person should be entered into the California Law Enforcement Telecommunication System (CLETS).

(e) Information regarding the missing person should be entered into the California Department of Justice Missing and Unidentified Persons System (MUPS)/National Crime Information Center (NCIC).

(f) The following resources should be considered as circumstances dictate:

1. The local FBI office
2. National Center for Missing and Exploited Children (NCMEC)

## 333.5 BLUE ALERTS

Blue Alerts may be issued when an officer is killed, injured or assaulted and the suspect may pose a threat to the public or other law enforcement personnel.

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

333.5.1 CRITERIA FOR BLUE ALERTS

All of the following conditions must be met before activating a Blue Alert (Government Code § 8594.5):

(a) A law enforcement officer has been killed, suffered serious bodily injury or has been assaulted with a deadly weapon, and the suspect has fled the scene of the offense.

(b) The investigating law enforcement agency has determined that the suspect poses an imminent threat to the public or other law enforcement personnel.

(c) A detailed description of the suspect's vehicle or license plate is available for broadcast.

(d) Public dissemination of available information may help avert further harm or accelerate apprehension of the suspect.

333.5.2 PROCEDURE FOR BLUE ALERT

The supervisor in charge should ensure the following:

(a) An initial press release is prepared that includes all available information that might aid in locating the suspect:

1. The license number and/or any other available description or photograph of the vehicle
2. Photograph, description and/or identification of the suspect
3. The suspect's identity, age and description, if known
4. Detail regarding location of incident, direction of travel, potential destinations, if known
5. Name and telephone number of the Public Information Officer or other authorized individual to handle media liaison
6. A telephone number for the public to call with leads or information

(b) The local California Highway Patrol communications center is contacted to initiate a multi-regional or statewide EAS broadcast.

(c) The information in the press release is forwarded to the Sheriff's Department Emergency Communications Bureau so that general broadcasts can be made to local law enforcement agencies.

(d) The following resources should be considered as circumstances dictate:

1. Entry into the California Law Enforcement Telecommunication System (CLETS)
2. The FBI local office

## 333.6 SILVER ALERTS

Silver Alerts® is an emergency notification system for people who are 65 years of age or older, developmentally disabled or cognitively impaired and have been reported missing (Government Code § 8594.10).

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

333.6.1 CRITERIA FOR SILVER ALERTS

All of the following conditions must be met before activating a Silver Alert (Government Code § 8594.10):

(a) The missing person is 65 years of age or older, developmentally disabled or cognitively impaired.

(b) The department has utilized all available local resources.

(c) The investigating officer or supervisor has determined that the person is missing under unexplained or suspicious circumstances.

(d) The investigating officer or supervisor believes that the person is in danger because of age, health, mental or physical disability, environment or weather conditions, that the person is in the company of a potentially dangerous person, or that there are other factors indicating that the person may be in peril.

(e) There is information available that, if disseminated to the public, could assist in the safe recovery of the missing person.

333.6.2 PROCEDURE FOR SILVER ALERT

Requests for a Silver Alert shall be made through the California Highway Patrol (Government Code § 8594.10).

## 333.7 MUTUAL AID

The experiences of other law enforcement jurisdictions that have implemented similar plans indicate a public alert will generate a high volume of telephone calls to the handling agency.

The Sheriff's Department emergency communications facilities and staff can be made available in the event of a high call volume.

If the Watch Commander or Investigative Bureau Supervisor elects to use the services of the Sheriff's Department, the following will apply:

(a) Notify the Sheriff's Department Watch Commander of the incident and the request for assistance. He/she will provide you with a telephone number for the public to call.

(b) In the press release, direct the public to the telephone number provided by the Sheriff's Department Watch Commander.

(c) The Public Information Officer will continue to handle all press releases and media inquiries. Any press inquiries received by the Sheriff's Department will be referred back to this department.

The Brentwood Police Department shall assign a minimum of two detectives/officers to respond to the Sheriff's Department emergency communications facility to screen and relay information and any clues received from incoming calls. As circumstances dictate, more staff resources from the handling law enforcement agency may be necessary to assist the staff at the emergency communications facility.

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

## 333.8 ADDITIONAL ALERTS FOR PUBLIC SAFETY EMERGENCIES

Additional public safety emergency alerts may be authorized that utilize wireless emergency alert system (WEA) and emergency alert system (EAS) equipment for alerting and warning the public to protect lives and save property (Government Code § 8593.7).

### 333.8.1 PROCEDURE

Public safety emergency alerts should be activated by following the guidelines issued by the Office of Emergency Services (Government Code § 8593.7).

### 333.8.2 CRITERIA

Public safety emergency alerts may be issued to alert or warn the public about events including but not limited to:

(a) Evacuation orders (including evacuation routes, shelter information, key information).

(b) Shelter-in-place guidance due to severe weather.

(c) Terrorist threats.

(d) HazMat incidents.

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

# Victim and Witness Assistance

## 335.1 PURPOSE AND SCOPE

The purpose of this policy is to ensure that crime victims and witnesses receive appropriate assistance, that they are provided with information from government and private resources, and that the agency meets all related legal mandates.

## 335.2 POLICY

The Brentwood Police Department is committed to providing guidance and assistance to the victims and witnesses of crime. The members of the Brentwood Police Department will show compassion and understanding for victims and witnesses and will make reasonable efforts to provide the support and information identified in this policy.

## 335.3 CRIME VICTIM LIAISON

The Chief of Police shall appoint a member of the Department to serve as the crime victim liaison (2 CCR 649.36). The crime victim liaison will be the point of contact for individuals requiring further assistance or information from the Brentwood Police Department regarding benefits from crime victim resources. This person shall also be responsible for maintaining compliance with all legal mandates related to crime victims and/or witnesses.

### 335.3.1 CRIME VICTIM LIAISON DUTIES

The crime victim liaison is specifically tasked with the following:

(a) Developing and implementing written procedures for notifying and providing forms for filing with the California Victim Compensation Board (CalVCB) to crime victims, their dependents, or family. Access to information or an application for victim compensation shall not be denied based on the victim's or derivative victim's designation as a gang member, associate, or affiliate, or on the person's documentation or immigration status (Government Code § 13962; 2 CCR 649.35; 2 CCR 649.36).

(b) Responding to inquiries concerning the procedures for filing a claim with CalVCB (2 CCR 649.36).

(c) Providing copies of crime reports requested by CalVCB or victim witness assistance centers. Disclosure of reports must comply with the Records Maintenance and Release Policy.

(d) Annually providing CalVCB with his/her contact information (Government Code § 13962).

(e) Developing in consultation with sexual assault experts a sexual assault victim card explaining the rights of victims under California law (Penal Code § 680.2).

    1. Ensuring that sufficient copies of the rights of sexual assault victim card are provided to each provider of medical evidentiary examinations or physical examinations arising out of sexual assault in the Brentwood Police Department jurisdiction (Penal Code § 680.2).

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

## 335.4 CRIME VICTIMS

Officers should provide all victims with the applicable victim information handouts.

Officers should never guarantee a victim's safety from future harm but may make practical safety suggestions to victims who express fear of future harm or retaliation. Officers should never guarantee that a person qualifies as a victim for the purpose of compensation or restitution but may direct him/her to the proper written department material or available victim resources.

### 335.4.1 VICTIMS OF HUMAN TRAFFICKING

Officers investigating or receiving a report involving a victim of human trafficking shall inform the victim, or the victim's parent or guardian if the victim is a minor, that upon the request of the victim the names and images of the victim and his/her immediate family members may be withheld from becoming a matter of public record until the conclusion of the investigation or prosecution (Penal Code § 293).

## 335.5 VICTIM INFORMATION

The Administration Supervisor shall ensure that victim information handouts are available and current. These should include as appropriate:

(a) Shelters and other community resources for victims of domestic violence.

(b) Community resources for victims of sexual assault.

(c) Assurance that sexual assault victims will not incur out-of-pocket expenses for forensic medical exams, and information about evidence collection, storage, and preservation in sexual assault cases (34 USC § 10449; 34 USC § 20109; Penal Code § 13823.95(a)).

(d) An explanation that victims of sexual assault who seek a standardized medical evidentiary examination shall not be required to participate or agree to participate in the criminal justice system, either prior to the examination or at any other time (Penal Code § 13823.95(b)).

(e) An advisement that a person who was arrested may be released on bond or some other form of release and that the victim should not rely upon an arrest as a guarantee of safety.

(f) A clear explanation of relevant court orders and how they can be obtained.

(g) Information regarding available compensation for qualifying victims of crime (Government Code § 13962).

(h) VINE® information (Victim Information and Notification Everyday), including the telephone number and whether this free service is available to allow victims to check on an offender's custody status and to register for automatic notification when a person is released from jail.

(i) Notice regarding U visa and T visa application processes.

(j) Resources available for victims of identity theft.

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

(k) A place for the officer's name, badge number, and any applicable case or incident number.

(l) The "Victims of Domestic Violence" card containing the names, phone numbers, or local county hotlines of local shelters for battered women and rape victim counseling centers within the county and their 24-hour counseling service telephone numbers (Penal Code § 264.2).

(m) The rights of sexual assault victims card with the required information as provided in Penal Code § 680.2.

(n) Any additional information required by state law (Penal Code § 13701; Penal Code § 679.02; Penal Code § 679.04; Penal Code § 679.05; Penal Code § 679.026).

### 335.6 WITNESSES

Officers should never guarantee a witness' safety from future harm or that his/her identity will always remain confidential. Officers may make practical safety suggestions to witnesses who express fear of future harm or retaliation.

Officers should investigate allegations of witness intimidation and take enforcement action when lawful and reasonable.

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

# Hate Crimes

## 337.1 POLICY

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

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

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

## 337.2 PURPOSE AND SCOPE

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

### 337.2.1 DEFINITION AND LAWS

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

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

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

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

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

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

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

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

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

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

(a) Disability

(b) Gender

(c) Nationality

(d) Race or ethnicity

(e) Religion

(f) Sexual orientation

(g) Association with a person or group with one or more of these actual or perceived characteristics:

1. “Association with a person or group with these actual or perceived characteristics" includes advocacy for, identification with, or being on the ground

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

owned or rented by, or adjacent to, any of the following: a community center, educational facility, family, individual, office, meeting hall, place of worship, private institution, public agency, library, or other entity, group, or person that has, or is identified with people who have, one or more of those characteristics listed in the definition of “hate crime” under paragraphs 1 to 6, inclusive, of Penal Code § 422.55(a).

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

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

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

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

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

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

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

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

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

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

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

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

- Community center
- Educational facility
- Entity
- Family
- Group
- Individual
- Office
- Meeting hall
- Person
- Place of worship
- Private institution
- Public agency
- Library
- Other victim or intended victim of the offense

## 337.3 PLANNING AND PREVENTION

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

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

### 337.3.1 HATE CRIMES COORDINATOR

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

(a) Meeting with residents in target communities to allay fears; emphasizing the department's concern over hate crimes and related incidents; reducing the potential for counter-violence; and providing safety, security, and crime-prevention information. Cultural diversity education and immersion programs (if available) could facilitate this process.

(b) Finding, evaluating, and monitoring public social media sources to identify possible suspects in reported hate crimes; to identify suspects or suspect groups in future hate

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

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

(c) Providing direct and referral assistance to the victim and the victim's family.

(d) Conducting public meetings on hate crime threats and violence in general.

(e) Establishing relationships with formal community-based organizations and leaders.

(f) Expanding, where appropriate, preventive programs such as hate, bias, and crime-reduction seminars for students.

(g) Reviewing the Attorney General's latest opinion on hate crime statistics and targets in order to prepare and plan for future crimes, specifically for Arab/Middle Eastern and Muslim communities (Penal Code § 13519.6(b)(8)).

(h) Providing orientation of and with communities of specific targeted victims such as immigrants, Muslims, Arabs, LGBTQ, black or African-American, Jewish, Sikh, and persons with disabilities.

(i) Coordinating with the Training Manager to include in a training plan recognition of hate crime bias characteristics, including information on general underreporting of hate crimes.

(j) Verifying a process is in place to provide this policy and related orders to officers in the field; and taking reasonable steps to rectify the situation if such a process is not in place.

(k) Taking reasonable steps to ensure hate crime data is provided to the Records Bureau for mandated reporting to the Department of Justice.

(l) Reporting any suspected multi-mission extremist crimes to the agency Terrorism Liaison Officer, the assigned designee, or other appropriate resource; and verifying that such data is transmitted to the Joint Regional Information Exchange System in accordance with the protocols of the Records Bureau Policy.

(m) Maintaining the department's supply of up-to-date hate crimes brochures (Penal Code § 422.92; Penal Code § 422.87).

(n) Annually assessing this policy, including:

1. Keeping abreast of the Commission on Peace Officer Standards and Training (POST) model policy framework for hate crimes for revisions or additions, including definitions, responsibilities, training resources, and planning and prevention methods.

2. Analysis of the department's data collection as well as the available outside data (e.g., annual California Attorney General's report on hate crime) in preparation for and response to future hate crimes.

### 337.3.2 RELEASE OF INFORMATION

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

The benefit of public disclosure of hate crime incidents includes:

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

(a) Dissemination of correct information.

(b) Assurance to affected communities or groups that the matter is being properly and promptly investigated.

(c) The ability to request information regarding the commission of the crimes from the victimized community.

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

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

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

## 337.4 RESPONSE, VICTIM ASSISTANCE, AND FOLLOW-UP

### 337.4.1 INITIAL RESPONSE

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

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

(a) Use agency checklist (per Penal Code § 422.87) to assist in the investigation of any hate crime (see Appendix).

(b) Stabilize the victims and request medical attention when necessary.

(c) Properly protect the safety of victims, witnesses, and perpetrators.

1. Assist victims in seeking a Temporary Restraining Order (if applicable).

(d) Notify other appropriate personnel in the chain of command, depending on the nature and seriousness of the offense and its potential inflammatory and related impact on the community.

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

(e) Properly protect, preserve, and process the crime scene, and remove all physical evidence of the incident as soon as possible after the offense is documented. If evidence of an inflammatory nature cannot be physically removed, the property owner should be contacted to facilitate removal or covering as soon as reasonably possible. Department personnel should follow up with the property owner to determine if this was accomplished in a timely manner.

(f) Collect and photograph physical evidence or indicators of hate crimes such as:

1. Hate literature.
2. Spray paint cans.
3. Threatening letters.
4. Symbols used by hate groups.

(g) Identify criminal evidence on the victim.

(h) Request the assistance of translators or interpreters when needed to establish effective communication with witnesses, victims, or others as appropriate.

(i) Conduct a preliminary investigation and record pertinent information including but not limited to:

1. Identity of suspected perpetrators.
2. Identity of witnesses, including those no longer at the scene.
3. The offer of victim confidentiality per Government Code § 6254.
4. Prior occurrences in this area or with this victim.
5. Statements made by suspects; exact wording is critical.
6. The victim's protected characteristics and determine if bias was a motivation “in whole or in part” in the commission of the crime.

(j) Adhere to Penal Code § 422.93, which protects hate crime victims and witnesses from being reported to federal immigration authorities if they have not committed any crime under state law.

(k) Provide information regarding immigration remedies available to victims of crime (e.g., U-Visa, T-Visa, S-Visa).

(l) Provide the department’s Hate Crimes Brochure (per Penal Code § 422.92) if asked, if necessary, or per policy.

(m) Utilize proper techniques for interviewing people with disabilities and be aware of and provide appropriate accommodations (e.g., ADA standards, Braille, visuals, translators for the deaf or hard of hearing).

(n) Document any suspected multi-mission extremist crimes.

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

### 337.4.2 INVESTIGATION

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

(a) Consider typologies of perpetrators of hate crimes and incidents, including but not limited to thrill, reactive/defensive, and mission (hard core).

(b) Utilize investigative techniques and methods to handle hate crimes or hate incidents in a professional manner.

(c) Utilize proper techniques for interviewing people with disabilities and be aware of and provide appropriate accommodations (e.g., ADA standards, Braille, visuals, translators for the deaf or hard of hearing).

(d) Properly investigate any report of a hate crime committed under the color of authority per Penal Code § 422.6 and Penal Code § 13519.6.

(e) Document physical evidence or indicators of hate crimes, in accordance with the provisions of the Property and Evidence Policy, such as:

1. Hate literature.
2. Spray paint cans.
3. Threatening letters.
4. Symbols used by hate groups.
5. Desecration of religious symbols, objects, or buildings.

(f) Request the assistance of translators or interpreters when needed to establish effective communication.

(g) Conduct a preliminary investigation and record information regarding:

1. Identity of suspected perpetrators.
2. Identity of witnesses, including those no longer at the scene.
3. Offer of victim confidentiality per Government Code § 6254.
4. Prior occurrences, in this area or with this victim.
5. Statements made by suspects; exact wording is critical.
6. Document the victim’s protected characteristics.

(h) Provide victim assistance and follow-up.

(i) Canvass the area for additional witnesses.

(j) Examine suspect’s social media activity for potential evidence of bias motivation.

(k) Coordinate the investigation with department, state, and regional intelligence operations. These sources can provide the investigator with an analysis of any patterns, organized hate groups, and suspects potentially involved in the offense.

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

(l) Coordinate the investigation with the crime scene investigation unit (if applicable) or other appropriate units of the Department.

(m) Determine if the incident should be classified as a hate crime.

(n) Take reasonable steps to provide appropriate assistance to hate crime victims, including the following measures:

1. Contact victims periodically to determine whether they are receiving adequate and appropriate assistance.
2. Provide ongoing information to victims about the status of the criminal investigation.
3. Provide victims and any other interested persons the brochure on hate crimes per Penal Code § 422.92 and information on any local advocacy groups (if asked).

(o) Document any suspected multi-mission extremist crimes.

(p) Coordinate with other law enforcement agencies in the area to assess patterns of hate crimes and/or hate incidents, and determine if organized hate groups are involved.

337.4.3 SUPERVISION

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

(a) Provide immediate assistance to the crime victim by:

1. Expressing the department's official position on the importance of these cases and the measures that will be taken to apprehend the perpetrators.
2. Expressing the department's interest in protecting victims' anonymity (confidentiality forms, Government Code § 6254) to the extent reasonably possible. Allow the victims to convey their immediate concerns and feelings.
3. Identifying individuals or agencies that may provide victim assistance and support. Local victim assistance resources may include family members or close acquaintances, clergy, or a department chaplain, as well as community service agencies that provide shelter, food, clothing, child care, or other related services (per Penal Code § 422.92).

(b) Take reasonable steps to ensure that all relevant facts are documented on an incident and/or arrest report and make an initial determination as to whether the incident should be classified as a hate crime for federal and state bias-crimes reporting purposes.

(c) Notify other appropriate personnel in the chain of command, depending on the nature and seriousness of the offense and its potential inflammatory and related impact on the community.

(d) In cases of large-scale hate crime waves, or in circumstances where the potential exists for subsequent hate crimes or incidents, consider directing resources to protect vulnerable sites (such as assigning an officer to specific locations that could become targets).

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

(e) Verify hate crimes are being properly reported, including reporting to the Department of Justice, pursuant to Penal Code § 13023.

(f) Verify adherence to Penal Code § 422.93, which protects hate crime victims and witnesses from being reported to federal immigration authorities if they have not committed any crime under state law. Supervisors should also be aware of the immigration remedies available to victims of crime (e.g., U-Visa, T-Visa, S-Visa).

(g) Respond to and properly initiate an investigation of any reports of hate crimes committed under the color of authority.

(h) Provide appropriate assistance, including activating the California Department of Justice hate crime rapid response protocol if necessary. For additional information refer to the California Department of Justice website.

(i) Verify reporting of any suspected multi-mission extremist crimes to the agency Hate Crimes Coordinator.

(j) Make a final determination as to whether the incident should be classified as a hate crime and forward to the Chief of Police for approval.

## 337.5 TRAINING

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

(a) Recognition of bias motivators such as ranges of attitudes and perceptions toward a specific characteristic or group, including disability bias and gender bias.

(b) Accurate reporting by officers, including information on the general underreporting of hate crimes.

(c) Distribution of hate crime brochures.

## 337.6 APPENDIX

See attachments:

Statutes and Legal Requirements.pdf

Hate Crime Checklist.pdf

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

# Standards of Conduct

## 339.1 PURPOSE AND SCOPE

This policy establishes standards of conduct that are consistent with the values and mission of the Brentwood Police Department and are expected of all department members. The standards contained in this policy are not intended to be an exhaustive list of requirements and prohibitions but they do identify many of the important matters concerning conduct. In addition to the provisions of this policy, members are subject to all other provisions contained in this manual, as well as any additional guidance on conduct that may be disseminated by this department or a member's supervisors.

## 339.2 POLICY

The continued employment or appointment of every member of the Brentwood Police Department shall be based on conduct that reasonably conforms to the guidelines set forth herein. Failure to meet the guidelines set forth in this policy, whether on- or off-duty, may be cause for disciplinary action.

## 339.3 DIRECTIVES AND ORDERS

Members shall comply with lawful directives and orders from any department supervisor or person in a position of authority, absent a reasonable and bona fide justification.

### 339.3.1 UNLAWFUL OR CONFLICTING ORDERS

Supervisors shall not knowingly issue orders or directives that, if carried out, would result in a violation of any law or department policy. Supervisors should not issue orders that conflict with any previous order without making reasonable clarification that the new order is intended to countermand the earlier order.

No member is required to obey any order that appears to be in direct conflict with any federal law, state law or local ordinance. Following a known unlawful order is not a defense and does not relieve the member from criminal or civil prosecution or administrative discipline. If the legality of an order is in doubt, the affected member shall ask the issuing supervisor to clarify the order or shall confer with a higher authority. The responsibility for refusal to obey rests with the member, who shall subsequently be required to justify the refusal.

Unless it would jeopardize the safety of any individual, members who are presented with a lawful order that is in conflict with a previous lawful order, department policy or other directive shall respectfully inform the issuing supervisor of the conflict. The issuing supervisor is responsible for either resolving the conflict or clarifying that the lawful order is intended to countermand the previous lawful order or directive, in which case the member is obliged to comply. Members who are compelled to follow a conflicting lawful order after having given the issuing supervisor the opportunity to correct the conflict, will not be held accountable for disobedience of the lawful order or directive that was initially issued.

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

The person countermanding the original order shall notify, in writing, the person issuing the original order, indicating the action taken and the reason.

339.3.2 SUPERVISOR RESPONSIBILITIES
Supervisors and managers are required to follow all policies and procedures and may be subject to discipline for:

(a) Failure to be reasonably aware of the performance of their subordinates or to provide appropriate guidance and control.

(b) Failure to promptly and fully report any known misconduct of a member to his/her immediate supervisor or to document such misconduct appropriately or as required by policy.

(c) Directing a subordinate to violate a policy or directive, acquiesce to such a violation, or are indifferent to any such violation by a subordinate.

(d) The unequal or disparate exercise of authority on the part of a supervisor toward any member for malicious or other improper purpose.

## 339.4 GENERAL STANDARDS

Members shall conduct themselves, whether on- or off-duty, in accordance with the United States and California constitutions and all applicable laws, ordinances, and rules enacted or established pursuant to legal authority.

Members shall familiarize themselves with policies and procedures and are responsible for compliance with each. Members should seek clarification and guidance from supervisors in the event of any perceived ambiguity or uncertainty.

Discipline may be initiated for any good cause. It is not mandatory that a specific policy or rule violation be cited to sustain discipline. This policy is not intended to cover every possible type of misconduct.

## 339.5 CAUSES FOR DISCIPLINE

The following are illustrative of causes for disciplinary action. This list is not intended to cover every possible type of misconduct and does not preclude the recommendation of disciplinary action for violation of other rules, standards, ethics and specific action or inaction that is detrimental to efficient department service:

339.5.1 LAWS, RULES AND ORDERS

(a) Violation of, or ordering or instructing a subordinate to violate any policy, procedure, rule, order, directive, requirement or failure to follow instructions contained in department or City manuals.

(b) Disobedience of any legal directive or order issued by any department member of a higher rank.

(c) Violation of federal, state, local or administrative laws, rules or regulations.

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

### 339.5.2 ETHICS

(a) Using or disclosing one's status as a member of the Brentwood Police Department in any way that could reasonably be perceived as an attempt to gain influence or authority for non-department business or activity.

(b) The wrongful or unlawful exercise of authority on the part of any member for malicious purpose, personal gain, willful deceit or any other improper purpose.

(c) The receipt or acceptance of a reward, fee or gift from any person for service incident to the performance of the member's duties (lawful subpoena fees and authorized work permits excepted).

(d) Acceptance of fees, gifts or money contrary to the rules of this department and/or laws of the state.

(e) Offer or acceptance of a bribe or gratuity.

(f) Misappropriation or misuse of public funds, property, personnel or services.

(g) Any other failure to abide by the standards of ethical conduct.

### 339.5.3 DISCRIMINATION, OPPRESSION, OR FAVORITISM

Unless required by law or policy, discriminating against, oppressing, or providing favoritism to any person because of actual or perceived characteristics such as race, ethnicity, national origin, religion, sex, sexual orientation, gender identity or expression, age, disability, economic status, cultural group, veteran status, marital status, and any other classification or status protected by law, or intentionally denying or impeding another in the exercise or enjoyment of any right, privilege, power, or immunity, knowing the conduct is unlawful.

### 339.5.4 RELATIONSHIPS

(a) Unwelcome solicitation of a personal or sexual relationship while on-duty or through the use of one's official capacity.

(b) Engaging in on-duty sexual activity including, but not limited to, sexual intercourse, excessive displays of public affection or other sexual contact.

(c) Establishing or maintaining an inappropriate personal or financial relationship, as a result of an investigation, with a known victim, witness, suspect or defendant while a case is being investigated or prosecuted, or as a direct result of any official contact.

(d) Associating with or joining a criminal gang, organized crime and/or criminal syndicate when the member knows or reasonably should know of the criminal nature of the organization. This includes any organization involved in a definable criminal activity or enterprise, except as specifically directed and authorized by this department.

(e) Associating on a personal, rather than official basis with persons who demonstrate recurring involvement in serious violations of state or federal laws after the member knows, or reasonably should know of such criminal activities, except as specifically directed and authorized by this department.

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

### 339.5.5 ATTENDANCE

(a) Leaving the job to which the member is assigned during duty hours without reasonable excuse and proper permission and approval.

(b) Unexcused or unauthorized absence or tardiness.

(c) Excessive absenteeism or abuse of leave privileges.

(d) Failure to report to work or to the place of assignment at the time specified and fully prepared to perform duties without reasonable excuse.

### 339.5.6 UNAUTHORIZED ACCESS, DISCLOSURE, OR USE

(a) Unauthorized and inappropriate intentional release of confidential or protected information, materials, data, forms, or reports obtained as a result of the member's position with this department.

  (a) Members of this department shall not disclose the name, address, or image of any victim of human trafficking except as authorized by law (Penal Code § 293).

(b) Disclosing to any unauthorized person any active investigation information.

(c) The use of any information, photograph, video, or other recording obtained or accessed as a result of employment or appointment to this department for personal or financial gain or without the express authorization of the Chief of Police or the authorized designee.

(d) Loaning, selling, allowing unauthorized use, giving away, or appropriating any department property for personal use, personal gain, or any other improper or unauthorized use or purpose.

(e) Using department resources in association with any portion of an independent civil action. These resources include but are not limited to personnel, vehicles, equipment, and non-subpoenaed records.

### 339.5.7 EFFICIENCY

(a) Neglect of duty.

(b) Unsatisfactory work performance including but not limited to failure, incompetence, inefficiency, or delay in performing and/or carrying out proper orders, work assignments, or the instructions of supervisors without a reasonable and bona fide excuse.

(c) Concealing, attempting to conceal, removing, or destroying defective or incompetent work.

(d) Unauthorized sleeping during on-duty time or assignments.

(e) Failure to notify the Department within 24 hours of any change in residence address or contact numbers.

(f) Failure to notify the Department of Human Resources of changes in relevant personal information (e.g., information associated with benefits determination) in a timely fashion.

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

339.5.8 PERFORMANCE

(a) Failure to disclose or misrepresenting material facts, or making any false or misleading statement on any application, examination form, or other official document, report or form, or during the course of any work-related investigation.

(b) The falsification of any work-related records, making misleading entries or statements with the intent to deceive or the willful and unauthorized removal, alteration, destruction and/or mutilation of any department record, public record, book, paper or document.

(c) Failure to participate in, or giving false or misleading statements, or misrepresenting or omitting material information to a supervisor or other person in a position of authority, in connection with any investigation or in the reporting of any department -related business.

(d) Being untruthful or knowingly making false, misleading or malicious statements that are reasonably calculated to harm the reputation, authority or official standing of this department or its members.

(e) Disparaging remarks or conduct concerning duly constituted authority to the extent that such conduct disrupts the efficiency of this department or subverts the good order, efficiency and discipline of this department or that would tend to discredit any of its members.

(f) Unlawful gambling or unlawful betting at any time or any place. Legal gambling or betting under any of the following conditions:

1. While on department premises.
2. At any work site, while on-duty or while in uniform, or while using any department equipment or system.
3. Gambling activity undertaken as part of an officer official duties and with the express knowledge and permission of a direct supervisor is exempt from this prohibition.

(g) Improper political activity including:

1. Unauthorized attendance while on-duty at official legislative or political sessions.
2. Solicitations, speeches or distribution of campaign literature for or against any political candidate or position while on-duty or, on department property except as expressly authorized by City policy, the memorandum of understanding, or the Chief of Police.

(h) Engaging in political activities during assigned working hours except as expressly authorized by City policy, the memorandum of understanding, or the Chief of Police.

(i) Any act on- or off-duty that brings discredit to this department.

339.5.9 CONDUCT

(a) Failure of any member to promptly and fully report activities on his/her part or the part of any other member where such activities resulted in contact with any other law

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

enforcement agency or that may result in criminal prosecution or discipline under this policy.

(b) Unreasonable and unwarranted force to a person encountered or a person under arrest.

(c) Exceeding lawful peace officer powers by unreasonable, unlawful or excessive conduct.

(d) Unauthorized or unlawful fighting, threatening or attempting to inflict unlawful bodily harm on another.

(e) Engaging in horseplay that reasonably could result in injury or property damage.

(f) Discourteous, disrespectful or discriminatory treatment of any member of the public or any member of this department or the City.

(g) Use of obscene, indecent, profane or derogatory language while on-duty or in uniform.

(h) Criminal, dishonest, or disgraceful conduct, whether on- or off-duty, that adversely affects the member's relationship with this department.

(i) Unauthorized possession of, loss of, or damage to department property or the property of others, or endangering it through carelessness or maliciousness.

(j) Attempted or actual theft of department property; misappropriation or misuse of public funds, property, personnel or the services or property of others; unauthorized removal or possession of department property or the property of another person.

(k) Activity that is incompatible with a member's conditions of employment or appointment as established by law or that violates a provision of any memorandum of understanding or contract to include fraud in securing the appointment or hire.

(l) Initiating any civil action for recovery of any damages or injuries incurred in the course and scope of employment or appointment without first notifying the Chief of Police of such action.

(m) Any other on- or off-duty conduct which any member knows or reasonably should know is unbecoming a member of this department, is contrary to good order, efficiency or morale, or tends to reflect unfavorably upon this department or its members.

339.5.10 SAFETY

(a) Failure to observe or violating department safety standards or safe working practices.

(b) Failure to maintain current licenses or certifications required for the assignment or position (e.g., driver license, first aid).

(c) Failure to maintain good physical condition sufficient to adequately and safely perform law enforcement duties.

(d) Unsafe firearm or other dangerous weapon handling to include loading or unloading firearms in an unsafe manner, either on- or off- duty.

(e) Carrying, while on the premises of the work place, any firearm or other lethal weapon that is not authorized by the member's appointing authority.

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

(f) Unsafe or improper driving habits or actions in the course of employment or appointment.

(g) Any personal action contributing to a preventable traffic collision.

(h) Concealing or knowingly failing to report any on-the-job or work-related accident or injury as soon as practicable but within 24 hours.

339.5.11 INTOXICANTS

(a) Reporting for work or being at work while intoxicated or when the member's ability to perform assigned duties is impaired due to the use of alcohol, medication or drugs, whether legal, prescribed or illegal.

(b) Possession or use of alcohol at any work site or while on-duty, except as authorized in the performance of an official assignment. A member who is authorized to consume alcohol is not permitted to do so to such a degree that it may impair on-duty performance.

(c) Unauthorized possession, use of, or attempting to bring a controlled substance, illegal drug or non-prescribed medication to any work site.

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

# Information Technology Use

## 341.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidelines for the proper use of department information technology resources, including computers, electronic devices, hardware, software and systems.

### 341.1.1 DEFINITIONS

Definitions related to this policy include:

**Computer system** - All computers (on-site and portable), electronic devices, hardware, software, and resources owned, leased, rented or licensed by the Brentwood Police Department that are provided for official use by its members. This includes all access to, and use of, Internet Service Providers (ISP) or other service providers provided by or through the Department or department funding.

**Hardware** - Includes, but is not limited to, computers, computer terminals, network equipment, electronic devices, telephones, including cellular and satellite, pagers, modems or any other tangible computer device generally understood to comprise hardware.

**Software** - Includes, but is not limited to, all computer programs, systems and applications, including shareware. This does not include files created by the individual user.

**Temporary file, permanent file or file** - Any electronic document, information or data residing or located, in whole or in part, on the system including, but not limited to, spreadsheets, calendar entries, appointments, tasks, notes, letters, reports, messages, photographs or videos.

## 341.2 POLICY

It is the policy of the Brentwood Police Department that members shall use information technology resources, including computers, software and systems, that are issued or maintained by the Department in a professional manner and in accordance with this policy.

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

# Report Preparation

## 343.1 PURPOSE AND SCOPE

Report preparation is a major part of each officer's job. The purpose of reports is to document sufficient information to refresh the officer's memory and to provide sufficient information for follow-up investigation and successful prosecution. Report writing is the subject of substantial formalized training and on-the-job training.

### 343.1.1 REPORT PREPARATION

Employees should ensure that reports are sufficiently detailed for their purpose and free from errors prior to submission. It is the responsibility of the assigned employee to complete and submit all reports taken during the shift before going off-duty unless permission to hold the report has been approved by a supervisor. Generally, reports requiring prompt follow-up action on active leads, or arrest reports where the suspect remains in custody should not be held.

Handwritten reports must be prepared legibly. If the report is not legible, the submitting employee will be required by the reviewing supervisor to promptly make corrections and resubmit the report. Employees who dictate reports shall use appropriate grammar, as content is not the responsibility of the typist. Employees who generate reports on computers are subject to all requirements of this policy.

All reports shall accurately reflect the identity of the persons involved, all pertinent information seen, heard or assimilated by any other sense, and any actions taken. Employees shall not suppress, conceal or distort the facts of any reported incident, nor shall any employee make a false report orally or in writing. Generally, the reporting employee's opinions should not be included in reports unless specifically identified as such.

## 343.2 REQUIRED REPORTING

Written reports are required in all of the following situations on the appropriate department approved form unless otherwise approved by a supervisor.

### 343.2.1 CRIMINAL ACTIVITY REPORTING

When an employee responds to a call for service, or as a result of self-initiated activity becomes aware of any activity where a crime has occurred, the employee is required to document the activity. The fact that a victim is not desirous of prosecution is not an exception to documenting a report. The following are examples of required documentation:

(a) In every instance where a felony has occurred, the documentation shall take the form of a written crime report

(b) In every instance where a misdemeanor crime has occurred, the documentation shall take the form of a written crime report.

(c) In every case where any force is used against any person by police personnel

(d) All incidents involving domestic violence

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

(e) All arrests

343.2.2 NON-CRIMINAL ACTIVITY

The following incidents shall be documented using the appropriate approved report:

(a) Anytime an officer points a firearm at any person

(b) Any use of force against any person by a member of this department (see the Use of Force Policy)

(c) Any firearm discharge (see the Firearms Policy)

(d) Anytime a person is reported missing, regardless of jurisdiction (see the Missing Persons Policy)

(e) Any found property or found evidence

(f) Any traffic collisions above the minimum reporting level (see Traffic Collision Reporting Policy)

(g) Suspicious incidents that may indicate a potential for crimes against children or that a child's safety is in jeopardy

(h) All protective custody detentions

(i) Suspicious incidents that may place the public or others at risk

(j) Whenever the employee believes the circumstances should be documented or at the direction of a supervisor

343.2.3 DEATH CASES

Death investigations require specific investigation methods depending on circumstances and should be handled in accordance with the Death Investigations Policy. The handling officer should notify and apprise a supervisor of the circumstances surrounding the incident to determine how to proceed. The following cases shall be appropriately investigated and documented using the approved report:

(a) Sudden or accidental deaths.

(b) Suicides.

(c) Homicide or suspected homicide.

(d) Unattended deaths (No physician or qualified hospice care in the 20 days preceding death).

(e) Found dead bodies or body parts.

343.2.4 INJURY OR DAMAGE BY CITY PERSONNEL

Reports shall be taken if an injury occurs that is a result of an act of a City employee. Additionally, reports shall be taken involving damage to City property or City equipment.

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

343.2.5 MISCELLANEOUS INJURIES
Any injury that is reported to this department shall require a report when:

(a) The injury is a result of drug overdose

(b) Attempted suicide

(c) The injury is major/serious, whereas death could result

(d) The circumstances surrounding the incident are suspicious in nature and it is desirable to record the event

The above reporting requirements are not intended to be all-inclusive. A supervisor may direct an employee to document any incident he/she deems necessary.

343.2.6 MANDATORY REPORTING OF JUVENILE GUNSHOT INJURIES
A report shall be taken when any incident in which a child 18 years or younger suffered an unintentional or self-inflicted gunshot wound. The Records Bureau shall notify the California Department of Public Health (CDPH) of the incident, on a form provided by the state. Forms may be obtained from the CDPH website (Penal Code § 23685).

## 343.3 GENERAL POLICY OF EXPEDITIOUS REPORTING
In general, all officers and supervisors shall act with promptness and efficiency in the preparation and processing of all reports. An incomplete report, unorganized reports or reports delayed without supervisory approval are not acceptable. Reports shall be processed according to established priorities or according to special priority necessary under exceptional circumstances.

343.3.1 GENERAL POLICY OF HANDWRITTEN REPORTS

343.3.2 GENERAL USE OF OTHER HANDWRITTEN FORMS
County, state and federal agency forms may be block printed as appropriate. In general, the form itself may make the requirement for typing apparent.

## 343.4 REPORT CORRECTIONS
Supervisors shall review reports for content and accuracy. If a correction is necessary, the reviewing supervisor should complete the Report Correction form stating the reasons for rejection. The original report and the correction form should be returned to the reporting employee for correction as soon as practical. It shall be the responsibility of the originating officer to ensure that any report returned for correction is processed in a timely manner.

## 343.5 REPORT CHANGES OR ALTERATIONS
Reports that have been approved by a supervisor and submitted to the Records Bureau for filing and distribution shall not be modified or altered except by way of a supplemental report. Reviewed reports that have not yet been submitted to the Records Bureau may be corrected or modified by the authoring officer only with the knowledge and authorization of the reviewing supervisor.

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

# Media Relations

## 345.1 PURPOSE AND SCOPE

This policy provides guidelines for media releases and media access to scenes of disasters, criminal investigations, emergencies and other law enforcement activities.

## 345.2 RESPONSIBILITIES

The ultimate authority and responsibility for the release of information to the media shall remain with the Chief of Police, however, in situations not warranting immediate notice to the Chief of Police and in situations where the Chief of Police has given prior approval, Division Commanders, Watch Commanders and designated Public Information Officer(s) may prepare and release information to the media in accordance with this policy and the applicable law.

### 345.2.1 MEDIA REQUEST

Any media request for information or access to a law enforcement situation shall be referred to the designated department media representative, or if unavailable, to the first available supervisor. Prior to releasing any information to the media, employees shall consider the following:

(a) At no time shall any employee of this department make any comment or release any official information to the media without prior approval from a supervisor or the designated department media representative.

(b) In situations involving multiple law enforcement agencies, every reasonable effort should be made to coordinate media releases with the authorized representative of each involved agency prior to the release of any information by this department.

(c) Under no circumstance should any member of this department make any comments to the media regarding any law enforcement incident not involving this department without prior approval of the Chief of Police.

## 345.3 MEDIA ACCESS

Authorized members of the media shall be provided access to scenes of disasters, criminal investigations, emergencies and other law enforcement activities subject to the following conditions (Penal Code § 409.5(d)):

(a) The media representative shall produce valid press credentials that shall be prominently displayed at all times while in areas otherwise closed to the public.

(b) Media representatives may be prevented from interfering with emergency operations and criminal investigations.

1. Reasonable effort should be made to provide a safe staging area for the media that is near the incident and that will not interfere with emergency or criminal investigation operations. All information released to the media should

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

be coordinated through the department Public Information Officer or other designated spokesperson.

2. Whenever the presence of media or other aircraft pose a threat to public or officer safety or significantly hampers incident operations, the field supervisor should consider requesting a Temporary Flight Restriction (TFR). All requests for a TFR should be routed through the Watch Commander. The TFR request should include specific information regarding the perimeter and altitude necessary for the incident and should be requested through the appropriate control tower. If the control tower is not known, the Federal Aviation Administration should be contacted (14 CFR 91.137).

(c) No member of this department who is under investigation shall be subjected to media visits or interviews without the consent of the involved employee (Government Code § 3303(e)).

(d) Media interviews with individuals who are in custody should not be permitted without the approval of the Chief of Police and the express consent of the person in custody.

A tactical operation should be handled in the same manner as a crime scene, except the news media shall be permitted within the outer perimeter of the scene, subject to any restrictions as determined by the supervisor in charge. Department members shall not jeopardize a tactical operation in order to accommodate the news media. All comments to the media shall be coordinated through a supervisor or the Public Information Officer.

#### 345.3.1 PROVIDING ADVANCE INFORMATION

To protect the safety and rights of officers and other persons, advance information about planned actions by law enforcement personnel, such as movement of persons in custody or the execution of an arrest or search warrant, should not be disclosed to the news media, nor should media representatives be invited to be present at such actions except with the prior approval of the Chief of Police.

Any exceptions to the above should only be considered for the furtherance of legitimate law enforcement purposes. Prior to approving any exception the Chief of Police will consider, at minimum, whether the release of information or presence of the media would unreasonably endanger any individual, prejudice the rights of any person or is otherwise prohibited by law.

### 345.4 SCOPE OF INFORMATION SUBJECT TO RELEASE

eThe Department will maintain a daily information log of significant law enforcement activities that shall be made available, upon request, to media representatives through the Records Unit . This log will generally contain the following information:

(a) The date, time, location, case number, type of crime, extent of injury or loss, and names of individuals (except confidential informants) involved in crimes occurring within this jurisdiction unless the release of such information would endanger the

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

safety of any individual or jeopardize the successful completion of any ongoing investigation

(b) The date, time, location, case number, name, birth date and charges for each person arrested by this department unless the release of such information would endanger the safety of any individual or jeopardize the successful completion of any ongoing investigation

(c) The time and location of other significant law enforcement activities or requests for service with a brief summary of the incident subject to the restrictions of this policy and applicable law

At no time shall identifying information pertaining to a juvenile arrestee (13 years of age and under), victim or witness be publicly released without prior approval of a competent court. The identity of a minor 14 years of age or older shall not be publicly disclosed unless the minor has been arrested for a serious felony and the release of such information has been approved by the Record's Supervisor (Welfare and Institutions Code § 827.5).

Identifying information concerning deceased individuals shall not be released to the media until notification of next of kin or otherwise cleared through the Coroner's Office.

Any requests for copies of related reports or additional information not contained in this log shall be referred to the designated department media representative, the custodian of records, or if unavailable, to the Watch Commander. Such requests will generally be processed in accordance with the provisions of the Public Records Act (Government Code § 6250, et seq.).

### 345.4.1 RESTRICTED INFORMATION

It shall be the responsibility of the authorized employee dealing with media requests to ensure that restricted information is not inappropriately released to the media by this department. When in doubt, authorized and available legal counsel should be obtained.

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

# Subpoenas and Court Appearances

## 347.1 PURPOSE AND SCOPE

This policy establishes the guidelines for department members who must appear in court. It will allow the Brentwood Police Department to cover any related work absences and keep the Department informed about relevant legal matters.

## 347.2 POLICY

Brentwood Police Department members will respond appropriately to all subpoenas and any other court-ordered appearances.

### 347.2.1 VALID SUBPOENAS

No subpoena shall be accepted for an employee of this department unless it has been properly served and verified to have originated from a recognized legal authority.

## 347.3 SUBPOENAS

Only department members authorized to receive a subpoena on behalf of this department or any of its members may do so. This may be accomplished by personal service to the officer or by delivery of two copies of the subpoena to the officer's supervisor or other authorized departmental agent (Government Code § 68097.1; Penal Code § 1328(c)).

The party that issues a civil subpoena to an officer to testify as a witness must tender the statutory fee of $275 with the subpoena for each day that an appearance is required before service is accepted of the subpoena (Government Code § 68097.2).

An immediate supervisor or authorized individual may refuse to accept service for a criminal subpoena if (Penal Code § 1328(d)(e)):

(a) He/she knows that he/she will be unable to deliver a copy of the subpoena to the named officer within sufficient time for the named officer to comply with the subpoena.

(b) It is less than five working days prior to the date listed for an appearance and he/she is not reasonably certain that service can be completed.

If, after initially accepting service of a criminal subpoena, a supervisor or other authorized individual determines that he/she is unable to deliver a copy of the subpoena to the named officer within sufficient time for the named officer to comply with the subpoena, the supervisor or the subpoena clerk shall notify the server or the attorney named on the subpoena of such not less than 48 hours prior to the date listed for the appearance (Penal Code § 1328(f)).

### 347.3.1 SPECIAL NOTIFICATION REQUIREMENTS

Any member who is subpoenaed to testify, agrees to testify or provides information on behalf of or at the request of any party other than the City Attorney or the prosecutor shall notify his/her immediate supervisor without delay regarding:

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

(a) Any civil case where the City or one of its members, as a result of his/her official capacity, is a party.

(b) Any civil case where any other city, county, state or federal unit of government or a member of any such unit of government, as a result of his/her official capacity, is a party.

(c) Any criminal proceeding where the member is called to testify or provide information on behalf of the defense.

(d) Any civil action stemming from the member's on-duty activity or because of his/her association with the Brentwood Police Department.

(e) Any personnel or disciplinary matter when called to testify or to provide information by a government entity other than the Brentwood Police Department.

The supervisor will then notify the Chief of Police and the appropriate prosecuting attorney as may be indicated by the case. The Chief of Police should determine if additional legal support is necessary.

No member shall be retaliated against for testifying in any matter.

#### 347.3.2 CIVIL SUBPOENA

The Department will compensate members who appear in their official capacities on civil matters arising out of their official duties, as directed by the current memorandum of understanding or collective bargaining agreement.

The Department should seek reimbursement for the member's compensation through the civil attorney of record who subpoenaed the member.

#### 347.3.3 OFF-DUTY RELATED SUBPOENAS

Members receiving valid subpoenas for off-duty actions not related to their employment or appointment will not be compensated for their appearance. Arrangements for time off shall be coordinated through their immediate supervisors.

### 347.4 FAILURE TO APPEAR

Any member who fails to comply with the terms of any properly served subpoena or court-ordered appearance may be subject to discipline. This includes properly served orders to appear that were issued by a state administrative agency.

### 347.5 STANDBY

To facilitate standby agreements, members are required to provide and maintain current information on their addresses and contact telephone numbers with the Department.

If a member on standby changes his/her location during the day, the member shall notify the designated department member of how he/she can be reached. Members are required to remain on standby until released by the court or the party that issued the subpoena.

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

## 347.6 COURTROOM PROTOCOL

When appearing in court, members shall:

(a) Be punctual and prepared to proceed immediately with the case for which they are scheduled to appear.

(b) Dress in the department uniform or business attire.

(c) Observe all rules of the court in which they are appearing and remain alert to changes in the assigned courtroom where their matter is to be heard.

### 347.6.1 TESTIMONY

Before the date of testifying, the subpoenaed member shall request a copy of relevant reports and become familiar with the content in order to be prepared for court.

## 347.7 OVERTIME APPEARANCES

When a member appears in court on his/her off-duty time, he/she will be compensated in accordance with the current memorandum of understanding or collective bargaining agreement.

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

# Outside Agency Assistance

## 350.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidance to members when requesting or responding to a request for mutual aid or when assisting another law enforcement agency.

## 350.2 POLICY

It is the policy of the Brentwood Police Department to promptly respond to requests for assistance by other law enforcement agencies, subject to available resources and consistent with the applicable laws and policies of this department.

## 350.3 ASSISTING OUTSIDE AGENCIES

Generally, requests for any type of assistance from another agency should be routed to the Watch Commander's office for approval. In some instances, a memorandum of understanding or other established protocol may exist that eliminates the need for approval of individual requests.

When another law enforcement agency requests assistance from this department, the Watch Commander may authorize, if available, an appropriate number of personnel to assist. Members are reminded that their actions when rendering assistance must conform with applicable laws and be consistent with the policies of this department.

Officers may respond to a request for emergency assistance, however, they shall notify a supervisor of their activity as soon as practicable.

Arrestees may be temporarily detained by this department until arrangements for transportation are made by the outside agency. Probation violators who are temporarily detained by this department will not ordinarily be booked at this department. Only in exceptional circumstances, and subject to supervisor approval, will this department provide transportation of arrestees to other facilities on behalf of another agency.

When transportation assistance is rendered, a report shall be prepared and submitted by the handling member unless otherwise directed by a supervisor.

### 350.3.1 INITIATED ACTIVITY

Any on-duty officer who engages in law enforcement activities of any type that are not part of a mutual aid request and take place outside the jurisdiction of the Brentwood Police Department shall notify his/her supervisor or the Watch Commander and Dispatch as soon as practicable. This requirement does not apply to special enforcement details or multi-agency units that regularly work in multiple jurisdictions.

## 350.4 REQUESTING OUTSIDE ASSISTANCE

If assistance is needed from another agency, the member requesting assistance should, if practicable, first notify a supervisor. The handling member or supervisor should direct assisting personnel to where they are needed and to whom they should report when they arrive.

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

The requesting member should arrange for appropriate radio communication capabilities, if necessary and available, so that communication can be coordinated between assisting personnel.

### 350.5 REPORTING REQUIREMENTS

Incidents of outside assistance or law enforcement activities that are not documented in a crime report shall be documented in a general case report or as directed by the Watch Commander.

### 350.6 MANDATORY SHARING

Equipment and supplies purchased with federal funds or grants that require such equipment and supplies be shared with other agencies should be documented and updated as necessary by the Administration Division Commander or the authorized designee.

The documentation should include:

(a) The conditions relative to sharing.

(b) The training requirements for:

1. The use of the supplies and equipment.
2. The members trained in the use of the supplies and equipment.

(c) Any other requirements for use of the equipment and supplies.

Copies of the documentation should be provided to Dispatch and the Watch Commander to ensure use of the equipment and supplies is in compliance with the applicable sharing agreements.

The Training Manager should maintain documentation that the appropriate members have received the required training.

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

# Registered Offender Information

## 354.1 PURPOSE AND SCOPE

This policy establishes guidelines by which the Brentwood Police Department will address issues associated with certain offenders who are residing in the jurisdiction and how the Department will disseminate information and respond to public inquiries for information about registered sex, arson and drug offenders.

## 354.2 POLICY

It is the policy of the Brentwood Police Department to identify and monitor registered offenders living within this jurisdiction and to take reasonable steps to address the risks those persons may pose.

## 354.3 REGISTRATION

The Investigative Bureau supervisor shall establish a process to reasonably accommodate registration of certain offenders. The process should rebut any allegation on the part of the offender that the registration process was too confusing, burdensome, or difficult for compliance. If it is reasonable to do so, an investigator assigned to related investigations should conduct the registration in order to best evaluate any threat the person may pose to the community. Those assigned to register offenders should receive appropriate training regarding the registration process.

Upon conclusion of the registration process, the investigator shall ensure that the registration information is provided to the California Department of Justice (DOJ) in accordance with applicable law (Penal Code § 457.1; Penal Code § 290 et seq.).

The refusal of a registrant to provide any of the required information or complete the process should initiate a criminal investigation for failure to register.

### 354.3.1 CONTENTS OF REGISTRATION

The information collected from the registering offenders shall include a signed statement as required by the California DOJ, fingerprints and a photograph, and any other information required by applicable law (Penal Code § 457.1; Penal Code § 290 et seq.).

## 354.4 MONITORING OF REGISTERED OFFENDERS

The Investigative Bureau supervisor should establish a system to periodically, and at least once annually, verify that a registrant remains in compliance with his/her registration requirements after the initial registration. This verification should include:

(a) Efforts to confirm residence using an unobtrusive method, such as an internet search or drive-by of the declared residence.

(b) Review of information on the California DOJ website for sex offenders.

(c) Contact with a registrant's parole or probation officer.

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

Any discrepancies should be reported to the California DOJ.

The Investigative Bureau supervisor should also establish a procedure to routinely disseminate information regarding registered offenders to Brentwood Police Department personnel, including timely updates regarding new or relocated registrants.

## 354.5 DISSEMINATION OF PUBLIC INFORMATION

Members will not unilaterally make a public notification advising the community of a particular registrant's presence in the community. Members who identify a significant risk or other public safety issue associated with a registrant should promptly advise their supervisor. The supervisor should evaluate the request and forward the information to the Chief of Police if warranted. A determination will be made by the Chief of Police, with the assistance of legal counsel as necessary, whether such a public alert should be made.

Members of the public requesting information on sex registrants should be provided the Megan's Law website or the Brentwood Police Department's website. Information on sex registrants placed on the Brentwood Police Department's website shall comply with the requirements of Penal Code § 290.46.

The Records Supervisor may release local registered offender information to residents only in accordance with applicable law (Penal Code § 290.45; Penal Code § 290.46; Penal Code § 457.1), and in compliance with a California Public Records Act (Government Code § 6250-6276.48) request.

### 354.5.1 LIMITED RELEASE WITHIN COLLEGE CAMPUS COMMUNITY

California law allows the following additional information regarding a registered sex offender on campus, whose information is not available to the public via the internet website, to be released to a campus community (Penal Code § 290.01(d)):

(a) The offender's full name

(b) The offender's known aliases

(c) The offender's sex

(d) The offender's race

(e) The offender's physical description

(f) The offender's photograph

(g) The offender's date of birth

(h) Crimes resulting in the registration of the offender under Penal Code § 290

(i) The date of last registration

For purposes of this section, campus community shall be defined as those persons present at or regularly frequenting any place constituting campus property, satellite facilities, laboratories, public areas contiguous to the campus and other areas set forth in Penal Code § 290.01(d).

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

354.5.2 RELEASE NOTIFICATIONS

Registrant information that is released should include notification that:

(a) The offender registry includes only those persons who have been required by law to register and who are in compliance with the offender registration laws.

(b) The information is provided as a public service and may not be current or accurate.

(c) Persons should not rely solely on the offender registry as a safeguard against offenses in their communities.

(d) The crime for which a person is convicted may not accurately reflect the level of risk.

(e) Anyone who uses information contained in the registry to harass registrants or commit any crime may be subject to criminal prosecution.

(f) The purpose of the release of information is to allow members of the public to protect themselves and their children from sex offenders (Penal Code 290.45).

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

# Major Incident Notification

## 356.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidance to members of this department in determining when, how and to whom notification of major incidents should be made.

## 356.2 POLICY

The Brentwood Police Department recognizes that certain incidents should be brought to the attention of supervisors or other specified personnel of this department to facilitate the coordination of activities and ensure that inquiries from the media and the public may be properly addressed.

## 356.3 MINIMUM CRITERIA FOR NOTIFICATION

Most situations where the media show a strong interest are also of interest to the Chief of Police and the affected Division Commander. The following list of incident types is provided as a guide for notification and is not intended to be all inclusive:

- Homicides
- Traffic accidents with fatalities
- Officer-involved shooting - on or off duty (see Officer-Involved Shooting Policy for special notifications)
- Significant injury or death to employee - on or off duty
- Death of a prominent Brentwood official
- Arrest of a department employee or prominent Brentwood official
- Aircraft crash with major damage and/or injury or death
- In-custody deaths

## 356.4 WATCH COMMANDER RESPONSIBILITY

The Watch Commander is responsible for making the appropriate notifications. The Watch Commander shall make reasonable attempts to obtain as much information on the incident as possible before notification. The Watch Commander shall attempt to make the notifications as soon as practicable. Notification should be made by calling the home telephone number first and then by any other available contact numbers.

### 356.4.1 STAFF NOTIFICATION

In the event an incident occurs described in the Major Incident Notification Policy, the Chief of Police shall be notified along with the affected Division Commander and the Detective Lieutenant if that division is affected.

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

### 356.4.2 DETECTIVE NOTIFICATION

If the incident requires that a detective respond from home, the immediate supervisor of the appropriate detail shall be contacted who will then contact the appropriate detective.

### 356.4.3 TRAFFIC BUREAU NOTIFICATION

In the event of a traffic fatality or major injury, the Traffic Sergeant shall be notified who will then contact the appropriate collision investigator. The Traffic Sergeant will notify the Traffic Lieutenant.

### 356.4.4 PUBLIC INFORMATION OFFICER (PIO)

The Public Information Officer shall be called after members of staff have been notified that it appears the media may have a significant interest in the incident.

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

# Death Investigation

## 358.1 PURPOSE AND SCOPE

The investigations of cases involving death include those ranging from natural cause to homicide. Some causes of death may not be readily apparent and some cases differ substantially from what they appeared to be initially. The thoroughness of death investigations cannot be emphasized enough.

## 358.2 INVESTIGATION CONSIDERATIONS

Death investigation cases require certain actions be taken. Paramedics shall be called in all suspected death cases unless the death is obvious (e.g., decapitated, decomposed). A supervisor shall be notified in all death investigations.

### 358.2.1 CORONER REQUEST

Government Code § 27491 and Health & Safety Code § 102850 direct the Coroner to inquire into and determine the circumstances, manner and cause of certain deaths. The Coroner shall be called in any of the following cases:

(a) Unattended deaths (No physician in attendance or during the continued absence of the attending physician. Also, includes all deaths outside hospitals and nursing care facilities).

(b) Deaths where the deceased has not been attended by either a physician or a registered nurse, who is a member of a hospice care interdisciplinary team, as defined by Health and Safety Code § 1746 in the 20 days prior to death.

(c) Physician unable to state the cause of death. Unwillingness does not apply. Includes all sudden, unexpected and unusual deaths and fetal deaths when the underlying cause is unknown.

(d) Known or suspected homicide.

(e) Known or suspected suicide.

(f) Involving any criminal action or suspicion of a criminal act. Includes child and dependent adult negligence and abuse.

(g) Related to or following known or suspected self-induced or criminal abortion.

(h) Associated with a known or alleged rape or crime against nature.

(i) Following an accident or injury (primary or contributory). Deaths known or suspected as resulting (in whole or in part) from or related to accident or injury, either old or recent.

(j) Drowning, fire, hanging, gunshot, stabbing, cutting, starvation, exposure, alcoholism, drug addiction, strangulation or aspiration.

(k) Accidental poisoning (food, chemical, drug, therapeutic agents).

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

(l) Occupational diseases or occupational hazards.

(m) Known or suspected contagious disease and constituting a public hazard.

(n) All deaths in operating rooms and all deaths where a patient has not fully recovered from an anesthetic, whether in surgery, recovery room or elsewhere.

(o) In prison or while under sentence. Includes all in-custody and police involved deaths.

(p) All deaths of unidentified persons.

(q) All deaths of state hospital patients.

(r) Suspected Sudden Infant Death Syndrome (SIDS) deaths.

(s) All deaths where the patient is comatose throughout the period of the physician's attendance. Includes patients admitted to hospitals unresponsive and expire without regaining consciousness.

The body shall not be disturbed or moved from the position or place of death without permission of the coroner.

### 358.2.2 SEARCHING DEAD BODIES

The Coroner or Deputy Coroner is generally the only person permitted to search a body known to be dead from any of the circumstances set forth in Government Code § 27491. The only exception is that an officer is permitted to search the body of a person killed in a traffic collision for the limited purpose of locating an anatomical donor card (Government Code § 27491.3). If such a donor card is located, the Coroner or a designee shall be promptly notified. Should exigent circumstances indicate to an officer that any search of a known dead body is warranted prior to the arrival of the Coroner or a designee; the investigating officer shall first obtain verbal consent from the Coroner or a designee (Government Code § 27491.2).

Whenever possible, a witness, preferably a relative to the deceased or a member of the household, should be requested to remain at the scene with the officer pending the arrival of the Coroner or a designee. The name and address of this person shall be included in the narrative of the death report. Whenever personal effects are removed from the body of the deceased by the Coroner or a designee, a receipt shall be obtained. This receipt shall be attached to the death report.

### 358.2.3 DEATH NOTIFICATION

If requested by the Coroner's Office, notification to the next-of-kin of the deceased person should be made, in person, by the officer assigned to the incident. If the next-of-kin lives in another jurisdiction, a police unit of that jurisdiction should be requested through the Coroner's Office to make the personal notification. Assigned investigators may need to talk to the next-of-kin.

### 358.2.4 UNIDENTIFIED DEAD BODIES

If the identity of a dead body cannot be established after the Coroner arrives, the Coroner's office will issue a "John Doe" or "Jane Doe" number for the report.

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

### 358.2.5 DEATH INVESTIGATION REPORTING

All incidents involving a death shall be documented on the appropriate form.

### 358.2.6 SUSPECTED HOMICIDE

If the initially assigned officer suspects that the death involves a homicide or other suspicious circumstances, the officer shall make notifications pursuant to Policy Manual Section 358.

### 358.2.7 EMPLOYMENT RELATED DEATHS OR INJURIES

Any member of this agency who responds to and determines that a death, serious illness, or serious injury has occurred as a result of an accident at or in connection with the victim's employment shall ensure that the nearest office of Cal-OSHA is notified by telephone immediately or as soon as practicable with all pertinent information (8 CCR 342(b)).

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

# Identity Theft

## 360.1 PURPOSE AND SCOPE

Identity theft is a growing trend that frequently involves related crimes in multiple jurisdictions. This policy is intended to provide guidelines for the reporting and investigation of such crimes.

## 360.2 REPORTING

(a) In an effort to maintain uniformity in reporting, officers presented with the crime of identity theft (Penal Code § 530.6) shall initiate a report for victims residing within the jurisdiction of this department when the crime occurred. For incidents of identity theft occurring outside this jurisdiction, officers should observe the following:

1. For any victim not residing within this jurisdiction, the officer may either take a courtesy report to be forwarded to the victim's residence agency or the victim should be encouraged to promptly report the identity theft to the law enforcement agency where he or she resides.

(b) While the crime of identity theft should be reported to the law enforcement agency where the victim resides, officers of this department should investigate and report crimes occurring within this jurisdiction which have resulted from the original identity theft (e.g., the identity theft occurred elsewhere, but the credit card fraud occurred and is reported in this jurisdiction).

(c) Officers should include all known incidents of fraudulent activity (e.g., credit card number applied for in victim's name when the victim has never made such an application).

(d) Officers should also cross-reference all known reports made by the victim (e.g., U.S. Secret Service, credit reporting bureaus, U.S. Postal Service and DMV) with all known report numbers.

(e) The reporting officer should inform victims of identity theft that the California Identity Theft Registry is available to help those who are wrongly linked to crimes. The registry can be checked by law enforcement and other authorized persons to investigate whether a criminal history or want was created in the victim's name (Penal Code § 530.7). Information regarding the California Identity Theft Registry can be obtained by calling toll free (888) 880-0240.

(f) Following supervisory review and departmental processing, the initial report should be forwarded to the appropriate detective for follow up investigation, coordination with other agencies and prosecution as circumstances dictate.

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

# Private Persons Arrests

## 362.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidance for the handling of private person's arrests made pursuant to Penal Code § 837.

## 362.2 ADVISING PRIVATE PERSONS OF THE ARREST PROCESS

Penal Code § 836(b) expressly mandates that all officers shall advise victims of domestic violence of the right to make a private person's arrest, including advice on how to safely execute such an arrest. In all other situations, officers should use sound discretion in determining whether or not to advise an individual of the arrest process.

(a) When advising any individual regarding the right to make a private person's arrest, officers should refrain from encouraging or dissuading any individual from making such an arrest and should instead limit advice to the legal requirements for such an arrest as listed below.

(b) Private individuals should be discouraged from using force to effect a private person's arrest, and absent immediate threat to their own safety or the safety of others, private individuals should be encouraged to refer matters to law enforcement officials for further investigation or arrest.

## 362.3 ARRESTS BY PRIVATE PERSONS

Penal Code § 837 provides that a private person may arrest another:

(a) For a public offense committed or attempted in his or her presence;

(b) When the person arrested has committed a felony, although not in his or her presence;

(c) When a felony has been in fact committed, and he or she has reasonable cause for believing the person arrested has committed it.

Unlike peace officers, private persons may not make an arrest on suspicion that a felony has been committed - the felony must in fact have taken place.

## 362.4 OFFICER RESPONSIBILITIES

Any officer presented with a private person wishing to make an arrest must determine whether or not there is reasonable cause to believe that such an arrest would be lawful (Penal Code § 847).

(a) Should any officer determine that there is no reasonable cause to believe that a private person's arrest is lawful, the officer should take no action to further detain or restrain the individual beyond that which reasonably appears necessary to investigate the matter, determine the lawfulness of the arrest and protect the public safety.

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

1. Any officer who determines that a private person's arrest appears to be unlawful should promptly release the arrested individual pursuant to Penal Code § 849(b)(1). The officer must include the basis of such a determination in a related report.
2. Absent reasonable cause to support a private person's arrest or other lawful grounds to support an independent arrest by the officer, the officer should advise the parties that no arrest will be made and that the circumstances will be documented in a related report.

(b) Whenever an officer determines that there is reasonable cause to believe that a private person's arrest is lawful, the officer may exercise any of the following options:

1. Take the individual into physical custody for booking
2. Release the individual pursuant to a Notice to Appear
3. Release the individual pursuant to Penal Code § 849

## 362.5 REPORTING REQUIREMENTS

In all circumstances in which a private person is claiming to have made an arrest, the individual must complete and sign a department Citizen's Arrest form under penalty of perjury.

In addition to the Citizen's Arrest Form (and any other related documents such as citations, booking forms, etc.), officers shall complete a narrative report regarding the circumstances and disposition of the incident.

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

# Anti-Reproductive Rights Crimes Reporting

## 364.1 PURPOSE AND SCOPE

This policy shall establish a procedure for the mandated reporting of Anti-Reproductive Rights Crimes (ARRC) to the Attorney General pursuant to the Reproductive Rights Law Enforcement Act (Penal Code § 13775 et seq.).

## 364.2 DEFINITIONS

Penal Code § 423.2 provides that the following acts shall be considered Anti-Reproductive Rights Crimes (ARRC) when committed by any person, except a parent or guardian acting towards his or her minor child or ward:

(a) By force, threat of force, or physical obstruction that is a crime of violence, intentionally injures, intimidates, interferes with, or attempts to injure, intimidate, or interfere with any person or entity because that person or entity is a reproductive health services client, provider, or assistant, or in order to intimidate any person or entity, or any class of persons or entities, from becoming or remaining a reproductive health services client, provider, or assistant

(b) By non-violent physical obstruction, intentionally injures, intimidates, or interferes with, or attempts to injure, intimidate, or interfere with, any person or entity because that person or entity is a reproductive health services client, provider, or assistant, or in order to intimidate any person or entity, or any class of persons or entities, from becoming or remaining a reproductive health services client, provider or assistant

(c) Intentionally damages or destroys the property of a person, entity, or facility, or attempts to do so, because the person, entity, or facility is a reproductive health services client, provider, assistant, or facility

## 364.3 REPORTING REQUIREMENTS TO THE ATTORNEY GENERAL

(a) Upon the receipt of the report of an ARRC, it shall be the responsibility of the employee taking such a report to also complete an ARRC Data Collection Worksheet (BCIA 8371) in accordance with the instructions contained on such forms.

(b) The ARRC Data Collection Worksheet shall be processed with all related reports and forwarded to the Records Unit Supervisor.

(c) By the tenth day of each month, it shall be the responsibility of the Records Unit Supervisor to ensure that a Summary Worksheet (BCIA 8370) is submitted to the Department of Justice Criminal Justice Statistics Center.

1. In the event that no ARRC(s) were reported during the previous month, a Summary Worksheet shall be submitted to Department of Justice with an indication that no such crimes were reported.

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

2. Any ARRC(s) reported in the Summary Worksheet shall be accompanied by a copy of the related Data Collection Worksheet(s).

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

# Limited English Proficiency Services

## 366.1 PURPOSE AND SCOPE

This policy provides guidance to members when communicating with individuals with limited English proficiency (LEP) (42 USC § 2000d).

### 366.1.1 DEFINITIONS

Definitions related to this policy include:

**Authorized interpreter** - A person who has been screened and authorized by the Department to act as an interpreter and/or translator for others.

**Interpret or interpretation** - The act of listening to a communication in one language (source language) and orally converting it to another language (target language), while retaining the same meaning.

**Limited English proficient (LEP)** - Any individual whose primary language is not English and who has a limited ability to read, write, speak or understand English. These individuals may be competent in certain types of communication (e.g., speaking or understanding) but still be LEP for other purposes (e.g., reading or writing). Similarly, LEP designations are context-specific; an individual may possess sufficient English language skills to function in one setting but these skills may be insufficient in other situations.

**Qualified bilingual member** - A member of the Brentwood Police Department, designated by the Department, who has the ability to communicate fluently, directly and accurately in both English and another language. Bilingual members may be fluent enough to communicate in a non-English language but may not be sufficiently fluent to interpret or translate from one language into another.

**Translate or translation** - The replacement of written text from one language (source language) into an equivalent written text (target language).

## 366.2 POLICY

It is the policy of the Brentwood Police Department to reasonably ensure that LEP individuals have meaningful access to law enforcement services, programs and activities, while not imposing undue burdens on its members.

The Department will not discriminate against or deny any individual access to services, rights or programs based upon national origin or any other protected interest or right.

## 366.3 LEP COORDINATOR

Depending on the balance of the four factors, this department will make every reasonable effort to provide meaningful and timely assistance to LEP individuals through a variety of services, where available. LEP individuals may elect to accept interpreter services offered by the Department at no cost or choose to provide their own interpreter services at their own expense. Department personnel should document in any related report whether the LEP individual elected to use

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

interpreter services provided by the Department or some other source. Department-provided interpreter services may include, but are not limited to, the assistance methods described in this section.

## 366.4 FOUR-FACTOR ANALYSIS

Since there are many different languages that members could encounter, the Department will utilize the four-factor analysis outlined in the U.S. Department of Justice (DOJ) Guidance to Federal Financial Assistance Recipients, available at the DOJ website, to determine which measures will provide meaningful access to its services and programs. It is recognized that law enforcement contacts and circumstances will vary considerably. This analysis, therefore, must remain flexible and will require an ongoing balance of four factors, which are:

(a) The number or proportion of LEP individuals eligible to be served or likely to be encountered by department members, or who may benefit from programs or services within the jurisdiction of the Department or a particular geographic area.

(b) The frequency with which LEP individuals are likely to come in contact with department members, programs or services.

(c) The nature and importance of the contact, program, information or service provided.

(d) The cost of providing LEP assistance and the resources available.

### 366.4.1 COMMUNITY OUTREACH

Community outreach programs and other such services offered by this department have become increasingly recognized as important to the ultimate success of more traditional law enforcement duties. As such, this department will continue to work with community groups, local businesses and neighborhoods to provide equal access to such programs and services to LEP individuals and groups.

## 366.5 TYPES OF LEP ASSISTANCE AVAILABLE

Brentwood Police Department members should never refuse service to an LEP individual who is requesting assistance, nor should they require an LEP individual to furnish an interpreter as a condition for receiving assistance. The Department will make every reasonable effort to provide meaningful and timely assistance to LEP individuals through a variety of services.

The Department will utilize all reasonably available tools, such as language identification cards, when attempting to determine an LEP individual's primary language.

LEP individuals may choose to accept department-provided LEP services at no cost or they may choose to provide their own.

Department-provided LEP services may include, but are not limited to, the assistance methods described in this policy.

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

### 366.6 WRITTEN FORMS AND GUIDELINES

Vital documents or those that are frequently used should be translated into languages most likely to be encountered. The LEP Coordinator will arrange to make these translated documents available to members and other appropriate individuals, as necessary.

### 366.7 AUDIO RECORDINGS

The Department may develop audio recordings of important or frequently requested information in a language most likely to be understood by those LEP individuals who are representative of the community being served.

### 366.8 QUALIFIED BILINGUAL MEMBERS

Bilingual members may be qualified to provide LEP services when they have demonstrated through established department procedures a sufficient level of skill and competence to fluently communicate in both English and a non-English language. Members utilized for LEP services must demonstrate knowledge of the functions of an interpreter/translator and the ethical issues involved when acting as a language conduit. Additionally, bilingual members must be able to communicate technical and law enforcement terminology, and be sufficiently proficient in the non-English language to perform complicated tasks, such as conducting interrogations, taking statements, collecting evidence or conveying rights or responsibilities.

When a qualified bilingual member from this department is not available, personnel from other City departments, who have been identified by the Department as having the requisite skills and competence, may be requested.

### 366.9 AUTHORIZED INTERPRETERS

Any person designated by the Department to act as an authorized interpreter and/or translator must have demonstrated competence in both English and the involved non-English language, must have an understanding of the functions of an interpreter that allows for correct and effective translation, and should not be a person with an interest in the department case or investigation involving the LEP individual. A person providing interpretation or translation services may be required to establish the accuracy and trustworthiness of the interpretation or translation in a court proceeding.

Authorized interpreters must pass a screening process established by the LEP Coordinator which demonstrates that their skills and abilities include:

(a) The competence and ability to communicate information accurately in both English and in the target language.

(b) Knowledge, in both languages, of any specialized terms or concepts peculiar to this department and of any particularized vocabulary or phraseology used by the LEP individual.

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

(c) The ability to understand and adhere to the interpreter role without deviating into other roles, such as counselor or legal adviser.

(d) Knowledge of the ethical issues involved when acting as a language conduit.

366.9.1 SOURCES OF AUTHORIZED INTERPRETERS

The Department may contract with authorized interpreters who are available over the telephone. Members may use these services with the approval of a supervisor and in compliance with established procedures.

Other sources may include:

- Qualified bilingual members of this department or personnel from other City departments.
- Individuals employed exclusively to perform interpretation services.
- Contracted in-person interpreters, such as state or federal court interpreters, among others.
- Interpreters from other agencies who have been qualified as interpreters by this department, and with whom the Department has a resource-sharing or other arrangement that they will interpret according to department guidelines.

366.9.2 COMMUNITY VOLUNTEERS AND OTHER SOURCES OF LANGUAGE ASSISTANCE

Language assistance may be available from community volunteers who have demonstrated competence in either monolingual (direct) communication and/or in interpretation or translation (as noted in above), and have been approved by the Department to communicate with LEP individuals.

Where qualified bilingual members or other authorized interpreters are unavailable to assist, approved community volunteers who have demonstrated competence may be called upon when appropriate. However, department members must carefully consider the nature of the contact and the relationship between the LEP individual and the volunteer to ensure that the volunteer can provide neutral and unbiased assistance.

While family or friends of an LEP individual may offer to assist with communication or interpretation, members should carefully consider the circumstances before relying on such individuals. For example, children should not be relied upon except in exigent or very informal and non-confrontational situations.

## 366.10 CONTACT AND REPORTING

While all law enforcement contacts, services and individual rights are important, this department will utilize the four-factor analysis to prioritize service to LEP individuals so that such services may be targeted where they are most needed, according to the nature and importance of the particular law enforcement activity involved.

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

Whenever any member of this department is required to complete a report or other documentation, and interpretation services are provided to any involved LEP individual, such services should be noted in the related report. Members should document the type of interpretation services utilized and whether the individual elected to use services provided by the Department or some other identified source.

## 366.11 RECEIVING AND RESPONDING TO REQUESTS FOR ASSISTANCE

The Brentwood Police Department will take reasonable steps and will work with the Department of Human Resources to develop in-house language capacity by hiring or appointing qualified members proficient in languages representative of the community being served.

### 366.11.1 EMERGENCY CALLS TO 9-1-1

Department members will make every reasonable effort to promptly accommodate LEP individuals utilizing 9-1-1 lines. When a 9-1-1 call-taker receives a call and determines that the caller is an LEP individual, the call-taker shall quickly determine whether sufficient information can be obtained to initiate an appropriate emergency response. If language assistance is still needed, the language is known and a qualified bilingual member is available in Dispatch, the call shall immediately be handled by the qualified bilingual member.

If a qualified bilingual member is not available or the call-taker is unable to identify the caller's language, the call-taker will contact the contracted telephone interpretation service and establish a three-way call between the call-taker, the LEP individual and the interpreter.

Dispatchers will make every reasonable effort to dispatch a qualified bilingual member to the assignment, if available and appropriate.

While 9-1-1 calls shall receive top priority, reasonable efforts should also be made to accommodate LEP individuals seeking routine access to services and information by utilizing the resources listed in this policy.

## 366.12 FIELD ENFORCEMENT

Field enforcement will generally include such contacts as traffic stops, pedestrian stops, serving warrants and restraining orders, crowd/traffic control and other routine field contacts that may involve LEP individuals. The scope and nature of these activities and contacts will inevitably vary. Members and/or supervisors must assess each situation to determine the need and availability of language assistance to all involved LEP individuals and utilize the methods outlined in this policy to provide such assistance.

Although not every situation can be addressed in this policy, it is important that members are able to effectively communicate the reason for a contact, the need for information and the meaning or consequences of any enforcement action. For example, it would be meaningless to request consent to search if the officer is unable to effectively communicate with an LEP individual.

If available, officers should obtain the assistance of a qualified bilingual member or an authorized interpreter before placing an LEP individual under arrest.

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

### 366.13 INVESTIGATIVE FIELD INTERVIEWS

In any situation where an interview may reveal information that could be used as the basis for arrest or prosecution of an LEP individual and a qualified bilingual member is unavailable or lacks the skills to directly communicate with the LEP individual, an authorized interpreter should be used. This includes interviews conducted during an investigation with victims, witnesses and suspects. In such situations, audio recordings of the interviews should be made when reasonably possible. Identification and contact information for the interpreter (e.g., name, address) should be documented so that the person can be subpoenaed for trial if necessary.

If an authorized interpreter is needed, officers should consider calling for an authorized interpreter in the following order:

- An authorized department member or allied agency interpreter
- An authorized telephone interpreter
- Any other authorized interpreter

Any *Miranda* warnings shall be provided to suspects in their primary language by an authorized interpreter or, if the suspect is literate, by providing a translated *Miranda* warning card.

The use of an LEP individual's bilingual friends, family members, children, neighbors or bystanders may be used only when a qualified bilingual member or authorized interpreter is unavailable and there is an immediate need to interview an LEP individual.

### 366.14 CUSTODIAL INTERROGATIONS

Miscommunication during custodial interrogations may have a substantial impact on the evidence presented in a criminal prosecution. Only qualified bilingual members or, if none is available or appropriate, authorized interpreters shall be used during custodial interrogations. *Miranda* warnings shall be provided to suspects in their primary language by the qualified bilingual member or an authorized interpreter.

In order to ensure that translations during custodial interrogations are accurately documented and are admissible as evidence, interrogations should be recorded whenever reasonably possible. See guidance on recording custodial interrogations in the Investigation and Prosecution Policy.

### 366.15 BOOKINGS

When gathering information during the booking process, members should remain alert to the impediments that language barriers can create. In the interest of the arrestee's health and welfare, the safety and security of the facility, and to protect individual rights, it is important that accurate medical screening and booking information be obtained. Members should seek the assistance of a qualified bilingual member whenever there is concern that accurate information cannot be obtained or that booking instructions may not be properly understood by an LEP individual.

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

## 366.16 COMPLAINTS

The Department shall ensure that LEP individuals who wish to file a complaint regarding members of this department are able to do so. The Department may provide an authorized interpreter or translated forms, as appropriate. Complaints will be referred to the LEP Coordinator.

Investigations into such complaints shall be handled in accordance with the Personnel Complaints Policy. Authorized interpreters used for any interview with an LEP individual during an investigation should not be members of this department.

Any notice required to be sent to an LEP individual as a complaining party pursuant to the Personnel Complaints Policy should be translated or otherwise communicated in a language-accessible manner.

## 366.17 COMMUNITY OUTREACH

Community outreach programs and other such services offered by this department are important to the ultimate success of more traditional law enforcement duties. This department will continue to work with community groups, local businesses and neighborhoods to provide equal access to such programs and services.

## 366.18 TRAINING

To ensure that all members who may have contact with LEP individuals are properly trained, the Department will provide periodic training on this policy and related procedures, including how to access department-authorized telephonic and in-person interpreters and other available resources.

The Training Manager shall be responsible for ensuring new members receive LEP training. Those who may have contact with LEP individuals should receive refresher training at least once every two years thereafter. The Training Manager shall maintain records of all LEP training provided, and will retain a copy in each member's training file in accordance with established records retention schedules.

### 366.18.1 TRAINING FOR AUTHORIZED INTERPRETERS

All members on the authorized interpreter list must successfully complete prescribed interpreter training. To complete interpreter training successfully, an interpreter must demonstrate proficiency in and ability to communicate information accurately in both English and in the target language, demonstrate knowledge in both languages of any specialized terms or phraseology, and understand and adhere to the interpreter role without deviating into other roles, such as counselor or legal adviser.

Members on the authorized interpreter list must receive refresher training annually or they will be removed from the authorized interpreter list. This annual training should include language skills competency (including specialized terminology) and ethical considerations.

The Training Manager shall be responsible for coordinating the annual refresher training and will maintain a record of all training the interpreters have received.

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

# Communications with Persons with Disabilities

## 368.1 PURPOSE AND SCOPE

This policy provides guidance to members when communicating with individuals with disabilities, including those who are deaf or hard of hearing, have impaired speech or vision, or are blind.

### 368.1.1 DEFINITIONS

Definitions related to this policy include:

**Auxiliary aids** - Tools used to communicate with people who have a disability or impairment. They include, but are not limited to, the use of gestures or visual aids to supplement oral communication; a notepad and pen or pencil to exchange written notes; a computer or typewriter; an assistive listening system or device to amplify sound; a teletypewriter (TTY) or videophones (video relay service or VRS); taped text; qualified readers; or a qualified interpreter.

**Disability or impairment** - A physical or mental impairment that substantially limits a major life activity, including hearing or seeing, regardless of whether the disabled person uses assistive or adaptive devices or auxiliary aids. Individuals who wear ordinary eyeglasses or contact lenses are not considered to have a disability (42 USC § 12102).

**Qualified interpreter** - A person who is able to interpret effectively, accurately and impartially, both receptively and expressively, using any necessary specialized vocabulary. Qualified interpreters include oral interpreters, translators, sign language interpreters and intermediary interpreters.

## 368.2 POLICY

It is the policy of the Brentwood Police Department to reasonably ensure that people with disabilities, including victims, witnesses, suspects and arrestees have equal access to law enforcement services, programs and activities. Members must make efforts to communicate effectively with individuals with disabilities.

The Department will not discriminate against or deny any individual access to services, rights or programs based upon disabilities.

## 368.3 AMERICANS WITH DISABILITIES (ADA) COORDINATOR

The Chief of Police shall delegate certain responsibilities to an ADA Coordinator (28 CFR 35.107). The ADA Coordinator shall be appointed by, and directly responsible, to the Operations Division Commander or the authorized designee.

The responsibilities of the ADA Coordinator shall include, but not be limited to:

(a) Working with the City ADA coordinator regarding the Brentwood Police Department's efforts to ensure equal access to services, programs and activities.

(b) Developing reports, new procedures, or recommending modifications to this policy.

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

(c) Acting as a liaison with local disability advocacy groups or other disability groups regarding access to department services, programs and activities.

(d) Ensuring that a list of qualified interpreter services is maintained and available to each Watch Commander and Dispatch Supervisor. The list should include information regarding the following:

1. Contact information
2. Availability

(e) Developing procedures that will enable members to access auxiliary aids or services, including qualified interpreters, and ensure the procedures are available to all members.

(f) Ensuring signage is posted in appropriate areas, indicating that auxiliary aids are available free of charge to people with disabilities.

(g) Ensuring appropriate processes are in place to provide for the prompt and equitable resolution of complaints and inquiries regarding discrimination in access to department services, programs and activities.

## 368.4 FACTORS TO CONSIDER

Because the nature of any law enforcement contact may vary substantially from one situation to the next, members of this department should consider all information reasonably available to them when determining how to communicate with an individual with a disability. Members should carefully balance all known factors in an effort to reasonably ensure people who are disabled have equal access to services, programs and activities. These factors may include, but are not limited to:

(a) Members should not always assume that effective communication is being achieved. The fact that an individual appears to be nodding in agreement does not always mean he/she completely understands the message. When there is any doubt, members should ask the individual to communicate back or otherwise demonstrate their understanding.

(b) The nature of the disability (e.g., deafness or blindness vs. hard of hearing or low vision).

(c) The nature of the law enforcement contact (e.g., emergency vs. non-emergency, custodial vs. consensual contact).

(d) The availability of auxiliary aids. The fact that a particular aid is not available does not eliminate the obligation to reasonably ensure access. However, in an emergency, availability may factor into the type of aid used.

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

## 368.5 INITIAL AND IMMEDIATE CONSIDERATIONS

Recognizing that various law enforcement encounters may be potentially volatile and/or emotionally charged, members should remain alert to the possibility of communication problems.

Members should exercise special care in the use of all gestures, and verbal and written communication to minimize initial confusion and misunderstanding when dealing with any individual with known or suspected disabilities.

In a non-emergency situation, when a member knows or suspects an individual requires assistance to effectively communicate, the member shall identify the individual's choice of auxiliary aid or service.

The individual's preferred communication method must be honored unless another effective method of communication exists under the circumstances (28 CFR 35.160).

Factors to consider when determining whether an alternative method is effective include:

(a) The methods of communication usually used by the individual.

(b) The nature, length and complexity of the communication involved.

(c) The context of the communication.

In emergency situations involving an imminent threat to the safety or welfare of any person, members may use whatever auxiliary aids and services that reasonably appear effective under the circumstances. This may include, for example, exchanging written notes or using the services of a person who knows sign language but is not a qualified interpreter, even if the person who is deaf or hard of hearing would prefer a qualified sign language interpreter or another appropriate auxiliary aid or service. Once the emergency has ended, the continued method of communication should be reconsidered. The member should inquire as to the individual's preference and give primary consideration to that preference.

If an individual who is deaf, hard of hearing or has impaired speech must be handcuffed while in the custody of the Brentwood Police Department, consideration should be given, safety permitting, to placing the handcuffs in the front of the body to facilitate communication using sign language or writing.

## 368.6 TYPES OF ASSISTANCE AVAILABLE

Brentwood Police Department members shall never refuse to assist an individual with disabilities who is requesting assistance. The Department will not charge anyone to receive auxiliary aids, nor shall they require anyone to furnish their own auxiliary aid or service as a condition for receiving assistance. The Department will make every reasonable effort to provide equal access and timely assistance to individuals who are disabled through a variety of services.

A person who is disabled may choose to accept department-provided auxiliary aids or services or they may choose to provide their own.

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

Department-provided auxiliary aids or services may include, but are not limited to, the assistance methods described in this policy.

### 368.7 AUDIO RECORDINGS AND ENLARGED PRINT

The Department may develop audio recordings to assist people who are blind or have a visual impairment with accessing important information. If such a recording is not available, members may read aloud from the appropriate form, for example a personnel complaint form, or provide forms with enlarged print.

### 368.8 QUALIFIED INTERPRETERS

A qualified interpreter may be needed in lengthy or complex transactions (e.g., interviewing a victim, witness, suspect or arrestee), if the individual to be interviewed normally relies on sign language or speechreading (lip-reading) to understand what others are saying. The qualified interpreter should not be a person with an interest in the case or investigation involving the disabled individual. A person providing interpretation services may be required to establish the accuracy and trustworthiness of the interpretation in a court proceeding.

Qualified interpreters should be:

(a) Available within a reasonable amount of time but in no event longer than one hour if requested.

(b) Experienced in providing interpretation services related to law enforcement matters.

(c) Familiar with the use of VRS and/or video remote interpreting services.

(d) Certified in either American Sign Language (ASL) or Signed English (SE).

(e) Able to understand and adhere to the interpreter role without deviating into other roles, such as counselor or legal adviser.

(f) Knowledgeable of the ethical issues involved when providing interpreter services.

Members should use department-approved procedures to request a qualified interpreter at the earliest reasonable opportunity, and generally not more than 15 minutes after a request for an interpreter has been made or it is reasonably apparent that an interpreter is needed. No individual who is disabled shall be required to provide his/her own interpreter (28 CFR 35.160).

### 368.9 TTY AND RELAY SERVICES

In situations where an individual without a disability would have access to a telephone (e.g., booking or attorney contacts), members must also provide those who are deaf, hard of hearing or have impaired speech the opportunity to place calls using an available TTY (also known as a telecommunications device for deaf people, or TDD). Members shall provide additional time, as needed, for effective communication due to the slower nature of TTY and TDD communications.

The Department will accept all TTY or TDD calls placed by those who are deaf or hard of hearing and received via a telecommunications relay service (28 CFR 35.162).

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

Note that relay services translate verbatim, so the conversation must be conducted as if speaking directly to the caller.

### 368.10 COMMUNITY VOLUNTEERS

Interpreter services may be available from community volunteers who have demonstrated competence in communication services, such as ASL or SE, and have been approved by the Department to provide interpreter services.

Where qualified interpreters are unavailable to assist, approved community volunteers who have demonstrated competence may be called upon when appropriate. However, department members must carefully consider the nature of the contact and the relationship between the individual with the disability and the volunteer to ensure that the volunteer can provide neutral and unbiased assistance.

### 368.11 FAMILY AND FRIENDS

While family or friends may offer to assist with interpretation, members should carefully consider the circumstances before relying on such individuals. The nature of the contact and relationship between the individual with the disability and the person offering services must be carefully considered (e.g., victim/suspect).

Children shall not be relied upon except in emergency or critical situations when there is no qualified interpreter reasonably available.

Adults may be relied upon when (28 CFR 35.160):

(a) There is an emergency or critical situation and there is no qualified interpreter reasonably available.

(b) The person with the disability requests that the adult interpret or facilitate communication and the adult agrees to provide such assistance, and reliance on that adult for such assistance is reasonable under the circumstances.

### 368.12 REPORTING

Whenever any member of this department is required to complete a report or other documentation, and communication assistance has been provided, such services should be noted in the related report. Members should document the type of communication services utilized and whether the individual elected to use services provided by the Department or some other identified source. If the individual's express preference is not honored, the member must document why another method of communication was used.

All written communications exchanged in a criminal case shall be attached to the report or placed into evidence.

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

## 368.13 FIELD ENFORCEMENT

Field enforcement will generally include such contacts as traffic stops, pedestrian stops, serving warrants and restraining orders, crowd/traffic control and other routine field contacts that may involve individuals with disabilities. The scope and nature of these activities and contacts will inevitably vary.

The Department recognizes that it would be virtually impossible to provide immediate access to complete communication services to every member of this department. Members and/or supervisors must assess each situation and consider the length, complexity and importance of the communication, as well as the individual's preferred method of communication, when determining the type of resources to use and whether a qualified interpreter is needed.

Although not every situation can be addressed in this policy, it is important that members are able to effectively communicate the reason for a contact, the need for information and the meaning or consequences of any enforcement action. For example, it would be meaningless to verbally request consent to search if the officer is unable to effectively communicate with an individual who is deaf or hard of hearing and requires communications assistance.

If available, officers should obtain the assistance of a qualified interpreter before placing an individual with a disability under arrest. Individuals who are arrested and are assisted by service animals should be permitted to make arrangements for the care of such animals prior to transport.

### 368.13.1 FIELD RESOURCES

Examples of methods that may be sufficient for transactions, such as checking a license or giving directions to a location or for urgent situations such as responding to a violent crime in progress, may, depending on the circumstances, include such simple things as:

(a) Hand gestures or visual aids with an individual who is deaf, hard of hearing or has impaired speech.

(b) Exchange of written notes or communications.

(c) Verbal communication with an individual who can speechread by facing the individual and speaking slowly and clearly.

(d) Use of computer, word processing, personal communication device or similar device to exchange texts or notes.

(e) Slowly and clearly speaking or reading simple terms to individuals who have a visual or mental impairment.

Members should be aware that these techniques may not provide effective communication as required by law and this policy depending on the circumstances.

## 368.14 CUSTODIAL INTERROGATIONS

In an effort to ensure that the rights of individuals who are deaf, hard of hearing or have speech impairment are protected during a custodial interrogation, this department will provide interpreter services before beginning an interrogation, unless exigent circumstances exist or the individual

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

has made a clear indication that he/she understands the process and desires to proceed without an interpreter. The use of a video remote interpreting service should be considered, where appropriate, if a live interpreter is not available. *Miranda* warnings shall be provided to suspects who are deaf or hard of hearing by a qualified interpreter or by providing a written *Miranda* warning card.

In order to ensure that communications during custodial investigations are accurately documented and are admissible as evidence, interrogations should be recorded whenever reasonably possible. See guidance on recording custodial interrogations in the Investigation and Prosecution Policy.

### 368.15 ARREST AND BOOKINGS

If an individual with speech or hearing disabilities is arrested, the arresting officer shall use department-approved procedures to provide a qualified interpreter at the place of arrest or booking as soon as reasonably practicable, unless the individual indicates that he/she prefers a different auxiliary aid or service or the officer reasonably determines another effective method of communication exists under the circumstances.

When gathering information during the booking process, members should remain alert to the impediments that often exist when communicating with those who are deaf, hard of hearing, who have impaired speech or vision, are blind, or have other disabilities. In the interest of the arrestee's health and welfare, the safety and security of the facility and to protect individual rights, it is important that accurate medical screening and booking information be obtained. If necessary, members should seek the assistance of a qualified interpreter whenever there is concern that accurate information cannot be obtained or that booking instructions may not be properly understood by the individual.

Individuals who require and possess personally owned communication aids (e.g., hearing aids, cochlear processors) should be permitted to retain them while in custody.

### 368.16 COMPLAINTS

The Department shall ensure that individuals with disabilities who wish to file a complaint regarding members of this department are able to do so. The Department may provide a qualified interpreter or forms in enlarged print, as appropriate. Complaints will be referred to the department ADA Coordinator.

Investigations into such complaints shall be handled in accordance with the Personnel Complaints Policy. Qualified interpreters used during the investigation of a complaint should not be members of this Department.

### 368.17 COMMUNITY OUTREACH

Community outreach programs and other such services offered by this department are important to the ultimate success of more traditional law enforcement duties. This department will continue to work with community groups, local businesses and neighborhoods to provide equal access to such programs and services.

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

### 368.18 TRAINING

To ensure that all members who may have contact with individuals who are disabled are properly trained, the Department will provide periodic training that should include:

(a) Awareness and understanding of this policy and related procedures, related forms and available resources.

(b) Procedures for accessing qualified interpreters and other available resources.

(c) Working with in-person and telephone interpreters and related equipment.

The Training Manager shall be responsible for ensuring new members receive training related to interacting with individuals who have disabilities, including individuals who are deaf, hard of hearing, who have impaired speech or vision, or are blind. Those who may have contact with such individuals should receive refresher training at least once every two years thereafter. The Training Manager shall maintain records of all training provided, and will retain a copy in each member's training file in accordance with established records retention schedules.

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

# Mandatory Employer Notification

## 370.1 PURPOSE AND SCOPE

The purpose of this policy is to describe the requirements and procedures to follow when a public or private school employee (teacher and non-teacher) has been arrested under certain circumstances.

## 370.2 MANDATORY SCHOOL EMPLOYEE ARREST REPORTING

In the event a school employee is arrested for any offense enumerated below, the Chief of Police or his/her designee is required to report the arrest as follows.

### 370.2.1 ARREST OF PUBLIC SCHOOL TEACHER

In the event a public school teacher is arrested for any controlled substance offense enumerated in Health and Safety Code § 11591 or Health and Safety Code § 11364, in so far as that section relates to Health and Safety Code § 11054(d)(12), or for any of the offenses enumerated in Penal Code § 290, Penal Code § 261(a), or Education Code § 44010, the Chief of Police or his/her designee is mandated to immediately notify by telephone the superintendent of the school district employing the teacher and to immediately give written notice of the arrest to the Commission on Teacher Credentialing and to the superintendent of schools in the county where the person is employed (Health and Safety Code § 11591; Penal Code § 291).

### 370.2.2 ARREST OF PUBLIC SCHOOL NON-TEACHER EMPLOYEE

In the event a public school non-teacher employee is arrested for any controlled substance offense enumerated in Health and Safety Code § 11591 or Health and Safety Code § 11364, in so far as that section relates to Health and Safety Code § 11054(d)(12), or for any of the offenses enumerated in Penal Code § 290, Penal Code § 261(a), or Education Code § 44010, the Chief of Police or his/her designee is mandated to immediately notify by telephone the superintendent of the school district employing the non-teacher and to immediately give written notice of the arrest to the governing board of the school district employing the person (Health and Safety Code § 11591; Penal Code § 291).

### 370.2.3 ARREST OF PRIVATE SCHOOL TEACHER

In the event a private school teacher is arrested for any controlled substance offense enumerated in Health and Safety Code § 11591 or Health and Safety Code § 11364, in so far as that section relates to Health and Safety Code § 11054(d)(12), or for any of the offenses enumerated in Penal Code § 290 or Education Code § 44010, the Chief of Police or his/her designee is mandated to immediately notify by telephone the private school authority employing the teacher and to immediately give written notice of the arrest to the private school authority employing the teacher (Health and Safety Code § 11591; Penal Code § 291.1).

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

370.2.4 ARREST OF COMMUNITY COLLEGE INSTRUCTOR

In the event a teacher or instructor employed in a community college district school is arrested for any controlled substance offense enumerated in Health and Safety Code § 11591.5 or Health and Safety § 11364, in so far as that section relates to Health and Safety Code § 11054(d)(9), or for any of the offenses enumerated in Penal Code § 290 or in Penal Code § 261(a)(1), the Chief of Police or the authorized designee is mandated to immediately notify by telephone the superintendent of the community college district employing the person, and shall immediately give written notice of the arrest to the California Community Colleges Chancellor's Office (Health and Safety Code § 11591.5; Penal Code § 291.5).

## 370.3 POLICY

The Brentwood Police Department will meet the reporting requirements of California law to minimize the risks to children and others.

## 370.4 ARREST OF PERSONS EMPLOYED IN COMMUNITY CARE FACILITIES

In the event an employee of a community treatment facility, a day treatment facility, a group home, a short-term residential therapeutic program or a foster family agency is arrested for child abuse (as defined in Penal Code § 11165.6) and the employee is free to return to work where children are present, the investigating member shall notify the licensee of the charge of abuse (Health and Safety Code § 1522.2).

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

# Biological Samples

## 372.1 PURPOSE AND SCOPE

This policy provides guidelines for the collection of biological samples from those individuals required to provide samples upon conviction or arrest for certain offenses. This policy does not apply to biological samples collected at a crime scene or taken from a person in conjunction with a criminal investigation. Nor does it apply to biological samples from those required to register, for example, sex offenders.

## 372.2 POLICY

The Brentwood Police Department will assist in the expeditious collection of required biological samples from offenders in accordance with the laws of this state and with as little reliance on force as practicable.

## 372.3 PERSONS SUBJECT TO DNA COLLECTION

Those who must submit a biological sample include (Penal Code § 296):

(a) A person, including a juvenile, upon conviction or other adjudication of any felony offense.

(b) A person, including a juvenile, upon conviction or other adjudication of any offense if the person has a prior felony on record.

(c) An adult arrested or charged with any felony.

## 372.4 PROCEDURE

When an individual is required to provide a biological sample, a trained employee shall obtain the sample in accordance with this policy.

### 372.4.1 COLLECTION

The following steps should be taken to collect a sample:

(a) Verify that the individual is required to provide a sample pursuant to Penal Code § 296; Penal Code § 296.1.

(b) Verify that a biological sample has not been previously collected from the offender by querying the individual's criminal history record for a DNA collection flag or, during regular business hours, calling the California Department of Justice (DOJ) designated DNA laboratory. There is no need to obtain a biological sample if one has been previously obtained.

(c) Use a DNA buccal swab collection kit provided by the California DOJ to perform the collection and take steps to avoid cross contamination.

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

## 372.5 USE OF FORCE TO OBTAIN SAMPLES

If a person refuses to cooperate with the sample collection process, officers should attempt to identify the reason for refusal and seek voluntary compliance without resorting to using force. Force will not be used in the collection of samples except as authorized by court order and only with the approval of a supervisor. Methods to consider when seeking voluntary compliance include contacting:

(a) The person's parole or probation officer when applicable.

(b) The prosecuting attorney to seek additional charges against the person for failure to comply or to otherwise bring the refusal before a judge.

(c) The judge at the person's next court appearance.

(d) The person's attorney.

(e) A chaplain.

(f) Another custody facility with additional resources, where an arrestee can be transferred to better facilitate sample collection.

(g) A supervisor who may be able to authorize custodial disciplinary actions to compel compliance, if any are available.

The supervisor shall review and approve any plan to use force and be present to document the process.

### 372.5.1 VIDEO RECORDING

A video recording should be made anytime force is used to obtain a biological sample. The recording should document all staff participating in the process, in addition to the methods and all force used during the collection. The recording should be part of the investigation file, if any, or otherwise retained in accordance with the department's records retention schedule (15 CCR 1059).

### 372.5.2 CELL EXTRACTIONS

If the use of force includes a cell extraction, the extraction shall be video recorded, including audio. Video shall be directed at the cell extraction event. The video recording shall be retained by the Department for the length of time required by statute. Notwithstanding the use of the video as evidence in a criminal proceeding, the tape shall be retained administratively (15 CCR 1059).

## 372.6 LEGAL MANDATES AND RELEVANT LAWS

California law provides for the following:

### 372.6.1 DOCUMENTATION RELATED TO FORCE

The Watch Commander shall prepare prior written authorization for the use of any force (15 CCR 1059). The written authorization shall include information that the subject was asked to provide the requisite specimen, sample or impression and refused, as well as the related court order authorizing the force.

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

### 372.6.2 BLOOD SAMPLES

A blood sample should only be obtained under this policy when:

(a) The California DOJ requests a blood sample and the subject consents, or

(b) A court orders a blood sample following a refusal.

The withdrawal of blood may only be performed in a medically approved manner by health care providers trained and qualified to draw blood. A California DOJ collection kit shall be used for this purpose (Penal Code § 298(a); Penal Code § 298(b)(2)).

### 372.6.3 LITIGATION

The Chief of Police or authorized designee should notify the California DOJ's DNA Legal Unit in the event this department is named in a lawsuit involving the DNA Data Bank sample collection, sample use or any aspect of the state's DNA Data Bank Program.

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

# Child and Dependent Adult Safety

## 378.1 PURPOSE AND SCOPE

This policy provides guidelines to ensure that children and dependent adults are not left without appropriate care in the event their caregiver or guardian is arrested or otherwise prevented from providing care due to actions taken by members of this department (Penal Code § 833.2(a)).

This policy does not address the actions to be taken during the course of a child abuse or dependent adult investigation. These are covered in the Child Abuse and Adult Abuse policies.

## 378.2 POLICY

It is the policy of this department to mitigate, to the extent reasonably possible, the stressful experience individuals may have when their parent or caregiver is arrested. The Brentwood Police Department will endeavor to create a strong, cooperative relationship with local, state and community-based social services to ensure an effective, collaborative response that addresses the needs of those affected, including call-out availability and follow-up responsibilities.

## 378.3 PROCEDURES DURING AN ARREST

When encountering an arrest or prolonged detention situation, officers should make reasonable attempts to determine if the arrestee is responsible for children or dependent adults. In some cases this may be obvious, such as when children or dependent adults are present. However, officers should inquire if the arrestee has caregiver responsibilities for any children or dependent adults who are without appropriate supervision. The following steps should be taken (Penal Code § 13517.7(b)(1)):

(a) Inquire about and confirm the location of any children or dependent adults.

(b) Look for evidence of children and dependent adults. Officers should be mindful that some arrestees may conceal the fact that they have a dependent for fear the individual may be taken from them.

(c) Consider inquiring of witnesses, neighbors, friends and relatives of the arrestee as to whether the person is responsible for a child or dependent adult.

Whenever reasonably possible, officers should take reasonable steps to accomplish the arrest of a parent, guardian or caregiver out of the presence of his/her child or dependent adult. Removing children or dependent adults from the scene in advance of the arrest will generally ensure the best outcome for the individual.

Whenever it is safe to do so, officers should allow the parent or caregiver to assure children or dependent adults that they will be provided care. If this is not safe or if the demeanor of the parent or caregiver suggests this conversation would be non-productive, the officer at the scene should explain the reason for the arrest in age-appropriate language and offer reassurance to the child or dependent adult that he/she will receive appropriate care.

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

### 378.3.1 AFTER AN ARREST

Whenever an arrest is made, the officer should take all reasonable steps to ensure the safety of the arrestee's disclosed or discovered children or dependent adults.

Officers should allow the arrestee reasonable time to arrange for care of children and dependent adults. Temporary placement with family or friends may be appropriate. However, any decision should give priority to a care solution that is in the best interest of the child or dependent adult. In such cases the following guidelines should be followed:

(a) Allow the person reasonable time to arrange for the care of children and dependent adults with a responsible party, as appropriate.

  1. Officers should consider allowing the person to use his/her cell phone to facilitate arrangements through access to contact phone numbers, and to lessen the likelihood of call screening by the recipients due to calls from unknown sources.

(b) Unless there is evidence to the contrary (e.g., signs of abuse, drug use, unsafe environment), officers should respect the parent or caregiver's judgment regarding arrangements for care. It is generally best if the child or dependent adult remains with relatives or family friends that he/she knows and trusts because familiarity with surroundings and consideration for comfort, emotional state and safety are important.

  1. Except when a court order exists limiting contact, the officer should attempt to locate and place children or dependent adults with the non-arrested parent, guardian or caregiver.

(c) Provide for the immediate supervision of children or dependent adults until an appropriate caregiver arrives.

(d) Notify Child Protective Services or the Division of Aging and Adult Services, if appropriate.

(e) Notify the field supervisor or Watch Commander of the disposition of children or dependent adults.

If children or dependent adults are at school or another known location outside the household at the time of arrest, the arresting officer should attempt to contact the school or other known location and inform the principal or appropriate responsible adult of the caregiver's arrest and of the arrangements being made for the care of the arrestee's dependent. The result of such actions should be documented in the associated report.

### 378.3.2 DURING THE BOOKING PROCESS

During the booking process the arrestee shall be allowed to make additional telephone calls to relatives or other responsible individuals as is reasonably necessary to arrange for the care of any child or dependent adult. These telephone calls should be given as soon as practicable and are in addition to any other telephone calls allowed by law (Penal Code § 851.5(c)).

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

If an arrestee is unable to resolve the care of any child or dependent adult through this process, a supervisor should be contacted to determine the appropriate steps to arrange for care. These steps may include additional telephone calls or contacting a local, county or state services agency.

378.3.3 REPORTING

(a) For all arrests where children are present or living in the household, the reporting member will document the following information:

1. Name
2. Sex
3. Age
4. Special needs (e.g., medical, mental health)
5. How, where and with whom or which agency the child was placed
6. Identities and contact information for other potential caregivers
7. Notifications made to other adults (e.g., schools, relatives)

(b) For all arrests where dependent adults are present or living in the household, the reporting member will document the following information:

1. Name
2. Sex
3. Age
4. Whether he/she reasonably appears able to care for him/herself
5. Disposition or placement information if he/she is unable to care for him/herself

378.3.4 SUPPORT AND COUNSELING REFERRAL

If, in the judgment of the handling officers, the child or dependent adult would benefit from additional assistance, such as counseling services, contact with a victim advocate or a crisis telephone number, the appropriate referral information may be provided.

## 378.4 DEPENDENT WELFARE SERVICES

Whenever an arrestee is unwilling or incapable of arranging for the appropriate care of any child or dependent adult, the handling officer should contact the appropriate welfare service or other department-approved social service to determine whether protective custody is appropriate (Welfare and Institutions Code § 305).

Only when other reasonable options are exhausted should a child or dependent adult be transported to the police facility, transported in a marked patrol car, or taken into formal protective custody.

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

Under no circumstances should a child or dependent adult be left unattended or without appropriate care.

### 378.5 TRAINING

The Training Manager is responsible to ensure that all personnel of this department who may be involved in arrests affecting children or dependent adults receive approved POST-approved training on effective safety measures when a parent, guardian or caregiver is arrested (Penal Code § 13517.7).

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

# Service Animals

## 380.1 PURPOSE AND SCOPE

The purpose of this policy is to provide the guidelines necessary to ensure the rights of individuals who use service animals to assist with disabilities are protected in accordance with Title II of the Americans with Disabilities Act of 1990 (ADA).

### 380.1.1 DEFINITIONS

Definitions related to this policy include:

**Service animal** - A dog that is trained to do work or perform tasks for the benefit of an individual with a disability, including a physical, sensory, psychiatric, intellectual or other mental disability. The work or tasks performed by a service animal must be directly related to the individual's disability (28 CFR 35.104; Health and Safety Code § 113903).

Service animal also includes a miniature horse if the horse is trained to do work or perform tasks for people with disabilities, provided the horse is housebroken, is under the handler's control, the facility can accommodate the horse's type, size and weight, and the horse's presence will not compromise legitimate safety requirements necessary for safe operation of the facility (28 CFR 35.136(i)).

## 380.2 POLICY

It is the policy of the Brentwood Police Department to provide services and access to persons with service animals in the same manner as those without service animals. Department members shall protect the rights of persons assisted by service animals in accordance with state and federal law.

## 380.3 IDENTIFICATION AND USE OF SERVICE ANIMALS

Some service animals may be readily identifiable. However, many do not have a distinctive symbol, harness or collar.

Service animals may be used in a number of ways to provide assistance, including:

- Guiding people who are blind or have low vision.
- Alerting people who are deaf or hard of hearing.
- Retrieving or picking up items, opening doors or flipping switches for people who have limited use of their hands, arms or legs.
- Pulling wheelchairs.
- Providing physical support and assisting with stability and balance.
- Doing work or performing tasks for persons with traumatic brain injury, intellectual disabilities or psychiatric disabilities, such as reminding a person with depression to take medication.
- Alerting a person with anxiety to the onset of panic attacks, providing tactile stimulation to calm a person with post-traumatic stress disorder, assisting people with

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

schizophrenia to distinguish between hallucinations and reality, and helping people with traumatic brain injury to locate misplaced items or follow daily routines.

### 380.4 MEMBER RESPONSIBILITIES

Service animals that are assisting individuals with disabilities are permitted in all public facilities and areas where the general public is allowed. Department members are expected to treat individuals with service animals with the same courtesy and respect that the Brentwood Police Department affords to all members of the public (28 CFR 35.136).

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

# Off-Duty Law Enforcement Actions

## 384.1 PURPOSE AND SCOPE

The decision to become involved in a law enforcement action when off-duty can place an officer as well as others at great risk and must be done with careful consideration. This policy is intended to provide guidelines for officers of the Brentwood Police Department with respect to taking law enforcement action while off-duty.

## 384.2 POLICY

Initiating law enforcement action while off-duty is generally discouraged. Officers should not attempt to initiate enforcement action when witnessing minor crimes, such as suspected intoxicated drivers, reckless driving or minor property crimes. Such incidents should be promptly reported to the appropriate law enforcement agency.

Officers are not expected to place themselves in unreasonable peril. However, any sworn member of this department who becomes aware of an incident or circumstance that he/she reasonably believes poses an imminent threat of serious bodily injury or death, or significant property damage may take reasonable action to minimize the threat.

When public safety or the prevention of major property damage requires immediate action, officers should first consider reporting and monitoring the activity and only take direct action as a last resort.

## 384.3 FIREARMS

Officers of this department may carry firearms while off-duty in accordance with federal regulations and department policy. All firearms and ammunition must meet guidelines as described in the department Firearms Policy. When carrying firearms while off-duty officers shall also carry their department-issued badge and identification.

Officers should refrain from carrying firearms when the consumption of alcohol is likely or when the need to carry a firearm is outweighed by safety considerations. Firearms shall not be carried by any officer who has consumed an amount of an alcoholic beverage or taken any drugs or medications or any combination thereof that would tend to adversely affect the officer's senses or judgment.

## 384.4 DECISION TO INTERVENE

There is no legal requirement for off-duty officers to take law enforcement action. However, should officers decide to intervene, they must evaluate whether the action is necessary or desirable, and should take into consideration the following:

(a) The tactical disadvantage of being alone and the fact there may be multiple or hidden suspects.

(b) The inability to communicate with responding units.

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

(c) The lack of equipment, such as handcuffs, OC or baton.

(d) The lack of cover.

(e) The potential for increased risk to bystanders if the off-duty officer were to intervene.

(f) Unfamiliarity with the surroundings.

(g) The potential for the off-duty officer to be misidentified by other peace officers or members of the public.

Officers should consider waiting for on-duty uniformed officers to arrive, and gather as much accurate intelligence as possible instead of immediately intervening.

384.4.1 INTERVENTION PROCEDURE

If involvement is reasonably necessary the officer should attempt to call or have someone else call 9-1-1 to request immediate assistance. The dispatcher should be informed that an off-duty officer is on-scene and should be provided a description of the officer if possible.

Whenever practicable, the officer should loudly and repeatedly identify him/herself as an Brentwood Police Department officer until acknowledged. Official identification should also be displayed.

384.4.2 INCIDENTS OF PERSONAL INTEREST

Officers should refrain from handling incidents of personal interest, (e.g., family or neighbor disputes) and should remain neutral. In such circumstances officers should call the responsible agency to handle the matter.

384.4.3 NON-SWORN RESPONSIBILITIES

Non-sworn personnel should not become involved in any law enforcement actions while off-duty except to notify the local law enforcement authority and remain at the scene, if safe and practicable.

384.4.4 OTHER CONSIDERATIONS

When encountering a non-uniformed officer in public, uniformed officers should wait for acknowledgement by the non-uniformed officer in case he/she needs to maintain an undercover capability.

## 384.5 REPORTING

Any off-duty officer who engages in any law enforcement activity, regardless of jurisdiction, shall notify the Watch Commander as soon as practicable. The Watch Commander shall determine whether a report should be filed by the employee.

Officers should cooperate fully with the agency having jurisdiction in providing statements or reports as requested or as appropriate.

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

# Video Surveillance Programs

## 386.1 PURPOSE

The City is aware that some homeowners and neighborhoods have installed their own, private video surveillance systems for safety and security, and to deter crimes. The videos surveillance systems may also provide useful evidence in investigating and solving crimes. The Brentwood Police Department wishes to cooperate with these private owners, and to be able to view the videos when they may be helpful. Homeowners and neighborhood groups are invited and encouraged to make videos available to the Police Department for criminal investigations. The Video Surveillance Programs address both individual homeowner surveillance systems and neighborhood surveillance systems.

## 386.2 HOME VIDEO SURVEILLANCE PROGRAM

### 386.2.1 DESCRIPTION

The Home Video Surveillance Program may include either indoor and/or outdoor surveillance of a homeowner's property and the surrounding area. Homeowner's willing to make these video camera recordings available for police investigations can register the location of the cameras.

### 386.2.2 REGISTRATION

Individual homeowners may register their video surveillance systems by advising the Police Department that they have a system and identifying the location of cameras on their property. The Police Department will then map the camera locations for future use. To provide registration and contact information call the Police Department Neighborhood Watch Coordinator at (925) 634-6911 or go to:http://www.brentwoodca.gov/gov/police/prevention/home_video_surveillance-registration.

### 386.2.3 SIGNS

If an individual homeowner posts a video surveillance sign on his or her property, it must conform to the City's sign ordinance, at Brentwood Municipal Code Chapter17.640.III.

See attachment: Video Surveillance Sign.pdf

See attachment: Neighborhood Watch Video Surveillance Sign.pdf

## 386.3 NEIGHBORHOOD VIDEO SURVEILLANCE PROGRAM

### 386.3.1 DESCRIPTION

The City of Brentwood Neighborhood Watch Program is a POLICE DEPARTMENTcommunity/ law enforcement partnership and crime prevention program. It is one aspect of community policing that includes crime prevention, public education and awareness, and community problem-solving techniques.

The Neighborhood Video Surveillance Program involves a Neighborhood Watch group deciding to place video cameras on private property for surveillance of the neighborhood or neighborhood

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

streets. By participating in this Program, the neighborhood group would register their system with the Police Department and allow the video to be viewed for investigation during or after an incident. The Program may also benefit the neighborhood because the Police Department may approve and authorize the placement of signage on public property to show that the neighborhood is under video surveillance.

This Neighborhood Video Surveillance Program is intended to increase the effectiveness of the Neighborhood Watch Program, as follows:

1. The Police Department can increase neighborhood crime prevention using registered neighborhood video systems.

2. The Police Department can view current neighborhood conditions as time allows, and use as an aid when responding to a call for service or an emergency.

3. The Police Department will review registered neighborhood video system evidence in the event of a crime.

4. Neighborhoods may enhance their Neighborhood Watch Program signage to show that the neighborhood is under video surveillance.

386.3.2 PROGRAM REQUIREMENTS - REGISTRATION

1. Registration. Brentwood neighborhoods that want to participate in the Video Surveillance Program may register their video surveillance system with the Police Department.

The Neighborhood Contact person(s) may register their neighborhood surveillance system by contacting the Neighborhood Watch Coordinator at (925) 634-6911.

For the neighborhood video surveillance system, registration information will include:

a. Name of the neighborhood;

b. A minimum of two Neighborhood Watch Program Contacts (Leaders or Captains) and contact information;

c. Video system camera locations, retention capability, and registered IP addresses, for video system access; and

d. Confirmation that the Contacts, and by implication the neighborhood, agree to the terms of this Program and that the Police Department will have access to the video system for monitoring and review at its discretion.

2. Neighborhood Program Contacts. The designated Neighborhood Watch Program Contacts (Leaders or Captains) have overall responsibility for ensuring that their Neighborhood Watch Program adheres to these requirements. They are required to attend the training offered by the Police Department. In addition, they are responsible for notifying the Police Department when there are any changes to the Contacts or the neighborhood video surveillance system (e.g. change in video system IP address). The City may require annual confirmation of the Contacts who

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

represent the neighborhood. Failure to adhere to the Program requirements may result in the removal of signs from public property.

3. Training. The Police Department will train the Contacts and its own designated personnel as follows: when a new Contact or Police Department person assumes a position of responsibility under this Program; when there is a substantial change to the Program; and when the Police Department determines it is needed.

C. Signs. Existing Neighborhood Watch groups with a registered video surveillance system wishing to add video surveillance signs to their Neighborhood Watch signs may make the request by contacting the Neighborhood Watch Program Coordinator. When the Police Department receives the request, it will review the signage procedures, requirements, and costs with the Contacts. The signs must be in the form attached as Exhibit A. The signs must be provided by the neighborhood and would be installed by City Public Works personnel. Installation will be coordinated with the City Public Works Department by the Neighborhood Watch Coordinator. Once approved by the Police Department, the private neighborhood sign (on public property) is considered an Exempt sign under Municipal Codesection 17.645.006.A.1.

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

# Native American Graves Protection and Repatriation

## 387.1 PURPOSE AND SCOPE

This policy is intended ensure the protection and security of ancient or historic grave sites, including notification of personnel responsible for cultural items, in compliance with the Native American Graves Protection and Repatriation Act (NAGPRA) (25 USC § 3001 et seq.).

### 387.1.1 DEFINITIONS

Definitions related to this policy include (43 CFR 10.2):

**Funerary objects and associated funerary objects** - Objects that, as part of the death rite or ceremony of a culture, are reasonably believed to have been placed intentionally at the time of death or later with or near individual human remains, or that were made exclusively for burial purposes or to contain human remains.

**Native American human remains** - The physical remains of the body of a person of Native American ancestry.

**Objects of cultural patrimony** - Objects having ongoing historical, traditional or cultural importance that is central to the Native American group or culture itself and therefore cannot be appropriated or conveyed by any individual, including members of the Native American group or Native Hawaiian organization. Such objects must have been considered inalienable by the Native American group at the time the object was separated from the group.

**Sacred objects** - Specific ceremonial objects needed by traditional Native American religious leaders for the practice of traditional Native American religions.

## 387.2 POLICY

It is the policy of the Brentwood Police Department that the protection of Native American human remains, funerary objects, associated funerary objects, sacred objects or objects of cultural patrimony is the responsibility of all members. Such protection includes minimizing destruction, contamination, inadvertent disruption or complicated custody transfer processes.

## 387.3 COMPLIANCE WITH THE NATIVE AMERICAN GRAVES PROTECTION AND REPATRIATION ACT

Upon discovery or arrival upon a scene where it reasonably appears that a Native American grave, human remains, funerary objects, associated funerary objects, sacred objects or objects of cultural patrimony are exposed or otherwise unsecured, members shall secure the site in the same manner as a crime scene. All activity at the scene other than scene preservation activity must cease (43 CFR 10.4).

No photography or video recording may be permitted by the media or any group or individual who may wish to exhibit the remains.

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

Without delay, the appropriate agency or group shall be notified to respond and take control of the scene. These include the following (43 CFR 10.4):

- Federal land - Appropriate agency at the U.S. Department of the Interior or U.S. Department of Agriculture
- State land/Private land - Coroner, when appropriate (Health and Safety Code § 7050.5)
- Tribal land - Responsible Indian tribal official

### 387.4 EVIDENCE AND PROPERTY

If the location has been investigated as a possible homicide scene prior to identification as a NAGPRA site, investigators shall work with other appropriate agencies and individuals to ensure the proper transfer and repatriation of any material collected. Members shall ensure that any remains or artifacts located at the site are expediently processed (43 CFR 10.6).

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

# Gun Violence Restraining Orders

## 388.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidelines for petitioning and serving gun violence restraining orders and accounting for the firearms obtained pursuant to those orders (Penal Code § 18108).

### 388.1.1 DEFINITIONS

Definitions related to this policy include:

**Gun violence restraining order** - Civil restraining order prohibiting a named person from controlling, owning, purchasing, possessing, receiving, or otherwise having custody of any firearms or ammunition, including an ammunition magazine (Penal Code § 18100).

## 388.2 POLICY

It is the policy of the Brentwood Police Department to petition and serve gun violence restraining orders in compliance with state law and to properly account for firearms and ammunition obtained by the Department pursuant to such orders.

## 388.3 GUN VIOLENCE RESTRAINING ORDERS

An officer who reasonably believes a person is a present danger to him/herself or another person by controlling, owning, purchasing, possessing, receiving, or otherwise having custody of a firearm may request permission from his/her supervisor to petition the court for a gun violence restraining order.

Officers petitioning the court should use the forms established by the Judicial Council (Penal Code § 18105). The petition should describe the number, types, and locations of any firearms and ammunition that the officer believes to be possessed or controlled by the person (Penal Code § 18107). The petition should also describe why less-restrictive alternatives are ineffective or inadequate for the circumstances (Penal Code § 18125; Penal Code § 18150; Penal Code § 18175).

If it is not practical under the circumstances to submit a written petition, an officer may orally request an order, and then prepare and sign a declaration under penalty of perjury that recites the oral statements provided to the judicial officer and memorialize the order of the court on the appropriate Judicial Council form (Penal Code § 18140).

### 388.3.1 ADDITIONAL CONSIDERATIONS

Officers should also consider requesting permission to petition the court for a gun violence restraining order (Penal Code § 18108):

(a) When responding to a domestic disturbance where the residence is associated with a firearm registration or record.

(b) When responding to any call or incident when a firearm is present or when one of the involved parties owns or possesses a firearm.

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

(c) During a contact with a person exhibiting mental health issues, including suicidal thoughts, statements, or actions if that person owns or possesses a firearm.

Officers should consider obtaining a mental health evaluation if the encounter involves a situation where there is a reasonable cause to believe that the person poses an immediate and present danger of causing personal injury to themselves or another person by having custody or control of a firearm (see the Mental Illness Commitments Policy) (Penal Code § 18108).

## 388.4 SERVICE OF GUN VIOLENCE RESTRAINING ORDERS

An officer serving any gun violence restraining order shall:

(a) Verbally ask the subject of the order if he/she has any firearm, ammunition, or magazine in his/her possession or under his/her custody or control (Penal Code § 18160).

(b) Request that any firearms or ammunition be immediately surrendered and issue a receipt for the surrendered items (Penal Code § 18120).

(c) Take into temporary custody any firearm or other deadly weapon discovered in plain view or pursuant to consent or other lawful search (Penal Code § 18250).

(d) Inform the restrained person of any scheduled hearing regarding the order (Penal Code § 18160).

(e) Transmit the original proof of service form to the issuing court as soon as practicable but within one business day (Penal Code § 18115).

(f) As soon as practicable, but by the end of his/her shift, submit proof of service to the Records Supervisor for prompt entry into the California Restraining and Protective Order System (Penal Code § 18115).

The officer should also inform the restrained person that he/she is required, within 24 hours, to surrender to a law enforcement agency any other firearms and ammunition he/she owns or that are in his/her custody or control or sell them to a firearms dealer. This notification should be documented.

All firearms and ammunition collected shall be handled and booked in accordance with the Property and Evidence Policy.

### 388.4.1 SERVICE OF ORAL GUN VIOLENCE RESTRAINING ORDERS

If a gun violence restraining order is obtained orally, the officer shall (Penal Code § 18140):

(a) Serve the order on the restrained person in the manner outlined above, if the restrained person can reasonably be located.

(b) File a copy of the order with the court as soon as practicable after issuance.

(c) Ensure the order is provided to the Records Bureau for entry into the computer database system for protective and restraining orders maintained by the Department of Justice.

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

### 388.5 SEARCH WARRANTS

If a person who has been served with a gun violence restraining order refuses to surrender any firearm or ammunition, the officer should consider whether to seek a search warrant. If a search warrant is to be obtained, the preparation and service of the search warrant shall be done in accordance with the Warrant Service Policy. Additionally, (Penal Code § 1542.5):

(a) The officer serving the warrant shall take custody of any firearm or ammunition that is controlled, possessed or owned by the person who is the subject of the gun violence restraining order, including any discovered pursuant to the warrant, a consensual search or other lawful search.

(b) If the location being searched is jointly occupied and the firearm or ammunition is owned by a person other than the restrained person, the firearm or ammunition should not be seized if the following conditions are met:

1. The firearm or ammunition can be stored in a manner that does not allow the restrained person to have control or access.
2. There is no evidence that the owner unlawfully possesses the firearm or ammunition.

(c) If a locked gun safe belonging to someone other than the subject of a gun violence restraining order is discovered, the officer shall not search the contents of the safe unless the owner consents or there is a valid search warrant for the safe. Any search of the safe must be done in the owner's presence.

### 388.6 RECORDS SUPERVISOR RESPONSIBILITIES

The Records Supervisor is responsible for ensuring:

(a) Proof of service of any gun violence restraining order served by an officer or received from the clerk of the court is entered in the computer database system for protective and restraining orders maintained by the Department of Justice within one business day of service if served by an officer, or within one business day of receipt of proof of service if served by a person other than a law enforcement officer (Penal Code § 18115).

(b) Oral orders are entered into the California Restraining and Protective Order System (Penal Code § 18140).

(c) Copies of receipts of surrendered firearms or ammunition issued by other agencies for gun violence restraining orders issued by the Department are properly maintained (Penal Code § 18120).

(d) Any relinquishment of firearm rights form received from the court is entered into the California Restraining and Protective Order System within one business day of receipt (Penal Code § 18115).

### 388.7 COURT-ORDERED FIREARMS AND AMMUNITION SURRENDERS

Authorized members shall accept firearms and ammunition from any individual who is the subject of a gun violence restraining order. The member receiving any firearm or ammunition shall:

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

(a) Record the individual's name, address and telephone number.

(b) Record the serial number of the firearm.

(c) Prepare an incident report and property report.

(d) Provide a property receipt to the individual who surrendered the firearms and ammunition.

(e) Package and submit the firearms and ammunition in accordance with the Property and Evidence Policy.

### 388.8 RELEASE OF FIREARMS AND AMMUNITION

Firearms and ammunition that were taken into temporary custody or surrendered pursuant to a gun violence restraining order shall be returned to the restrained person upon the expiration of the order and in accordance with Penal Code § 18120 and the Property and Evidence Policy.

### 388.9 GUN VIOLENCE RESTRAINING ORDER COORDINATOR

The Chief of Police will appoint a gun violence restraining order coordinator. The responsibilities of the coordinator include:

(a) Developing and maintaining procedures for the filing of a petition for an order or a renewal of an order by department members, also including procedures for requesting and serving (Penal Code § 18108):

1. A temporary emergency gun violence restraining order.
2. An ex parte gun violence restraining order.
3. A gun violence restraining order issued after notice and hearing.

(b) Developing and maintaining factors to consider when assessing the need to seek an order, including:

1. Whether threats have been made, and if so, whether the threats are credible and specific.
2. Whether the potential victim is within close proximity.
3. Whether the person has expressed suicidal tendencies.
4. Whether the person has access to firearms.
5. The criminal history of the person, in particular any history of criminal violence, including whether the person is currently on parole, probation, or monitored release.
6. The mental health history of the person, in particular whether the person has any history of mental illness or has ever been detained for being a danger to themselves or others.
7. Any upcoming holidays, anniversaries, or other dates of significance that may serve as a trigger for the person, such as the death of a family member.
8. Whether the person has any history of drug or alcohol abuse.

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

(c) Developing and maintaining procedures for the receipt and service of orders consistent with the requirements of Penal Code § 18115; Penal Code § 18120; Penal Code § 18135; Penal Code § 18140; and Penal Code § 18160. Procedures should include:

1. Evaluation of an order to determine appropriate service and necessary precautions (see the Warrant Service Policy and the Operations Planning and Deconfliction Policy).
2. Forwarding orders to the Records Supervisor for recording in appropriate databases and required notice to the court, as applicable.
3. Preparing or obtaining a search warrant prior to attempting service of an order, when appropriate (Penal Code § 18108).
4. Seizure procedures of firearms and ammunition at the time of issuance of a temporary emergency gun violence restraining order.
5. Verification procedures for the removal of firearms and ammunition from the subject of a gun violence restraining order.

(d) Coordinating with the Training Manager to provide officers who may be involved in petitioning for or serving orders with training on such orders. Training should include determining when a petition is appropriate, the process for seeking an order, and the service of such orders.

(e) Reviewing each petition and any associated court documents for an order prepared by members, for compliance with this policy, department procedures, and state law.

(f) Developing and maintaining procedures for members to accept voluntarily surrendered prohibited items at times other than when an order is being served by the Department.

1. Procedures should include preparing and providing a receipt identifying all prohibited items to the person surrendering the items.

(g) Coordinating review of notices of court hearings and providing notice to the appropriate officer of the hearing date and the responsibility to appear (Penal Code § 18108).

## 388.10 RENEWAL OF GUN VIOLENCE RESTRAINING ORDERS

The Investigative Bureau supervisor is responsible for the review of a gun violence restraining order obtained by the Department to determine if renewal should be requested within the time prescribed by law (Penal Code § 18190).

## 388.11 POLICY AVAILABILITY

The Chief of Police or the authorized designee shall be responsible for making this policy available to the public upon request (Penal Code § 18108).

## 388.12 TRAINING

The Training Manager should ensure that members receive periodic training on the requirements of this policy (Penal Code § 18108).

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

# Chapter 4 - Patrol Operations

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

# Patrol Function

## 400.1 PURPOSE AND SCOPE

The purpose of this policy is to define the patrol function and address intraorganizational cooperation and information sharing.

## 400.2 POLICY

The Brentwood Police Department provides patrol services 24 hours a day, seven days a week and will prioritize responses to requests for emergency services using available resources to enhance the safety of the public and department members.

## 400.3 FUNCTION

Patrol will generally be conducted by uniformed officers in clearly marked law enforcement vehicles in assigned jurisdictional areas of Brentwood. The function of patrol is to respond to calls for assistance and reports of criminal activity, act as a deterrent to crime, enforce state and local laws, identify community needs, provide support and assistance to the community and respond to emergencies.

Patrol services include, but are not limited to:

(a) Responding to emergency calls for service.

(b) Apprehending criminal offenders.

(c) Providing mutual aid and assistance to other agencies for emergency and law enforcement-related activities.

(d) Preventing criminal acts, traffic violations and collisions, maintaining public order and discovering hazardous situations or conditions.

(e) Responding to reports of criminal and non-criminal acts.

(f) Responding to routine calls for service, such as public assistance or public safety.

(g) Carrying out crime prevention activities such as residential inspections, business inspections and community presentations.

(h) Carrying out community oriented policing and problem-solving activities including the application of resources to improve or resolve specific problems or situations and contacting or assisting members of the public in a positive way.

(i) Directing and controlling traffic.

## 400.4 INFORMATION SHARING

To the extent feasible, all information relevant to the mission of the Department should be shared among all divisions and specialized units on a timely basis. Members should be provided with opportunities on a regular basis to share information during the daily briefings and to attend briefings of other divisions or specialized units.

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

Additionally, information should be shared with outside agencies and the public in conformance with department policies and applicable laws. Members are encouraged to share information with other units and divisions.

400.4.1 BRIEFING BOOK

A Briefing Book will be available for display of suspect information and daily events. Intelligence reports, photographs and other law enforcement information are posted in the report writing area. New Special Orders will be made available for patrol supervisors for discussion at Briefing.

## 400.5 CROWDS, EVENTS AND GATHERINGS

Officers may encounter gatherings of people, including but not limited to, civil demonstrations, civic, social and business events, public displays, parades and sporting events. Officers should monitor such events as time permits in an effort to keep the peace and protect the safety and rights of those present. A patrol supervisor should be notified when it becomes reasonably foreseeable that such an event may require increased monitoring, contact or intervention.

Officers responding to an event or gathering that warrants law enforcement involvement should carefully balance the speech and association rights of those present with applicable public safety concerns before taking enforcement action.

Generally, officers should consider seeking compliance through advisements and warnings for minor violations and should reserve greater enforcement options for more serious violations or when voluntary compliance with the law is not achieved.

Officers are encouraged to contact organizers or responsible persons to seek voluntary compliance that may address relevant public safety/order concerns.

Officers should consider enforcement of applicable state and local laws, such as Penal Code 602.1 (obstructing or intimidating business operators), when the activity blocks the entrance or egress of a facility or location and when voluntary compliance with the law is not achieved.

400.5.1 CAMPUS LIAISON

A college or university in this jurisdiction should designate a liaison between our department and students exercising rights guaranteed by the First Amendment to the United States Constitution, a similar provision of the California Constitution or both (Education Code § 66303). The designated department staff member will work with this liaison regarding relevant issues, scheduled events, training and crowd control.

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

# Racial- or Bias-Based Profiling

## 402.1 PURPOSE AND SCOPE

This policy provides guidance to department members and establishes appropriate controls to ensure that members of the Brentwood Police Department do not engage in racial- or bias-based profiling or violate any related laws while serving the community.

### 402.1.1 DEFINITIONS

Definitions related to this policy include:

**Racial- or bias-based profiling** - An inappropriate reliance on factors such as race, ethnicity, national origin, religion, sex, sexual orientation, economic status, age, cultural group, disability or affiliation with any other similar identifiable group as a factor in deciding whether to take law enforcement action or to provide service. This includes gender identity or expression (Penal Code § 13519.4).

## 402.2 POLICY

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

Race, ethnicity or nationality, religion, sex, sexual orientation, economic status, age, cultural group, disability or affiliation with any other similar identifiable group shall not be used as the basis for providing differing levels of law enforcement service or the enforcement of the law.

## 402.3 RACIAL- OR BIAS-BASED PROFILING PROHIBITED

Racial- or bias-based profiling is strictly prohibited. However, nothing in this policy is intended to prohibit an officer from considering factors such as race or ethnicity in combination with other legitimate factors to establish reasonable suspicion or probable cause (e.g., suspect description is limited to a specific race or group).

## 402.4 MEMBER RESPONSIBILITY

Every member of this department shall perform his/her duties in a fair and objective manner and is responsible for promptly reporting any known instances of racial- or bias-based profiling to a supervisor.

### 402.4.1 REASON FOR DETENTION

Officers detaining a person shall be prepared to articulate sufficient reasonable suspicion to justify a detention, independent of the individual's membership in a protected class.

To the extent that written documentation would otherwise be completed (e.g., arrest report, Field Interview (FI) card), the involved officer should include those facts giving rise to the officer's reasonable suspicion or probable cause for the detention, as applicable.

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

Nothing in this policy shall require any officer to document a contact that would not otherwise require reporting.

### 402.5 SUPERVISOR RESPONSIBILITY

Supervisors shall monitor those individuals under their command for any behavior that may conflict with the purpose of this policy and shall handle any alleged or observed violation of this policy in accordance with the Personnel Complaints Policy.

(a) Supervisors should discuss any issues with the involved officer and his/her supervisor in a timely manner.

(b) Supervisors should periodically review MAV recordings, MDT data and any other available resource used to document contact between officers and the public to ensure compliance with the policy.

1. Supervisors should document these periodic reviews.
2. Recordings that capture a potential instance of racial- or bias-based profiling should be appropriately retained for administrative investigation purposes.

(c) Supervisors shall initiate investigations of any actual or alleged violations of this policy.

(d) Supervisors should ensure that no retaliatory action is taken against any member of this department who discloses information concerning racial- or bias-based profiling.

### 402.6 TRAINING

Training on racial- or bias-based profiling and review of this policy should be conducted as directed by the Professional Standards Unit.

(a) All sworn members of this department will be scheduled to attend Peace Officer Standards and Training (POST)-approved training on the subject of racial- or bias-based profiling.

(b) Pending participation in such POST-approved training and at all times, all members of this department are encouraged to familiarize themselves with and consider racial and cultural differences among members of this community.

(c) Each sworn member of this department who received initial racial- or bias-based profiling training will thereafter be required to complete an approved refresher course every five years, or sooner if deemed necessary, in order to keep current with changing racial, identity and cultural trends (Penal Code § 13519.4(i)).

### 402.7 REPORTING TO CALIFORNIA DEPARTMENT OF JUSTICE

The Professional Standards Unit Manager and the Records Supervisor or the authorized designee shall ensure that all data required by the Department of Justice (DOJ) regarding complaints of racial bias against officers is collected and reported annually to DOJ (Penal Code § 13012; Penal Code § 13020).

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

# Briefing Training

## 404.1 PURPOSE AND SCOPE

Briefing training is generally conducted at the beginning of the officer's assigned shift. Briefing provides an opportunity for important exchange between employees and supervisors. A supervisor generally will conduct Briefing; however officers may conduct Briefing for training purposes with supervisor approval.

Briefing should accomplish, at a minimum, the following basic tasks:

(a) Briefing officers with information regarding daily patrol activity, with particular attention given to unusual situations and changes in the status of wanted persons, stolen vehicles, and major investigations

(b) Notifying officers of changes in schedules and assignments

(c) Notifying officers of new Departmental Directives or changes in Departmental Directives

(d) Reviewing recent incidents for training purposes

(e) Providing training on a variety of subjects

## 404.2 PREPARATION OF MATERIALS

The supervisor conducting Briefing is responsible for preparation of the materials necessary for a constructive briefing. Supervisors may delegate this responsibility to a subordinate officer in his or her absence or for training purposes.

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

# Crime and Disaster Scene Integrity

## 406.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidance in handling a major crime or disaster.

## 406.2 POLICY

It is the policy of the Brentwood Police Department to secure crime or disaster scenes so that evidence is preserved, and to identify and mitigate the dangers associated with a major crime or disaster scene for the safety of the community and those required to enter or work near the scene.

## 406.3 SCENE RESPONSIBILITY

The first officer at the scene of a crime or major incident is generally responsible for the immediate safety of the public and preservation of the scene. Officers shall also consider officer safety and the safety of those persons entering or exiting the area, including those rendering medical aid to any injured parties. Once an officer has assumed or been assigned to maintain the integrity and security of the crime or disaster scene, the officer shall maintain the crime or disaster scene until he/she is properly relieved by a supervisor or other designated person.

## 406.4 FIRST RESPONDER CONSIDERATIONS

The following list generally describes the first responder's function at a crime or disaster scene. This list is not intended to be all-inclusive, is not necessarily in order and may be altered according to the demands of each situation:

(a) Broadcast emergency information, including requests for additional assistance and resources.

(b) Provide for the general safety of those within the immediate area by mitigating, reducing or eliminating threats or dangers.

(c) Locate or identify suspects and determine whether dangerous suspects are still within the area.

(d) Provide first aid to injured parties if it can be done safely.

(e) Evacuate the location safely as required or appropriate.

(f) Secure the inner perimeter.

(g) Protect items of apparent evidentiary value.

(h) Secure an outer perimeter.

(i) Identify potential witnesses.

(j) Start a chronological log noting critical times and personnel allowed access.

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

## 406.5 SEARCHES

Officers arriving at crime or disaster scenes are often faced with the immediate need to search for and render aid to victims, and to determine if suspects are present and continue to pose a threat. Once officers are satisfied that no additional suspects are present and/or there are no injured persons to be treated, those exigent circumstances will likely no longer exist. Officers should thereafter secure the scene and conduct no further search until additional or alternate authority for the search is obtained, such as consent or a search warrant.

### 406.5.1 CONSENT

When possible, officers should seek written consent to search from authorized individuals. However, in the case of serious crimes or major investigations, it may be prudent to also obtain a search warrant. Consent as an additional authorization may be sought, even in cases where a search warrant has been granted.

## 406.6 EXECUTION OF HEALTH ORDERS

Any sworn member of this department is authorized to enforce all orders of the local health officer that have been issued for the purpose of preventing the spread of any contagious, infectious or communicable disease (Health and Safety Code § 120155).

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

# Special Weapons and Tactics

## 408.1 PURPOSE AND SCOPE

The Special Weapons and Tactics (SWAT) team is a specialized team. SWAT is a team of officers trained to provide specialized support in any situation wherein the capabilities of the team are necessary to conduct tactical operations in a high-risk environment. Through the use of developed skills, tactics, and specialized equipment, the SWAT team manages critical incidents utilizing tactics and strategies that emphasize control, containment, resolution, and the protection of life and property.

### 408.1.1 OPERATIONAL AND ADMINISTRATIVE POLICY

The Policy Manual sections pertaining to the SWAT team are divided into Administrative and Operational Policy and Procedures. Since situations that necessitate the need for such a police response vary greatly from incident to incident and such events often demand on-the-scene evaluation, the Operational Policy outlined in this manual section serves as a guideline to Department personnel allowing for appropriate on scene decision making as required. The Administrative Procedures, however, are more restrictive and few exceptions should be taken.

### 408.1.2 CRITICAL INCIDENTS DEFINED

Critical incidents include:

(a) **Hostage situations:** The holding of any person(s) against their will by armed or potentially armed suspect(s).

(b) **Barricade situations:** The standoff created by an armed or potentially armed suspect in any location, whether fortified or not, who is refusing to comply with police demands for surrender.

(c) **Sniper situations:** The firing upon citizens and/or police by an armed suspect, whether stationary or mobile.

(d) **High-risk apprehension:** The arrest or apprehension of armed or potentially armed suspects where the likelihood of armed, potentially armed, or otherwise violent/ dangerous resistance is high.

(e) **High-risk warrant service:** The service of warrants when there is a high likelihood of armed, potentially armed, or otherwise violent/dangerous suspects and the potential of armed/violent resistance is high.

(f) **Personal protection:** The security of special persons such as VIP's, witnesses, or suspects, based on threat or potential threat to the well being of those persons.

(g) **Special assignments:** Any assignment approved by the Chief of Police or Tactical Commander, based upon the high level of threat or the need for a special expertise. It includes those situations where deployment could enhance the ability to preserve life, maintain social order, or ensure the protection of property.

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

408.1.3 SWAT TEAM DEFINED

The SWAT team is comprised of members who have specialized training in the use of special weapons and tactics to deal with special or high-risk situations (see organizational chart).

(a) **Tactical Commander:** A police Lieutenant who has the responsibility of coordinating the functional operation of the team.

(b) **Team Leader:** Police Sergeants or designated officers assigned to the Tactical Team, Sniper Team, and Crisis Negotiations Team. Supervisors are responsible for team training and supervising the team members during the tactical response to critical incidents.

(c) **Entry Team:** A team of police officers who have specialized training in the use of special weapons and tactics to deal with critical incidents.

(d) **Sniper Team:** A team of police officers who have specialized training similar to that of the entry team, but with special training in the use of long-range weaponry and intelligence gathering.

(e) **Crisis Negotiation Team:** A team of police officers who have specialized training to negotiate with suspects and/or other involved persons during critical incidents.

(f) **Tactical Unit:** Comprised of the Entry Team, Sniper Team and Crisis Negotiation Team.

## 408.2 MANAGEMENT/SUPERVISION

The Chief of Police shall designate a police Lieutenant to serve as the Tactical Commander (manager) of the SWAT team.

The Tactical Commander shall designate a Sergeant or an officer to supervise the Crisis Negotiation Team, Sniper Team, and SWAT Entry Team.

The following represents management and supervisory responsibility:

(a) **Tactical Commander**: The Tactical Commander has the responsibility of coordinating the functional operation of the unit. The Tactical Commander or his/her designee is responsible for deployment of the Tactical Unit. Once the unit is deployed by the Tactical Commander, operational decision-making and tactical resolution of the incident will be made by both the Tactical Commander and Incident Commander. The Tactical Commander consults with the Incident Commander in terms of when and if the tactical option will be initiated. The Tactical Commander will determine how it will be performed. The Incident Commander and Chief of Police have the right to terminate any tactical operation.

(b) **Incident Commander**: The next available police Lieutenant who is responsible for scene management. The Incident Commander consults with the Tactical Commander in terms of what options are available to resolve the critical incident. The Incident

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

Commander is responsible for delegating personnel outside the crime scene (i.e., media, food and water support for personnel, etc.).

(c) **Negotiation Team Leader**: Primary responsibility is to supervise the operations of the Crisis Negotiation Team, which includes deployment, training, frontline participation, and other duties as directed by the Tactical Commander.

(d) **Counter Sniper Team Leader**: Primary responsibility is to supervise the operations of the Counter Sniper Team, which includes deployment, training, frontline participation, and other duties as directed by the Tactical Commander.

(e) **SWAT Team Leader**: Primary responsibility is to supervise the operation of the SWAT team, which includes deployment, training, frontline participation, and other duties as directed by the Tactical Commander. The SWAT Team Leader reports directly to the Tactical Commander during call-outs and SWAT related matters.

## 408.3 OPERATIONAL PROCEDURES

SWAT team activations may require on duty personnel to temporarily leave their duty assignment. The Department recognizes that SWAT officers have specialized training, and it may be necessary to temporarily cover those assignments so SWAT team members can assist in tactical operations. When activated, SWAT team members are to report to the Tactical Commander until the Tactical Commander and/or Incident Commander determines that the activation is over. Once the operation has ended, SWAT team members may be required to return to their duty assignment.

### 408.3.1 SWAT ACTIVIATION

(a) **Unplanned Events.**

1. Activation begins when the on-duty patrol supervisor contacts the Tactical Commander or his/her designee, and requests the SWAT team respond for a critical incident occurring within the jurisdictional boundaries of Brentwood. The Tactical Commander should be advised as follows:

   (a) The number of suspects, known weapons and resources;

   (b) If the suspect has control of hostages;

   (c) If the suspect is barricaded;

   (d) The type of crime involved;

   (e) If the suspect has attempted or threatened suicide;

   (f) The location of the command post and a safe approach to it;

   (g) The extent of any perimeter and the number of officers involved; and

   (h) Any other important facts critical to the immediate situation and whether the suspect has refused an order to surrender.

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

2. The Tactical Commander or his/her designee will make the determination as to whether or not to initiate a SWAT team call-out. The manner and method for call-out is the responsibility of the Tactical Commander or his/her designee. Whenever the SWAT team is activated, the Incident Commander or Tactical Commander will notify the Chief of Police as soon as practical.

(b) **Pre-planned Events.**

1. A supervisor within the Brentwood Police Department (such as the Detective Sergeant) may request the assistance of the SWAT team in planning or conducting appropriate operations. A "Risk Assessment" form will be completed and forwarded to the Tactical Commander for review prior to activating the team. If approved, the Tactical Commander is responsible for activating the team.

408.3.2 MISSION PLANNING

The SWAT team may utilize a written planning process for all operations that are proactive or anticipatory in nature, such as the service of search/arrest warrants, high risk surveillance, dignitary protection, riot/crown control, etc. The written processs includes a Risk Analysis and Risk Assessment component. All operators plans will be attached to the After Action Report and maintained in the Tactical Commander's office for a period of not less than two years.

408.3.3 MEDICAL SUPPORT

Prior to the execution of a SWAT mission, both medical and fire personnel should be alerted, and if practical, requested to respond and stage at a predetermined location near the event.

408.3.4 FIELD UNIT RESPONSIBILITIES

While waiting for the SWAT team, field personnel should, if safe, practical and sufficient resources exist:

(a) Establish an inner and outer perimeter;

(b) Establish a command post outside of the inner perimeter;

(c) Evacuate any injured persons or citizens in the zone of danger;

(d) Establish an arrest/response team. The team actions may include:

1. Securing any subject or suspect who may surrender.

2. Taking action to mitigate a deadly threat behavior.

(e) Attempt to establish preliminary communication with the susoect. Once the SWAT team has arrived, all negotiations should be generally be halted to allow the negotiations and SWAT time to set up operations.

(f) Be prepared to brief the Tactical Commandser on the situation.

(g) Plan for and stage anticipated resources

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

All of those persons who are non-SWAT personnel should refrain from any contact or interference with any member of the unit during activation. Operations require the utmost in concentration by involved personnel and, as a result, no one should interrupt or communicate with Team personnel directly. All such communications shall be channeled through the Team Leaders or their designee.

408.3.5 MUTUAL AID
The Tactical Commander or his/her designee will be responsible for requesting assistance from any allied SWAT team if needed. The Brentwood SWAT team will maintain tactical command of the critical incident until it is brought to resolution.

If a request is made of our team from an outside agency, the request should be immediately forwarded to the Tactical Commander or his/her designee. The Tactical Commander and the Chief of Police, or their designees will determine if the requests warrants activation and assistance of the Brentwood SWAT team.

408.3.6 USE OF DEADLY FORCE
All members of the SWAT team shall be familiar with and adhere to the Brentwood Police Department Use of Deadly Force Policy contained in Policy Manual Section 300.

408.3.7 DOCUMENTATION OF ACTIVIATION AND TRAINING
The Tactical Commander will ensure that an "After Action Report" is geneated that details the activation of the training and the use of the SWAT team. The After Action Report is to be maintained in the Tactical Commander's office for a period of not less than two years. A copy of the After Action Report will be forwarded to the Chief of Police for his/her information.

**408.4 PERSONNEL SELECTION**
Interested sworn personnel who possess two years of full-time peace officer experience and successfully completed the Brentwood Police Department Field Training Program, may apply for a vacant position within the Tactical Unit.

408.4.1 ENTRY TEAM SELECTION
Qualified applicants must submit an interest memo to the SWAT Tactical Commander. When an opening occurs, qualified applicants will then be invited to particiapte in the selection testing process.

The testing process will consist of an oral board, physical agility test, and team evaluation, and firearms qualification.

(a) Oral Board: The oral board will consist of personnel selected by the Tactical Commander. Applicants will be evaluated on the following criteria:

1. Recognized competence and ability as demonstrated by performance;
2. Demonstrated good judgment and understanding of the critical role of a SWAT team member;
3. Special skills, training, or appropriate education as it pertains to the assignment;

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

4. Commitment to the Unit, realizing that the assignment may necessitate unusual working hours, conditions, and training obligations.

(b) Physical Agility: The candidate must successfully pass the same physical agility test required of active team members.

(c) Team Evaluation: Current team members will evaluate each candidate on his/her field tactical skills, teamwork, ability to work under stress, communication skills, judgment, and any special skills that could benefit the team.

(d) Firearms Qualification: The Candidate must successfully pass the same pistol qualification course required of active team members.

(e) The Tactical Commander will submit a list of successful candidates to the Chief of Police for final selection.

408.4.2 CRISIS NEGOTIATION TEAM SELECTION

Qualified applicants must submit an interest memo to the SWAT Tactical Commander. When an opening occurs, qualified applicants will then be invited to participate in the selection process.

The testing process will consist of an oral board.

(a) Oral Board: The oral board will consist of personnel selected by the Tactical Commander. Applicants will be evaluated on the following criteria:

1. Recognized competence and ability as demonstrated by performance;
2. Effective communication skills to ensure success as a negotiator;
3. Special skills, training, or appropriate education as it pertains to the assignment;
4. Commitment to the Unit, realizing that the assignment may necessitate unusual working hours, conditions, and training obligations.

(b) The Tactical Commander will submit a list of successful candidates to the Chief of Police for final selection.

(c) Those officers selected as members of the Crisis Negotiations Team should attend the POST Basic Negotiators Course prior to primary use in an actual crisis situation. Untrained officers may be used in a support or training capacity.

Qualified applicants must submit an interest memo to the SWAT Tactical Commander. When an opening occurs, qualified applicants will then be invited to particiapte in the selection testing process.

The testing process will consist of an oral board, physical agility test, and team evaluation, and firearms qualification.

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

### 408.4.3 SNIPER TEAM SELECTION

Qualified applicants must submit an interest memo to the SWAT Tactical Commander. When an opening occurs, qualified applicants will then be invited to particiapte in the selection testing process.

Counter Snipers are also members of the Entry Team. Selection to the Counter Sniper Team will be made by the Tactical Commander based on the following criteria:

(a) Recognized competence and ability as demonstrated by performance;

(b) Special skills, training, and appropriate education as it pertains to the assignment;

(c) Commitment to the Unit, realizing that the assignment may necessitate unusual working hours, conditions, and training obligations;

(d) Demonstrates mental alertness and ability to concisely following orders; and

(e) Demonstrates personal discipline and the ability to remain calm and decisive under extreme stress

(f) Team Evaluation: Current team members will evaluate each candidate on his/her field tactical skills, teamwork, ability to work under stress, communication skills, judgment, and any special skills that could benefit the team.

(g) The Tactical Commander will submit a list of successful candidates to the Chief of Police for the final selection.

### 408.4.4 TEAM LEADER SELECTION

Training shall be coordinated by the Tactical Commander. The Tactical Commander may conduct monthly training exercises that include a review and critique of personnel and their performance in the exercise in addition to specialized training. Training shall consist of the following:

(a) Each SWAT member shall perform a physical fitness test twice each year. A minimum qualifying score must be attained by each team member.

(b) Any SWAT team member failing to attain the minimum physical fitness qualification score will be notified of the requirement to retest and attain a qualifying score. Within 30 days of the previous physical fitness test date, the member required to qualify shall report to a team supervisor and complete the entire physical fitness test. Failure to qualify after a second attempt may result in dismissal from the team.

(c) Those members who are on vacation, ill, or are on light duty status with a doctor's note of approval on the test date, shall be responsible for reporting to a team supervisor and taking the test within 30 days of their return to regular duty. Any member, who fails to arrange for and perform the physical fitness test within the 30-day period, shall be considered as having failed to attain a qualifying score for that test period.

(d) Quarterly, each SWAT team member shall perform the mandatory SWAT handgun qualification course. The qualification course shall consist of the SWAT Basic Drill for

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

the handgun. Failure to qualify will require that officer to seek remedial training from a team range master approved by the Tactical Commander. Team members who fail to qualify must retest within 30 days. Failure to qualify within 30 days with or without remedial training may result in dismissal from the team.

(e) Each SWAT team member shall complete the quarterly SWAT qualification course for any specialty weapon issued to, or used by, the team member during SWAT operations. Failure to qualify will require the team member to seek remedial training from the Rangemaster who has been approved by the Tactical Commander. Team members who fail to qualify on their specialty weapon may not utilize the specialty weapon on SWAT operations until qualified. Team members who fail to qualify must retest within 30 days. Failure to qualify with specialty weapons within 30 days may result in the team member being removed from the team or permanently disqualified from use of that particular specialty weapon.

408.4.5 REMOVAL OF A TEAM MEMBER

A team member may be removed from the team for failing to meet team expectations and/or performance standards. Removal of team members must be by recommendation of the Tactical Commander to the Chief of Police. The Chief of Police has the final decision on removal of a team member.

Any SWAT team member failing to attain the minimum physical fitness qualification and/or firearms qualification, will be notified of the requirement to retest and attain a qualifying score within thirty (30) days of the notification. Such retest must be in the presence of and certified by a team leader or his/her designee. Failure to qualify after the second attempt shall result in a suspension or dismissal from the SWAT team. An evaluation of the officers performance will be conducted and a recommendation will be submitted to the Chief of Police by the Tactical Commander.

Continual evaluation of a team member's performance and efficiency as it relates to the positive operation of SWAT shall be conducted by the Tactical Commander. The performance and efficiency level, as established by the Team Leader, will be met and maintained by all team members. Any member of SWAT who performs or functions at a level less than satisfactory, shall result in a recommendation to the Chief of Police by the Tactical Commander that the officer by removed from SWAT or a particular team.

A team member may voluntarily withdraw from SWAT.

## 408.5 TRAINING STANDARDS

The Brentwood Police Department SWAT team is to conduct training on a regular basis. All three units (Entry, Counter Sniper, and Crisis Negotiation) will train individually and as a team. SWAT team members will train on appropriate subjects related to the overall mission of SWAT and on subjects specific to their assignment. Training shall be coordinated by the Tactical Commander. The Tactical Commander may conduct monthly training exercises that include a review and critque of personnel and their performance in the exercise in addition to specialized training. Each

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

Team Leader will create a record of each training event and ensure that the documentation is maintained in Department training files using Training After Action Reports.

408.5.1 TRAINING TIME
SWAT team members are required to participate in training and readiness exercises as determined by the Tactical Commander or his/her designee. The SWAT team and Counter Snipers train ten (10) or more hours per month. Crisis Negotiators train a minimum of one training day per quarter.

408.5.2 INITIAL TRAINING
Newly appointed SWAT team members are required to successfully complete the POST certified basic SWAT training course, including any physical requirements or other standards required in the course. Failure to successfully complete this course for any reason will result in an evaluation of the candidate's performance and reason(s) for non-completion. Approval of the Tactical Commander and the Chief of Police will be required before the candidate is allowed to continue training or participate in team activities.

Candidates that have previously attended and successfully passed the POST certified basic SWAT training course will be required to show proof of the certification. The candidate may be required to attend a SWAT Update course.

There are two levels in which an officer may be assigned to the SWAT team.

1. Full Deployment

(a) Successful completion of the POST certified basic SWAT training course

2. Limited Deployment

(a) The officer has not yet completed the POST certified basic SWAT training course (trainee status). The officer may be called out on operations but duty may be limited as assigned by the Tactical Commander.

**408.6 PERFORMANCE STANDARDS**
The Chief of Police must approve any changes in the firearm or physical fitness standards.

Performance standards shall consist of the following:

1. Each SWAT member shall perform a physical fitness test twice each year. A minimum qualifying score must be attained by each member.

(a) Any SWAT team member failing to attain the minimum physical fitness qualification score will be notified of the requirement to retest and attain a qualifying score. Within 30 days of the previous physical fitness test date, the member required to qualify shall report to ta team supervisor and complete the entire physical fitness test. Failure to qualify after a second attempt may result in dismissal from the team.

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

(b) Those members who are on vacation, ill or are on light duty status with a doctor's note of approval on the test date, shall be responsible for reporting to a team supervisor and taking the test within 30 days of their return to regular duty. Any member, who fails to arrange for and perform the fitness test within the 30 day period, shall be considered as having failed to attain a qualifying score for the test period.

2. Quarterly, each SWAT team member shall perform the mandatory SWAT handgun qualification course. The qualification course of fire may vary, but at minimum shall consist of the SWAT Basic Drill for the handgun. Failure to qualify will require that officer to seek remedial training from a team range master approved by the Tactical Commander. Team members who fail to qualify must retest within 30 days. Failure to qualify within 30 days with or without remedial training may result in dismissal from the team. The courses and qualification standards shall be determined and/opr approved by the Tactical Commander.

3. Each SWAT member shall complete the quarter SWAT qualification course for any specialty weapon issued to, or used by, the team member during SWAT operations. The qualification course of fire may vary. The courses and qualification standards shall be determined and/or approved by the Tactical Commander. Team members who fail to qualify with their specialty weapon may not utilize the specialty weapon during SWAT operations until qualified. Team members who fail to qualify must retest within 30 days. Failure to qualify with specialty weapons within 30 days may result in the team member being removed from the team or permanently disqualified from use of that particular specialty weapon.

4. Sniper team members are required to qualify with their precision long guns four times a year with a minimum qualifiication of 100%. Qualification should take place during daylight and low-light night hours.

### 408.7 EQUIPMENT

Each team member is responsible for maintaining all of his/her equipment and will bring equipment to each training exercise and call-out. Failure to appropriately maintain and/or possess equipment in a full serviceable and mission ready condition will be grounds for removal from the team. The following (non-inclusive) Department approved equipment is mandatory for each Entry and Counter Sniper team member:

(a) Handgun with Tritium sights.

(b) BDU's.

(c) Nomex hood.

(d) Nomex gloves.

(e) Tactical holster.

(f) Ballistic vest with trauma plate.

(g) Noise flash diversionary devices.

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

(h) Ballistic helmet.

(i) Radio and radio holster.

(j) Respirator mask.

(k) Baseball cap.

(l) Goggles.

(m) Handcuffs.

(n) Boots.

408.7.1 SPECIALIZED FIREARMS AND EQUIPMENT

In recognition of the fact that operations of the Brentwood Police Department SWAT team involve hazardous conditions, and that the safety of citizens, officers, and suspects is of primary concern, the SWAT team maintains an inventory of special equipment that is used to reduce the risk of injury or death. The following is a list of Department approved special equipment:

(a) **Primary Entry Firearm**: Glock .45 caliber semi-automatic pistol, Colt M-4.223 caliber Carbine. These special firearms enable team members to acquire rapid target acquisition, enhance accuracy, and provide maneuverability, stopping power and ability to sustain fire.

(b) **High-Caliber Rifles**: Remington Model 700, .308 caliber. Commonly referred to as a counter sniper rifle. These weapons allow team members to place highly accurate rounds at a distance, helping resolve life-threatening incidents.

(c) **Less-lethal Weapons and Ammunition**: These are Department approved impact weapons, which propel a round or device that is not normally lethal in nature. These are designed to offer an alternative to the use of deadly force when appropriate.

(d) **Flash/Sound Diversionary Devices**: This is a device that utilizes a bright flash of light followed by a loud noise. These devices are designed to help minimize the likelihood of a violent confrontation.

(e) **Breaching Tools and Ammunition**: Items such as 12 gauge breaching shotgun, rams, pry bars, special frangible shotgun rounds, etc. which are designed to force entry into barricaded, secured or fortified areas.

(f) **Chemical Agent Delivery System**: Those systems or platforms designed to safely deliver chemical agents to a specific location including, but limited to, 40 mm launching systems, 12 gauge shotgun, and hand delivery systems.

(g) **Communication Equipment**: Includes telephones (throw phones), cellular phones, radios and other Department approved communications equipment assigned to the Crisis Negotiation Team.

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

(h) **Other Equipment**: Other equipment as authorized by the Chief of Police or his/her designee.

## 408.8 FUNDING SUPPORT

On a annual basis, the Tactical Commander will submit to the Chief of Police a SWAT needs budget. The needs budget will be reviewed and considered for incorporation into the Police Department budget.

## 408.9 PERIODIC POLICY REVIEW

The Tactical Commander will review this policy annually to ensure that the standards adopted by this policy meet local and state requirements. Updates to this policy should be done on as needed basis. Any changes to this policy will be approved by the Chief of Police.

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

# Ride-Along Policy

## 410.1 PURPOSE AND SCOPE

The Citizen Observer Program provides an opportunity for citizens to experience the law enforcement function first hand. This policy provides the requirements, approval process, and hours of operation for the Citizen Observer Program.

### 410.1.1 ELIGIBILITY

The Citizen Observer Program is offered to residents, students and those employed within the City. Every attempt will be made to accommodate interested persons however any applicant may be disqualified without cause.

The following factors may be considered in disqualifying an applicant and are not limited to:

- Being under 15 years of age
- Prior criminal history
- Pending criminal action
- Pending lawsuit against the Department
- Denial by any supervisor

### 410.1.2 AVAILABILITY

The Citizen Observer Program is available on most days of the week, with certain exceptions as established by the Watch Commander. The citizen observer times are from 10:00 a.m. to 11:00 p.m. Exceptions to this schedule may be made as approved by the Chief of Police, Division Commander, or Watch Commander.

## 410.2 PROCEDURE TO REQUEST BEING A CITIZEN OBSERVER

Generally, citizen observer requests will be scheduled by the Shift Supervisor. The participant will complete a Citizen Observer waiver form. Information requested will include a valid ID or California driver's license, address, and telephone number. If the participant is under 18 years of age, a parent/guardian must be present to complete the Citizen Observer form.

If approved, the Shift Supervisor or Watch Commander will contact the applicant to advise of the scheduled date and time. If the applicant is denied, the Shift Supervisor or Watch Commander will contact the applicant to notify him/her of the denial.

### 410.2.1 PROGRAM REQUIREMENTS

Once approved, civilian observers will be allowed to ride no more than once every calendar year. An exception would apply to the following:

- Explorers
- Chaplains
- Police applicants

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

- All others with approval of the Watch Commander

An effort will be made to ensure that no more than one citizen will participate in the Citizen Observer Program during any given time period. Normally, no more than one citizen observer will be allowed in the officer's vehicle at a given time.

410.2.2 SUITABLE ATTIRE
Any person approved to be a citizen observer is required to be suitably dressed in collared shirt, blouse or jacket, slacks and shoes. Sandals, T-shirts, tank tops, shorts and ripped or torn blue jeans are not permitted. Hats and ball caps will not be worn in the police vehicle. The Watch Commander or field supervisor may refuse a ride along to anyone not properly dressed.

410.2.3 PEACE OFFICER OBSERVERS
Off-duty members of this department or any other law enforcement agency will not be permitted to be observers with on-duty officers without the expressed consent of the Watch Commander or field supervisor. In the event that such an observer is permitted, the off-duty employee shall not be considered on-duty and shall not represent themselves as a peace officer or participate in any law enforcement activity except as emergency circumstances may require.

410.2.4 RIDE-ALONG CRIMINAL HISTORY CHECK
All Ride-along applicants are subject to a criminal history check. The criminal history check may include a local records check and a Department of Justice Automated Criminal History System check through CLETS prior to their approval as a ride-along with a law enforcement officer (provided that the ride-along is not an employee of the Brentwood Police Department) (CLETS Policies, Practices and Procedures Manual § 1.6.1.F.2.).

## 410.3 OFFICER'S RESPONSIBILITY
The officer shall advise the dispatcher that a citizen observer is present in the vehicle before going into service. Officers shall consider the safety of the citizen observer at all times. Officers should use sound discretion when encountering a potentially dangerous situation, and if feasible, let the participant out of the vehicle in a well-lighted place of safety. The dispatcher will be advised of the situation and as soon as practical have another police unit respond to pick up the participant at that location. The citizen observer ride-along may be continued or terminated at this time.

410.3.1 SUPERVISOR'S RESPONSIBILITY
All citizen observer request shall be approved by a supervisor. In the absence of a supervisor, the Watch Commander shall authorize the citizen observer request. Supervisors should not take citizen observer's with them unless asssigned and/or authorized by the Watch Commander.

## 410.4 CONTROL OF RIDE-ALONG
The assigned employee shall maintain control over the ride-along at all times and instruct him/her in the conditions that necessarily limit their participation. These instructions should include:

(a) The citizen observer will follow the directions of the officer

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

(b) The citizen observer will not become involved in any investigation, handling of evidence, discussions with victims or suspects, or handling any police equipment

(c) The citizen observer ride-along may terminate the ride at any time and the officer may return the observer to their home or to the station if the citizen observer interferes with the performance of the officer's duties

(d) The citizen observer may be allowed to continue riding during the transportation and booking process provided this does not jeopardize their safety

(e) Officers will not allow any citizen observer to be present in any residences or situations that would jeopardize their safety or cause undue stress or embarrassment to a victim or any other citizen

(f) Under no circumstance shall a civilian citizen observer be permitted to enter a private residence with an officer without the expressed consent of the resident or other authorized person

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

# Hazardous Material Response

## 412.1 PURPOSE AND SCOPE

Hazardous materials present a potential harm to employees resulting from their exposure. To comply with Title 8, California Code of Regulations, § 5194, the following is to be the policy of this department.

### 412.1.1 HAZARDOUS MATERIAL DEFINED

A hazardous material is a substance which by its nature, containment and reactivity, has the capability of inflicting harm during exposure; characterized as being toxic, corrosive, flammable, reactive, an irritant or strong sensitizer and thereby posing a threat to health when improperly managed.

## 412.2 HAZARDOUS MATERIAL RESPONSE

Employees may encounter situations involving suspected hazardous materials, such as at the scene of a traffic accident, chemical spill or fire. When employees come into contact with a suspected hazardous material, certain steps should be taken to protect themselves and citizens.

The following steps should be considered at any scene involving suspected hazardous materials:

(a) Attempt to identify the type of hazardous substance. (Identification can be determined by placard, driver's manifest or statements from the person transporting).

(b) Notify the Fire Department.

(c) Provide first-aid for injured parties if it can be done safely and without contamination.

(d) Begin evacuation of the immediate area and surrounding areas, depending on the substance. Voluntary evacuation should be considered; however, depending on the substance, mandatory evacuation may be necessary.

(e) Notify the local health authority. Such notification is mandatory when a spilled or released item is a pesticide (Health and Safety Code § 105215).

(f) Notify the Department of Toxic Substances Control. This is mandatory when an officer comes in contact with, or is aware of, the presence of a suspected hazardous substance at a site where an illegal controlled substance is or was manufactured (Health and Safety § 25354.5).

## 412.3 REPORTING EXPOSURE(S)

Department personnel who believe that they have been exposed to a hazardous material shall immediately report the exposure to a supervisor. Each exposure shall be documented by the employee in an employee memorandum that shall be forwarded via chain of command to their Division Commander. Should the affected employee be unable to document the exposure for any reason, it shall be the responsibility of the notified supervisor to complete the memorandum.

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

Injury or illness caused or believed to be caused from exposure to hazardous materials shall be reported the same as any other on-duty injury or illness in addition to a crime report or incident report.

412.3.1 SUPERVISOR RESPONSIBILITY

When a supervisor has been informed that an employee has been exposed to a hazardous material, he/she shall ensure that immediate medical treatment is obtained and appropriate action is taken to lessen the exposure.

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

# ELECTRONIC SATELLITE PURSUIT (ESP) GPS CURRENCY TRACKING SYSTEM

## 413.1 PURPOSE AND SCOPE

The purpose of this proceedure is to establish guidelines for handling of the 3SI Electronics Satellite Pursuit (ESP) system when dealing with robberies of banks and other financial institutions.

### 413.1.1 DESCRIPTION

The ESP system provides web based global positioning information about the location of the tracking pack generally included in the money stolen from banks. The information is updated every six seconds by up to eight satellites. Alarm activation occurs approximately 10-15 seconds after the ESP pack has been removed from its magnetic base located in a financial institution or business. Information displayed on the 3SI website (maintained by Records personnel) includes direction of travel, speed, accuracy, time lag, contact information, and type (teller or vault).

### 413.1.2 DEFINITIONS

For the purpose of this policy, the following definitions are to be applied and terms will be used:

1. 10-33E: A designated incident type for an ESP activation.

2. The "Source": Code for the Electronic Satellite Pursuit (ESP) device intended to keep the source of the ESP device information confidential.

3. Handheld Detector: Portable handheld tracking receiver typically deployed in supervisor, detective or patrol vehicles. The handheld detector is used to track a stationary device within a range of approximately 150 feet or less.

4. 3SI Website: Website which provides ESP tracking information.

5. "Stationary Source": An activated ESP device which is stationary.

6. "Mobile Source": An activated ESP device which is moving.

7. "Tracking a Source": The act of monitoring or following a mobile source while the suspected offender is making no attempt to avoid capture.

8. "Pursuing a Source": An active attempt by one or more police officers to apprehend a suspect operating a motor vehicle while the suspect is attempting to avoid capture by using high speed driving or other evasive tactics to avoid apprehension, or driving in a legal manner, but willfully failing to yield to the officer's signal to stop (BPD Policy Section 314).

9. Investigator Notification: Designated department employees with cellular phones/e-mails that have been programmed to be alerted by an ESP activation.

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

### 413.1.3 REGULATIONS

1. Confidential: Do not discuss or divulge any aspect of the ESP operation with non-law enforcement personnel.

2. Pursuit Policy: The department policy regarding emergency vehicle operations is in effect when using the tracking equipment.

3. Robbery alarms are Priority 1 calls and shall be dispatched as soon as possible.

4. A minimum of 3 units be dispatched to a 10-33E bank robbery alarm.

### 413.1.4 COMMUNICATION PROCEDURES

1. Computer and Cell-Phone Website:

a. At the beginning of each shift, each Dispatcher will make sure the 3SI ESP Tracker tool is connected by logging in the User: "antiochcomm" at each active CAD workstation. The tracker tool is linked to the 3SI website www.3sitracking.com where the dispatcher can actively monitor any activation. The icon should be active at the bottom of the CAD terminal.

Dispatchers shall also insure that the City email PC's located at CAD4 and CAD6 are first logged into the Windows User: "3siuser" and that the speaker volume at these positions are turned up. Once the Windows login has been completed, the 3SI Tracker tool should be logged in as described above.

The Dispatch assigned cell phone is also linked to the 3SI ESP system and is capable of receiving an activation.

b. The website provides updated information on the status (source) of the alarm: Bank name and address, type of activation (Teller, Vault, or ATM), status ," mobile or stationary, current location, direction, of travel, speed, age (Time lag between satellite updates), accuracy (estimated accuracy of the location in feet), nearest reported address when available.

c. The website can also include activations and movement from other agencies that are using this technology.

### 413.1.5 SINGLE STATIONARY ACTIVATION

1. Upon receiving a alert, clerical personnel will do the following:

a. Enter a "10-33E" (Priority 1) call into CAD.

b. Broadcast the call, dispatching at least 3 officers to the scene.

c. No phone calls will be made into the bank / business until requested to do so by a supervisor or officer assigned to the call.

d. No robbery alarms will be cancelled at the request of an employee.

e. If the alarm is determined to be an actual robbery, the dispatcher will change the call type to "211E" and notify patrol officers.

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

f. Dispatchers will notify officers of any updated information from inside the bank or business as well as any witness information with regard to suspect descriptions, vehicles, direction of flight and will stay on the phone with employee(s).

g. Notifying officers of the updated information, dispatchers will refer to the GPS bait money devices as "The Source" (i.e. "The Source is stationary inside the bank"; "The Source is moving southbound on Brentwood Blvd. near Balfour Rd.)

h. Dispatchers will continue to update the information about the device by monitoring the website.

i. Dispatchers will continue to update the information about the device by monitoring the website.

j. At the conclusion of an activation event, the primary dispatcher handling the coordination of patrol units shall log the track number into the call in CAD. The number is located on the web site and is specific to the event.

413.1.6 PATROL RESPONSE

1. Officers responding to a "10-33E" activation will do the following:

a. At the beginning of each the Patrol Supervisor and / or his designee will check out a handheld detector if one is available. The priority for these devices will be given to officers / supervisors working Day Shift and Swing Shift.

b. Respond safely to the scene of all 10-33E activations using sound invisible deployment tactics.

c. Officers will stage outside the bank / business and if necessary, have Dispatch call inside the bank / business to determine the status of the activation.

d. If a robbery has occurred, officers will attempt to obtain as much suspect information as possible (suspect description, vehicle description, vehicle, etc.) and then broadcast that information

e. Officers not responsible for witness / victim statements will attempt to locate the ESP devise ("source") based upon information provided by Dispatchers.

f. If the devise becomes stationary, Dispatch will notify responding officers and the handheld detector may be used to locate a device. A SEARCH TEAM WILL BE ESTABLISHED WHEN USING THE HANDHELD DETECTOR, PROTECTING THE USER OF THE DETECTOR.

g. If based upon the devise information and suspect / suspect vehicle descriptions, the devise is located officers will conduct a high risk stop.

h. If the devise is determined to be located in a residence, BPD detectives may be notified for follow-up (i.e. search warrant, probation search, etc.). i. Any evidence will be searched for (A route of the devise is available for downloading / printing from the website following the activation under the track number).

j. Discarded devices will be considered physical evidence and will be processed accordingly, then logged into property. The device will not be returned to the bank.

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

413.1.7 DEVICE (SOURCE)

1. The supervisor in charge of the call will decide if Brentwood Police Officers / units will follow track or pursue the device outside the city limits. Factors affecting this decision may include:

a. Location and speed of device.

b. Likelihood of finding / capturing device and those persons responsible for the crime.

c. Availability of officers and other supporting resources and personnel.

d. Safety of those involved.

2. The supervisor in charge of the call will decide if direct assistance is requested of the outside agency affected by the flight of the devise and through Dispatch make direct request for assistance if desired to include whether the Brentwood Police want the outside agency to take over and actively pursue.

3. Dispatch will notify outside agencies of the robbery and provide updated information on the event to include location and direction of travel of the device.

4. If an outside agency assumes a primary role in tracking or pursuing a mobile "source" device that originated in Brentwood, the investigating officer or a Brentwood Police representative shall proceed to the termination point to provide information required for an arrest.

413.1.8 OUTSIDE AGENCY DEVICE (SOURCE)

1. Other local agencies will be utilizing the same Electronic Satellite Pursuit technology and will be encompassed in the same notification group ," meaning that our Dispatch will be notified when a devise is activated in a participating jurisdiction.

2. When this occurs Dispatch will monitor the device ("source") on the "3SI" website and wait to be contacted by the responsible agency when it appears the mobile "source" is headed into Brentwood jurisdiction. If the notification is not made and entry into Brentwood becomes inevitable, Dispatch will broadcast the mobile source information (location, direction of travel, jurisdiction of origin).

3. Notification by another agency or jurisdiction that they are pursuing a mobile "source" device into Brentwood shall not be construed as a request to join the pursuit. Officers shall not assist the outside agency unless:

a. They are specifically requested to do so and authorized by a supervisor.

b. The emergency nature of the situation dictates the need for assistance.

c. The originating agency will be responsible for handling prosecution of suspects and will take custody of the violator / suspect unless more serious crimes subsequently occurred or are determined to have occurred outside the city limits of Brentwood.

413.1.9 INVESTIGATIONS PROCEDURES

1. Brentwood Police Detectives will have following responsibilities:

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

## *ELECTRONIC SATELLITE PURSUIT (ESP) GPS CURRENCY TRACKING SYSTEM*

a. Detectives will be registered on the 3SI website to receive cellular /e-mail notifications of any activation(s).

b. It will be the responsibility of the Detective Supervisor to identify those who will be alerted to GPS "source" device activations by cellular phone / e-mail notifications.

c. When possible, detectives will respond to the scene of confirmed robberies (211E) to assist in and / or direct follow up investigation.

d. As necessary detectives will assist in the search for the GPS "source" device, money evidence, etc...

e. Detectives may take over investigative responsibilities if the device is determined to be inside a residence (i.e. search warrant, probation search, etc.).

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

# Hostage and Barricade Incidents

## 414.1 PURPOSE AND SCOPE

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

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

### 414.1.1 DEFINITIONS

Definitions related to this policy include:

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

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

(a) Unlawfully held by a hostage-taker as security so that specified terms or conditions will be met.

(b) Unlawfully held against his/her will under threat or actual use of force.

## 414.2 POLICY

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

## 414.3 COMMUNICATION

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

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

### 414.3.1 EMERGENCY COMMUNICATIONS

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

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

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

(a) The officer reasonably determines an emergency situation exists that involves the immediate danger of death or serious physical injury to any person within the meaning of 18 USC § 2518(7)(a)(i),

(b) The officer reasonably determines that the emergency situation requires that eavesdropping on oral communication occur immediately, and

(c) There are grounds upon which an order could be obtained pursuant to 18 USC § 2516(2).

(d) An application for an order approving the eavesdropping and complying with the requirements of Penal Code § 629.50 is made within 48 hours of the beginning of the eavesdropping.

(e) The contents of any oral communications overheard are recorded on tape or other comparable device.

## 414.4 FIRST RESPONDER CONSIDERATIONS

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

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

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

### 414.4.1 BARRICADE SITUATION

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

(a) Ensure injured persons are evacuated from the immediate threat area if it is reasonably safe to do so. Request medical assistance.

(b) Assign personnel to a contact team to control the subject should he/she attempt to exit the building, structure or vehicle, and attack, use deadly force, attempt to escape or surrender prior to additional resources arriving.

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

(c) Request additional personnel, resources and equipment as needed (e.g., canine team, air support).

(d) Provide responding emergency personnel with a safe arrival route to the location.

(e) Evacuate uninjured persons in the immediate threat area if it is reasonably safe to do so.

(f) Attempt or obtain a line of communication and gather as much information on the subject as possible, including weapons, other involved parties, additional hazards or injuries.

(g) Establish an inner and outer perimeter as circumstances require and resources permit to prevent unauthorized access.

(h) Evacuate bystanders, residents and businesses within the inner and then outer perimeter as appropriate. Check for injuries, the presence of other involved subjects, witnesses, evidence or additional information.

(i) Determine the need for and notify the appropriate persons within and outside the Department, such as command officers and the Public Information Officer (PIO).

(j) If necessary and available, establish a tactical or exclusive radio frequency for the incident.

(k) Establish a command post.

414.4.2 HOSTAGE SITUATION

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

(a) Ensure injured persons are evacuated from the immediate threat area if it is reasonably safe to do so. Request medical assistance.

(b) Assign personnel to a contact team to control the subject should he/she attempt to exit the building, structure or vehicle, and attack, use deadly force, attempt to escape or surrender prior to additional resources arriving.

(c) Establish a rapid response team in the event it becomes necessary to rapidly enter a building, structure or vehicle, such as when the suspect is using deadly force against any hostages (see the Rapid Response and Deployment Policy).

(d) Assist hostages or potential hostages to escape if it is reasonably safe to do so. Hostages should be kept separated if practicable pending further interview.

(e) Request additional personnel, resources and equipment as needed (e.g., canine team, air support).

(f) Provide responding emergency personnel with a safe arrival route to the location.

(g) Evacuate uninjured persons in the immediate threat area if it is reasonably safe to do so.

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

(h) Coordinate pursuit or surveillance vehicles and control of travel routes.

(i) Attempt to obtain a line of communication and gather as much information about the suspect as possible, including any weapons, victims and their injuries, additional hazards, other involved parties and any other relevant intelligence information.

(j) Establish an inner and outer perimeter as resources and circumstances permit to prevent unauthorized access.

(k) Evacuate bystanders, residents and businesses within the inner and then outer perimeter as appropriate. Check for injuries, the presence of other involved subjects, witnesses, evidence or additional information.

(l) Determine the need for and notify the appropriate persons within and outside the Department, such as command officers and the PIO.

(m) If necessary and available, establish a tactical or exclusive radio frequency for the incident.

## 414.5 CRISIS RESPONSE UNIT RESPONSIBILITIES

The Incident Commander will decide, with input from the Tactical Commander, whether to deploy the Tactical Team during a hostage or barricade situation. Once the Incident Commander authorizes deployment, the Tactical Commander or the authorized designee will be responsible for the tactical portion of the operation. The Incident Commander shall continue supervision of the command post operation, outer perimeter security and evacuation, media access and support for the CRU. The Incident Commander and the CRU Commander or the authorized designee shall maintain communications at all times.

## 414.6 REPORTING

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

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

# Response to Bomb Calls

## 416.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidelines to assist members of the Brentwood Police Department in their initial response to incidents involving explosives, explosive devices, explosion/bombing incidents or threats of such incidents. Under no circumstances should these guidelines be interpreted as compromising the safety of first responders or the public. When confronted with an incident involving explosives, safety should always be the primary consideration.

## 416.2 POLICY

It is the policy of the Brentwood Police Department to place a higher priority on the safety of persons and the public over damage or destruction to public or private property.

## 416.3 RECEIPT OF BOMB THREAT

Department members receiving a bomb threat should obtain as much information from the individual as reasonably possible, including the type, placement and alleged detonation time of the device.

If the bomb threat is received on a recorded line, reasonable steps should be taken to ensure that the recording is preserved in accordance with established department evidence procedures.

The member receiving the bomb threat should ensure that the Watch Commander is immediately advised and informed of the details. This will enable the Watch Commander to ensure that the appropriate personnel are dispatched, and, as appropriate, the threatened location is given an advance warning.

## 416.4 GOVERNMENT FACILITY OR PROPERTY

A bomb threat targeting a government facility may require a different response based on the government agency.

### 416.4.1 BRENTWOOD POLICE DEPARTMENT FACILITY

If the bomb threat is against the Brentwood Police Department facility, the Watch Commander will direct and assign officers as required for coordinating a general building search or evacuation of the police department, as he/she deems appropriate.

### 416.4.2 OTHER COUNTY OR MUNICIPAL FACILITY OR PROPERTY

If the bomb threat is against a county or municipal facility within the jurisdiction of the Brentwood Police Department that is not the property of this department, the appropriate agency will be promptly informed of the threat. Assistance to the other entity may be provided as the Watch Commander deems appropriate.

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

#### 416.4.3 FEDERAL BUILDING OR PROPERTY

If the bomb threat is against a federal building or property, the Federal Protective Service should be immediately notified. The Federal Protective Service provides a uniformed law enforcement response for most facilities, which may include use of its Explosive Detector Dog teams.

If the bomb threat is against a federal government property where the Federal Protective Service is unable to provide a timely response, the appropriate facility's security or command staff should be notified.

Bomb threats against a military installation should be reported to the military police or other military security responsible for the installation.

### 416.5 PRIVATE FACILITY OR PROPERTY

When a member of this department receives notification of a bomb threat at a location in the City of Brentwood, the member receiving the notification should obtain as much information as reasonably possible from the notifying individual, including:

(a) The location of the facility.

(b) The nature of the threat.

(c) Whether the type and detonation time of the device is known.

(d) Whether the facility is occupied and, if so, the number of occupants currently on-scene.

(e) Whether the individual is requesting police assistance at the facility.

(f) Whether there are any internal facility procedures regarding bomb threats in place, such as:

1. No evacuation of personnel and no search for a device.
2. Search for a device without evacuation of personnel.
3. Evacuation of personnel without a search for a device.
4. Evacuation of personnel and a search for a device.

The member receiving the bomb threat information should ensure that the Watch Commander is immediately notified so that he/she can communicate with the person in charge of the threatened facility.

#### 416.5.1 ASSISTANCE

The Watch Commander should be notified when police assistance is requested. The Watch Commander will make the decision whether the Department will render assistance and at what level. Information and circumstances that indicate a reasonably apparent, imminent threat to the safety of either the facility or the public may require a more active approach, including police control over the facility.

Should the Watch Commander determine that the Department will assist or control such an incident, he/she will determine:

(a) The appropriate level of assistance.

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

(b) The plan for assistance.

(c) Whether to evacuate and/or search the facility.

(d) Whether to involve facility staff in the search or evacuation of the building.

1. The person in charge of the facility should be made aware of the possibility of damage to the facility as a result of a search.

2. The safety of all participants is the paramount concern.

(e) The need for additional resources, including:

1. Notification and response, or standby notice, for fire and emergency medical services.

Even though a facility does not request police assistance to clear the interior of a building, based upon the circumstances and known threat, officers may be sent to the scene to evacuate other areas that could be affected by the type of threat, or for traffic and pedestrian control.

### 416.6 FOUND DEVICE

When handling an incident involving a suspected explosive device, the following guidelines, while not all inclusive, should be followed:

(a) No known or suspected explosive item should be considered safe regardless of its size or apparent packaging.

(b) The device should not be touched or moved except by the bomb squad or military explosive ordnance disposal team.

(c) Personnel should not transmit on any equipment that is capable of producing radio frequency energy within the evacuation area around the suspected device. This includes the following:

1. Two-way radios

2. Cell phones

3. Other personal communication devices

(d) The appropriate bomb squad or military explosive ordnance disposal team should be summoned for assistance.

(e) The largest perimeter reasonably possible should initially be established around the device based upon available personnel and the anticipated danger zone.

(f) A safe access route should be provided for support personnel and equipment.

(g) Search the area for secondary devices as appropriate and based upon available resources.

(h) Consider evacuation of buildings and personnel near the device or inside the danger zone and the safest exit route.

(i) Promptly relay available information to the Watch Commander including:

1. The time of discovery.

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

2. The exact location of the device.
3. A full description of the device (e.g., size, shape, markings, construction).
4. The anticipated danger zone and perimeter.
5. The areas to be evacuated or cleared.

## 416.7 EXPLOSION/BOMBING INCIDENTS

When an explosion has occurred, there are multitudes of considerations which may confront the responding officers. As in other catastrophic events, a rapid response may help to minimize injury to victims, minimize contamination of the scene by gathering crowds, or minimize any additional damage from fires or unstable structures.

### 416.7.1 CONSIDERATIONS

Officers responding to explosions, whether accidental or a criminal act, should consider the following actions:

(a) Assess the scope of the incident, including the number of victims and extent of injuries.

(b) Request additional personnel and resources, as appropriate.

(c) Assist with first aid.

(d) Identify and take appropriate precautions to mitigate scene hazards, such as collapsed structures, bloodborne pathogens and hazardous materials.

(e) Assist with the safe evacuation of victims, if possible.

(f) Establish an inner perimeter to include entry points and evacuation routes. Search for additional or secondary devices.

(g) Preserve evidence.

(h) Establish an outer perimeter and evacuate if necessary.

(i) Identify witnesses.

### 416.7.2 NOTIFICATIONS

When an explosion has occurred, the following people should be notified as appropriate:

- Fire department
- Bomb squad
- Additional department personnel, such as investigators and forensic services
- Field supervisor
- Watch Commander
- Other law enforcement agencies, including local, state or federal agencies, such as the FBI and the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF)
- Other government agencies, as appropriate

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

### 416.7.3 CROWD CONTROL

Only authorized members with a legitimate need should be permitted access to the scene. Spectators and other unauthorized individuals should be restricted to a safe distance as is reasonably practicable given the available resources and personnel.

### 416.7.4 PRESERVATION OF EVIDENCE

As in any other crime scene, steps should immediately be taken to preserve the scene. The Watch Commander should assign officers to protect the crime scene area, which could extend over a long distance. Consideration should be given to the fact that evidence may be imbedded in nearby structures or hanging in trees and bushes.

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

# Mental Illness Commitments

## 418.1 PURPOSE AND SCOPE

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

## 418.2 POLICY

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

## 418.3 AUTHORITY

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

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

(a) An individual who is providing or has provided mental health treatment or related support services to the person

(b) A family member

(c) The person subject to the determination or anyone designated by the person

### 418.3.1 VOLUNTARY EVALUATION

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

(a) Transport the person to an appropriate facility that is able to conduct the evaluation and admit the person pursuant to a 5150 commitment.

(b) If at any point the person changes his/her mind regarding voluntary evaluation, officers should proceed with the 5150 commitment, if appropriate.

(c) Document the circumstances surrounding the individual's desire to pursue voluntary evaluation and/or admission.

### 418.3.2 RESTRAINTS

Transporting ambulance personnel will determine what if any restraints may be used on the subject.

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

418.3.3 MENTAL HEALTH DOCUMENTATION

The officer will complete an Application For 72-Hour Detention for Evaluation and Treatment form (MH-302) and provide it to the ambulance personnel who will do the transport. The officer will retain a copy of the 72-hour evaluation for inclusion in the case report. The officer shall also provide a verbal summary to the ambulance personnel regarding the circumstances leading to the involuntary detention.

## 418.4 CONSIDERATIONS AND RESPONSIBILITIES

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

(a) Available information that might assist in determining the cause and nature of the person's action or stated intentions.

(b) Community or neighborhood mediation services.

(c) Conflict resolution and de-escalation techniques.

(d) Community or other resources available to assist in dealing with mental health issues.

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

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

418.4.1 SECURING OF PROPERTY

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

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

## 418.5 TRANSPORTATION

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

Officers may transport individuals in a patrol unit and shall secure them in accordance with the Handcuffing and Restraints Policy. Should the detainee require transport in a medical transport

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

vehicle and the safety of any person, including the detainee, requires the presence of an officer during the transport, Watch Commander approval is required before transport commences.

418.5.1 RETURN OF CONFISCATED FIREARMS AND WEAPONS

(a) Whenever the handling officer has cause to believe that the future return of any confiscated weapon(s) might endanger the person or others, the officer shall detail those facts and circumstances in a report. The report shall be forwarded to Investigations which shall be responsible for initiating a petition to the superior court for a hearing in accordance with Welfare and Institutions Code § 8102(b), to determine whether or not the weapon(s) will be returned. The assigned Detective shall coordinate with the City Attorney's Office to ensure the proper procedures are followed and appropriate documents filed.

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

(c) If no petition is initiated within the above period, the Department shall make the weapon(s) available for return in accordance with subsection (d) below. If the person does not confirm a desire for a hearing within the prescribed 30 days, the Department may file a petition for an order of default.

(d) Under no circumstances shall any firearm be returned to any individual unless and until such person presents valid identification and written notification from the California Department of Justice which conforms to the provisions of Penal Code § 12021.3(e).

(e) In no case in which a firearm or other deadly weapon is not retained as evidence shall the Department be required to retain such firearms or other deadly weapon longer than 180 days after notice has been provided to the owner that such firearm or other deadly weapon is available for return. At the expiration of such period, the firearm or other deadly weapon may be processed for disposal in accordance with applicable law (Penal Code § 12021.3(g)).

## 418.6 TRANSFER TO APPROPRIATE FACILITY

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

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

Absent exigent circumstances, the transporting officer should not assist facility staff with the admission process, including restraint of the individual. However, if the individual is transported and delivered while restrained, the officer may assist with transferring the individual to facility restraints and will be available to assist during the admission process, if requested. Under normal circumstances, officers will not apply facility-ordered restraints.

## 418.7 DOCUMENTATION

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

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

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

### 418.7.1 ADVISEMENT

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

(a) The officer's name and agency.

(b) The fact that the person is not under criminal arrest but is being taken for examination by mental health professionals and the mental health staff will advise him/her of their rights.

(c) The name of the facility to which the person is being taken.

(d) If the person is being taken into custody at his/her residence, he/she should also be advised that he/she may take a few personal items, which the officer must approve, and may make a telephone call or leave a note indicating where he/she is being taken. The officer should also ask if the person needs assistance turning off any appliance or water.

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

## 418.8 CRIMINAL OFFENSES

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

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

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

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

(b) Notify the appropriate supervisor of the facts supporting the arrest and the facts that would support the 5150 commitment.

(c) Facilitate the individual's transfer to jail.

(d) Thoroughly document in the related reports the circumstances that indicate the individual may qualify for a 5150 commitment.

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

## 418.9 FIREARMS AND OTHER WEAPONS

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

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

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

### 418.9.1 PETITION FOR RETURN OF FIREARMS AND OTHER WEAPONS

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

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

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

## 418.10 TRAINING

This department will endeavor to provide Peace Officer Standards and Training (POST)-approved advanced officer training on interaction with persons with mental disabilities, 5150 commitments and crisis intervention.

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

# Cite and Release Policy

## 420.1 PURPOSE AND SCOPE

This policy provides guidance on when to release adults who are arrested for a criminal misdemeanor offense on a written notice to appear (citation) and when to hold for court or bail.

## 420.2 POLICY

It is the policy of the Brentwood Police Department to release all persons arrested on misdemeanor or other qualifying charges on a citation with certain exceptions (Penal Code § 853.6).

If there is a reason for non-release, the Department's mission to protect the community will be the primary consideration when determining whether to release any individual in lieu of holding for court or bail.

## 420.3 RELEASE BY CITATION

Except in cases where a reason for non-release as described below exists, adults arrested for a misdemeanor offense, including a private persons arrest, shall be released from custody on a citation (Penal Code § 853.6).

The citing officer shall, at the time the defendant signs the notice to appear, call attention to the time and place for appearance and take any other steps he/she deems necessary to ensure that the defendant understands his/her written promise to appear.

### 420.3.1 FIELD CITATIONS

In most cases an adult arrested for a misdemeanor offense may be released in the field on a citation in lieu of physical arrest when booking and fingerprinting is not practicable or immediately required provided the individual can be satisfactorily identified, there is no outstanding arrest warrant for the individual and none of the below described disqualifying circumstances are present (Penal Code § 853.6; Penal Code § 1270.1). In such cases the arresting officer should check the booking required box on the citation form to indicate that the person will be photographed and fingerprinted at a later time when ordered by the court.

When a booking photo or fingerprints are needed for the furtherance of any investigation, the person should be released on citation after booking instead of on a field citation.

### 420.3.2 RELEASE AFTER BOOKING

In some cases it may not be feasible or desirable to release a person in the field. The person should instead be released on citation after booking at the jail. All bookings shall be approved by the Watch Commander or the authorized designee.

## 420.4 NON-RELEASE

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

### 420.4.1 DISQUALIFYING OFFENSES

An adult arrested on any of the following disqualifying charges shall not be released on citation and shall be transported to the appropriate detention facility or held for court or bail after booking (Penal Code § 1270.1):

(a) Misdemeanor domestic battery (Penal Code § 243(e)(1))

(b) Felony domestic battery (Penal Code § 273.5)

(c) Serious or violent felonies (Penal Code § 1270.1(a)(1))

(d) Felony intimidation of witnesses and victims (Penal Code § 136.1)

(e) Rape of a spouse (Penal Code § 262)

(f) Violation of a protective order and the arrested person has made threats, used violence, or has gone to the protected person's workplace or residence (Penal Code § 273.6)

(g) Stalking (Penal Code § 646.9)

(h) Misdemeanor violations of a protective order relating to domestic violence if there is a reasonable likelihood the offense will continue or the safety of the individuals or property would be endangered (Penal Code § 853.6)

### 420.4.2 REASONS FOR NON-RELEASE

A person arrested for a misdemeanor shall be released on a citation unless there is a reason for non-release. The Watch Commander may authorize a release on citation regardless of whether a reason for non-release exists when it is determined to be in the best interest of the Department and does not present an unreasonable risk to the community (e.g., release of an intoxicated or ill person to a responsible adult).

Reasons for non-release include (Penal Code § 853.6(i)):

(a) The person arrested is so intoxicated that he/she could be a danger to him/herself or to others. Release may occur as soon as this condition no longer exists.

(b) The person arrested requires medical examination or medical care or is otherwise unable to care for his/her own safety

1. The Brentwood Police Department shall not release an arrestee from custody for the purpose of allowing that person to seek medical care at a hospital, and then immediately re-arrest the same individual upon discharge from the hospital, unless the hospital determines this action will enable it to bill and collect from a third-party payment source (Penal Code § 4011.10).

(c) The person is arrested for one or more of the offenses listed in Vehicle Code § 40302, Vehicle Code § 40303, and Vehicle Code § 40305.

(d) The person has been cited, arrested, or convicted for theft from a store or vehicle in the previous six months, or there is probable cause to believe the person is guilty of committing organized retail theft, as defined in Penal Code § 490.4(a).

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

(e) There are one or more outstanding arrest warrants for the person or failures to appear in court on previous misdemeanor citations that have not been resolved (see Misdemeanor Warrants elsewhere in this policy).

(f) The person could not provide satisfactory evidence of personal identification.

1. If a person released on citation does not have satisfactory identification in his/her possession, a right thumbprint or fingerprint should be obtained on the citation form.

(g) The prosecution of the offense or offenses for which the person was arrested or the prosecution of any other offense or offenses would be jeopardized by the immediate release of the person arrested.

(h) There is a reasonable likelihood that the offense or offenses would continue or resume, or that the safety of persons or property would be imminently endangered by the release of the person arrested.

(i) The person arrested demands to be taken before a magistrate or has refused to sign the notice to appear.

(j) There is reason to believe that the person would not appear at the time and place specified in the notice to appear. The basis for this determination shall be specifically documented. An arrest warrant or failure to appear that is currently pending shall constitute reason to believe that the person will not appear. Other reasons may include:

(a) Previous failure to appear is on record

(b) The person lacks ties to the area, such as a residence, job, or family

(c) Unusual circumstances lead the officer responsible for the release of prisoners to conclude that the suspect should be held for further investigation

When a person is arrested on a misdemeanor offense and is not released by criminal citation, the reason for non-release shall be noted on the booking form. This form shall be submitted to the Watch Commander for approval and included with the case file in the Records Bureau.

### 420.5 MISDEMEANOR WARRANTS

An adult arrested on a misdemeanor warrant may be released, subject to Watch Commander approval, unless any of the following conditions exist:

(a) The misdemeanor cited in the warrant involves violence.

(b) The misdemeanor cited in the warrant involves a firearm.

(c) The misdemeanor cited in the warrant involves resisting arrest.

(d) The misdemeanor cited in the warrant involves giving false information to a peace officer.

(e) The person arrested is a danger to him/herself or others due to intoxication or being under the influence of drugs or narcotics.

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

(f) The person requires medical examination or medical care or was otherwise unable to care for his/her own safety.

(g) The person has other ineligible charges pending against him/her.

(h) There is reasonable likelihood that the offense or offenses would continue or resume, or that the safety of persons or property would be immediately endangered by the release of the person.

(i) The person refuses to sign the notice to appear.

(j) The person cannot provide satisfactory evidence of personal identification.

(k) The warrant of arrest indicates that the person is not eligible to be released on a notice to appear.

Release under this section shall be done in accordance with the provisions of this policy.

### 420.6 REQUESTING CASE NUMBERS

Most traffic infractions and Brentwood Municipal Code violations can be documented on the reverse side of the records copy of the citation. Most Penal Code sections will require a case number to document the incident properly in a report. This section does not preclude an officer from requesting a case number if he/she feels the situation should be documented more thoroughly in a police report.

### 420.7 REQUESTING CASE NUMBERS

Many cases involving a criminal citation release can be handled without requesting a case number. Traffic situations and local code violations can be documented on the reverse side of the records copy of the citation. Most Penal Code sections will require a case number to document the incident properly in a report. This section does not preclude an officer from requesting a case number if he/she feels the situation should be documented more thoroughly in a case report.

| | |
|---|---|
| 836.6(a) (1) | Misdemeanor arrestees **shall** be released (no discretion) on cite with only certain specified exceptions; may be booked first but then must be cited out. |
| (2) | DV protective order (without threats) arrestees may be released if offense is not likely to continue and release does not create imminent endangerment (should be W/C's call based on officer's justification) |
| (3) | No cite for: Misd/Felony DV, violating DV protective orders if threats were made and stalking however arrestees are still entitled to release on scheduled bail or OR release (OR release or deviation from bail schedule require Bail Hearing, for listed violent felonies (1270.1)) |

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

| | |
|---|---|
| 836.6.(h) | Must cite out misdemeanor arrestees. Note that code says a person “the officer has arrested” not “suspected offender”. Includes pvt. person arrests. |
| (i) | Identifies the only reasons for which a misdemeanant may be held for court/bail (too drunk, no ID, would jeopardize a prosecution, offense likely to continue…). Note that these reasons do not prohibit citing out “the arresting officer may release”. Must indicate in writing the reason the person was not cited and include with any transmittal of the arrestee to other facility. |

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

# Foreign Diplomatic and Consular Representatives

## 422.1 PURPOSE AND SCOPE

This policy provides guidelines to ensure that members of the Brentwood Police Department extend appropriate privileges and immunities to foreign diplomatic and consular representatives in accordance with international law.

## 422.2 ARREST OR DETENTION OF FOREIGN NATIONALS

Officers should take appropriate enforcement action for all violations observed, regardless of claims of diplomatic or consular immunity received from violators. A person shall not, however, be subjected to in-custody arrest when diplomatic or consular immunity is claimed by the individual or suspected by the officer, and the officer has verified or reasonably suspects that the claim of immunity is valid.

## 422.3 CLAIMS OF IMMUNITY

If a member comes into contact with a person where law enforcement action may be warranted and the person claims diplomatic or consular privileges and immunities, the member should, without delay:

(a) Notify a supervisor.

(b) Advise the person that his/her claim will be investigated and he/she may be released in accordance with the law upon confirmation of the person's status.

(c) Request the person's identification card, either issued by the U.S. Department of State (DOS), Office of the Chief of Protocol, or in the case of persons accredited to the United Nations, by the U.S. Mission to the United Nations. These are the only reliable documents for purposes of determining privileges and immunities.

(d) Contact the DOS Diplomatic Security Command Center at 571-345-3146 or toll free at 866-217-2089, or at another current telephone number and inform the center of the circumstances.

(e) Verify the immunity status with DOS and follow any instructions regarding further detention, arrest, prosecution and/or release, as indicated by the DOS representative. This may require immediate release, even if a crime has been committed.

Identity or immunity status should not be presumed from the type of license plates displayed on a vehicle. If there is a question as to the status or the legitimate possession of a Diplomat or Consul license plate, a query should be run via the National Law Enforcement Telecommunications System (NLETS), designating "US" as the state.

## 422.4 ENFORCEMENT

If the DOS is not immediately available for consultation regarding law enforcement action, members shall be aware of the following:

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

(a) Generally, all persons with diplomatic and consular privileges and immunities may be issued a citation or notice to appear. However, the person may not be compelled to sign the citation.

(b) All persons, even those with a valid privilege or immunity, may be reasonably restrained in exigent circumstances for purposes of self-defense, public safety or the prevention of serious criminal acts.

(c) An impaired foreign diplomatic or consular representative may be prevented from driving a vehicle, even if the person may not be arrested due to privileges and immunities.

1. Investigations, including the request for field sobriety tests, chemical tests and any other tests regarding impaired driving may proceed but they shall not be compelled.

(d) The following persons may not be detained or arrested, and any property or vehicle owned by these persons may not be searched or seized:

1. Diplomatic-level staff of missions to international organizations and recognized family members
2. Diplomatic agents and recognized family members
3. Members of administrative and technical staff of a diplomatic mission and recognized family members
4. Career consular officers, unless the person is the subject of a felony warrant

(e) The following persons may generally be detained and arrested:

1. International organization staff; however, some senior officers are entitled to the same treatment as diplomatic agents.
2. Support staff of missions to international organizations
3. Diplomatic service staff and consular employees; however, special bilateral agreements may exclude employees of certain foreign countries.
4. Honorary consular officers
5. Whenever an officer arrests and incarcerates, or detains for investigation for over two hours, a person with diplomatic and consular privileges and immunities, the officer shall promptly advise the person that he/she is entitled to have his/her government notified of the arrest or detention (Penal Code § 834c). If the individual wants his/her government notified, the officer shall begin the notification process.

## 422.5 DOCUMENTATION

All contacts with persons who have claimed privileges and immunities afforded foreign diplomatic and consular representatives should be thoroughly documented and the related reports forwarded to DOS.

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

### 422.6 DIPLOMATIC IMMUNITY TABLE

Reference table on diplomatic immunity:

| Category | Arrested or Detained | Enter Residence Subject to Ordinary Procedures | Issued Traffic Citation | Subpoenaed as Witness | Prosecuted | Recognized Family Members |
|---|---|---|---|---|---|---|
| **Diplomatic Agent** | No (note (b)) | No | Yes | No | No | Same as sponsor (full immunity & inviolability) |
| **Member of Admin and Tech Staff** | No (note (b)) | No | Yes | No | No | Same as sponsor (full immunity & inviolability) |
| **Service Staff** | Yes (note (a)) | Yes | Yes | Yes | No for official acts. Yes otherwise (note (a)) | No immunity or inviolability (note (a)) |
| **Career Consul Officer** | Yes if for a felony and pursuant to a warrant (note (a)) | Yes (note (d)) | Yes | No for official acts Testimony may not be compelled in any case | No for official acts. Yes otherwise (note (a)) | No immunity or inviolability |
| **Honorable Consul Officer** | Yes | Yes | Yes | No for official acts Yes otherwise. | No for official acts Yes otherwise | No immunity or inviolability |
| **Consulate Employees** | Yes (note (a)) | Yes | Yes | No for official acts Yes otherwise. | No for official acts. Yes otherwise (note (a)) | No immunity or inviolability (note (a)) |
| **Int'l Org Staff (note (b))** | Yes (note (c)) | Yes (note (c)) | Yes | Yes (note (c)) | No for official acts. Yes otherwise (note (c)) | No immunity or inviolability |
| **Diplomatic-Level Staff of Missions to Int'l Org** | No (note (b)) | No | Yes | No | No | Same as sponsor (full immunity & inviolability) |

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

| | | | | | | |
|---|---|---|---|---|---|---|
| **Support Staff of Missions to Int'l Orgs** | Yes | Yes | Yes | Yes | No for official acts Yes otherwise | No immunity or inviolability |

Notes for diplomatic immunity table:

(a) This table presents general rules. The employees of certain foreign countries may enjoy higher levels of privileges and immunities on the basis of special bilateral agreements.

(b) Reasonable constraints, however, may be applied in emergency circumstances involving self-defense, public safety, or in the prevention of serious criminal acts.

(c) A small number of senior officers are entitled to be treated identically to diplomatic agents.

(d) Note that consul residences are sometimes located within the official consular premises. In such cases, only the official office space is protected from police entry.

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

# Fugitive Rendition and Extradition

## 423.1 PURPOSE AND SCOPE

This policy is established to provide guidelines for handling the extradition on fugitives that arrested out-of-state for warrants we hold as well as rendering fugitives to out-of-state jurisdictions.

The Brentwood Police Department has contracted with the Contra Costa County Sheriff's Office for fugitive rendition and extradition services. The Sheriff's Fugitive/Extradition Unit will be responsible for all extraditions and renditions on behalf of the Brentwood Police Department.

## 423.2 DEFINITIONS

**Extradition:** The return of fugitives arrested in out-of-state jurisdictions (or Asylum States) for prosecution in Contra Costa County.

**Rendition:** The rendering or surrendering to out-of-state jurisdictions (or Demand States) fugitives arrested in Contra Costa County for out-of-state warrants.

## 423.3 FUGITIVE ARREST

### 423.3.1 RENDITION - ARRESTING OFFICER'S RESPONSIBILITY

Upon locating a wanted person from another state, the arresting officer must do the following:

(a) Confirm the out-of-state jurisdiction holding the warrant will extradite from California. If not, do not serve the warrant. If the jurisdiction holding the warrant will extradite, then the arresting officer must verify the fugitive's identity prior to warrant confirmation.

(b) Identification verification is crucial when a rendition will be taking place. The field investigation should include identification verification and if at all possible, some type of admission that the fugitive was in the Demand State or has knowledge of the warrant.

(c) Following the fugitive arrest and booking, the arresting officer shall ask the fugitive if they are willing to waive extradition and return to the out-of-state jurisdiction. The fugitive's waiver must be documented in the arrest report as well as how the fugitive's identity was confirmed.

### 423.3.2 BOOKING AUTHORITY

The fugitive will be booked on the warrant, the same as any other warrant arrest. In addition to listing the warrant information on the booking sheet, the arresting officer shall complete the on-view booking information. Under charges, the arresting officer will book the fugitive for Penal Code Section 1551, which is a NO BAIL felony booking.

### 423.3.3 EXTRADITION - OFFICER'S RESPONSIBILITY

Upon notification of a fugitive arrest from an out-of-state jurisdiction, the officer receiving the information shall do the following:

(a) Notify the on-duty supervisor of the fugitive arrest.

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

(b) Ensure the warrant is confirmed by Dispatch.

(c) Complete a supplemental report updating the arrest.

### 423.4 SUPERVISOR RESPONSIBILITY

The supervisor shall ensure that all fugitive arrest reports (both rendition and extradition) are completed in a timely manner.

Arrest reports involving rendition must include how the fugitive's identification was verified and what the fugitive's extradition waiver was.

Excluding weekends and holidays, the report should be completed prior to the arresting officer going off-duty. The Fugitive/Extradition Unit needs a copy of the arrest/investigation report at the beginning of the next business day.

The on-duty supervisor is responsible for notifying the Fugitive/Extradition Unit about all fugitive arrests. The 24-hour contact telephone number is (925) 646-1761. After hours, a voice message can be left advising of the arrest. When leaving a message, include the fugitive's identifying information and our agency's arrest/booking number and warrant information.

Completed and approved fugitive arrest/investigation reports shall be faxed to the Fugitive/Extradition Unit at (925) 646-1769. Teletypes can also be sent to the Fugitive/Extradition Unit at CA0070076@MBJO.

### 423.5 CRIMINAL COMPLAINTS

All complaints and court appearances will be handled by the Contra Costa County Sheriff's Fugitive/Extradition Unit.

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

# Reporting Police Activity Outside of Jurisdiction

## 426.1 REPORTING

This policy provides general guidelines for reporting police activity while on or off-duty and occurring outside the City of Brentwood.

### 426.1.1 ASSISTANCE TO AGENCIES OUTSIDE THE CITY

When an officer is on-duty and is requested by an allied agency to participate in law enforcement activity in another jurisdiction, he/she shall obtain prior approval from the immediate supervisor or the Watch Commander. If the request is of an emergency nature, the officer shall notify Dispatch before responding and thereafter notify a supervisor as soon as practical.

### 426.1.2 LAW ENFORCEMENT ACTIVITY OUTSIDE THE CITY

Any on-duty officer, who engages in law enforcement activities of any type outside the immediate jurisdiction of Brentwood, shall notify his or her supervisor or the Watch Commander at the earliest possible opportunity. Any off-duty officer who engages in any law enforcement activities, regardless of jurisdiction shall notify the field supervisor or Watch Commander as soon as practical.

The supervisor shall determine if a case report or other documentation of the officer's activity is required. The report or other documentation shall be forwarded to the officer's Division Commander.

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

# Immigration Violations

## 428.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidelines to members of the Brentwood Police Department relating to immigration and interacting with federal immigration officials.

### 428.1.1 DEFINITIONS

The following definitions apply to this policy (Government Code § 7284.4):

**Criminal immigration violation** - Any federal criminal immigration violation that penalizes a person's presence in, entry, or reentry to, or employment in, the United States. This does not include any offense where a judicial warrant already has been issued.

**Immigration enforcement** - Any and all efforts to investigate, enforce, or assist in the investigation or enforcement of any federal civil immigration law, including any and all efforts to investigate, enforce, or assist in the investigation or enforcement of any federal criminal immigration law that penalizes a person's presence in, entry or reentry to, or employment in the United States.

**Judicial warrant** - An arrest warrant for a violation of federal criminal immigration law and issued by a federal judge or a federal magistrate judge.

## 428.2 POLICY

It is the policy of the Brentwood Police Department that all members make personal and professional commitments to equal enforcement of the law and equal service to the public. Confidence in this commitment will increase the effectiveness of this department in protecting and serving the entire community and recognizing the dignity of all persons, regardless of their national origin or immigration status.

## 428.3 VICTIMS AND WITNESSES

To encourage crime reporting and cooperation in the investigation of criminal activity, all individuals, regardless of their immigration status, must feel secure that contacting or being addressed by members of law enforcement will not automatically lead to immigration inquiry and/or deportation. While it may be necessary to determine the identity of a victim or witness, members shall treat all individuals equally and not in any way that would violate the United States or California constitutions.

## 428.4 IMMIGRATION INQUIRIES PROHIBITED

Officers shall not inquire into an individual's immigration status for immigration enforcement purposes (Government Code § 7284.6).

### 428.4.1 CALIFORNIA LAW ENFORCEMENT TELECOMMUNICATIONS SYSTEM (CLETS)

Members shall not use information transmitted through CLETS for immigration enforcement purposes except for criminal history information and only when consistent with the California Values Act (Government Code § 15160).

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

Members shall not use the system to investigate immigration violations of 8 USC § 1325 (improper entry) if that violation is the only criminal history in an individual's record (Government Code § 15160).

## 428.5 DETENTIONS AND ARRESTS

An officer shall not detain any individual, for any length of time, for a civil violation of federal immigration laws or a related civil warrant (Government Code § 7284.6).

An officer who has a reasonable suspicion that an individual already lawfully contacted or detained has committed a criminal violation of 8 USC § 1326(a) (unlawful reentry) that may be subject to an enhancement due to a previous conviction of an aggravated felony under 8 USC § 1326(b)(2), may detain the person for a reasonable period of time to contact federal immigration officials to verify whether the United States Attorney General has granted the individual permission for reentry and whether the violation is subject to enhancement (Government Code § 7284.6). No individual who is otherwise ready to be released should continue to be detained only because questions about the individual's status are unresolved.

If the officer has facts that establish probable cause to believe that a person already lawfully detained has violated 8 USC § 1326(a) and the penalty may be subject to enhancement due to prior conviction for specified aggravated felonies, he/she may arrest the individual for that offense (Government Code § 7284.6).

An officer shall not detain any individual, for any length of time, for any other criminal immigration violation of federal immigration laws (Government Code § 7284.6).

An officer should notify a supervisor as soon as practicable whenever an individual is arrested for violation of 8 USC § 1326(a).

### 428.5.1 SUPERVISOR RESPONSIBILITIES

When notified that an officer has arrested an individual for violation of 8 USC § 1326(a) or under the authority of a judicial warrant, the supervisor should determine whether it is appropriate to:

(a) Transfer the person to federal authorities.

(b) Transfer the person to jail.

## 428.6 FEDERAL REQUESTS FOR ASSISTANCE

Absent an urgent issue of officer safety or other emergency circumstances, requests by federal immigration officials for assistance from this department should be directed to a supervisor. The supervisor is responsible for determining whether the requested assistance would be permitted under the California Values Act (Government Code § 7284.2 et seq.).

## 428.7 INFORMATION SHARING

No member of this department will prohibit, or in any way restrict, any other member from doing any of the following regarding the citizenship or immigration status, lawful or unlawful, of any individual (8 USC § 1373; Government Code § 7284.6):

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

(a) Sending information to, or requesting or receiving such information from federal immigration officials

(b) Maintaining such information in department records

(c) Exchanging such information with any other federal, state, or local government entity

Nothing in this policy restricts sharing information that is permissible under the California Values Act.

### 428.7.1 IMMIGRATION DETAINERS

No individual should be held based solely on a federal immigration detainer under 8 CFR 287.7 (Government Code § 7284.6).

Notification to a federal authority may be made prior to release of an individual who is the subject of a notification request only if the individual meets one of the following conditions (Government Code § 7282.5; Government Code § 7284.6):

(a) The individual has been arrested and had a judicial probable cause determination for a serious or violent felony identified in Penal Code § 667.5(c) or Penal Code § 1192.7(c).

(b) The individual has been arrested and had a judicial probable cause determination for a felony punishable by time in a state prison.

(c) The individual has been convicted of an offense as identified in Government Code § 7282.5(a).

(d) The individual is a current registrant on the California Sex and Arson Registry.

(e) The individual is identified by the U.S. Department of Homeland Security's Immigration and Customs Enforcement as the subject of an outstanding federal felony arrest warrant.

### 428.7.2 NOTICE TO INDIVIDUALS

Individuals in custody shall be given a copy of documentation received from U.S. Immigration and Customs Enforcement (ICE) regarding a hold, notification, or transfer request along with information as to whether the Brentwood Police Department intends to comply with the request (Government Code § 7283.1).

If the Brentwood Police Department provides ICE with notification that an individual is being, or will be, released on a certain date, the same notification shall be provided in writing to the individual and to his/her attorney or to one additional person who the individual may designate (Government Code § 7283.1).

### 428.7.3 ICE INTERVIEWS

Before any interview regarding civil immigration violations takes place between ICE personnel and an individual in custody, the Brentwood Police Department shall provide the individual with a written consent form that explains the purpose of the interview, that the interview is voluntary, and that he/she may decline to be interviewed or may choose to be interviewed only with his/her

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

attorney present. The consent form must be available in the languages specified in Government Code § 7283.1.

428.7.4 TRANSFERS TO IMMIGRATION AUTHORITIES
Members shall not transfer an individual to immigration authorities unless one of the following circumstances exist (Government Code § 7282.5; Government Code § 7284.6):

(a) Transfer is authorized by a judicial warrant or judicial probable cause determination.

(b) The individual has been convicted of an offense as identified in Government Code § 7282.5(a).

(c) The individual is a current registrant on the California Sex and Arson Registry.

(d) The individual is identified by the U.S. Department of Homeland Security's Immigration and Customs Enforcement as the subject of an outstanding federal felony arrest warrant.

428.7.5 REPORTING TO CALIFORNIA DEPARTMENT OF JUSTICE
The Investigative Bureau supervisor shall ensure that data regarding the number of transfers of an individual to immigration authorities, as permitted by Government Code § 7284.6(a)(4), and the offense that allowed for the transfer is collected and provided to the Records Supervisor for required reporting to the DOJ (Government Code § 7284.6(c)(2)(see the Records Bureau Policy).

**428.8 U VISA AND T VISA NONIMMIGRANT STATUS**
Under certain circumstances, federal law allows temporary immigration benefits, known as a U visa, to victims and witnesses of certain qualifying crimes (8 USC § 1101(a)(15)(U)).

Similar immigration protection, known as a T visa, is available for certain qualifying victims of human trafficking (8 USC § 1101(a)(15)(T)).

Any request for assistance in applying for U visa or T visa status should be forwarded in a timely manner to the Investigative Bureau supervisor assigned to oversee the handling of any related case. The Investigative Bureau supervisor should:

(a) Consult with the assigned investigator to determine the current status of any related case and whether further documentation is warranted.

(b) Contact the appropriate prosecutor assigned to the case, if applicable, to ensure the certification or declaration has not already been completed and whether a certification or declaration is warranted.

(c) Address the request and complete the certification or declaration, if appropriate, in a timely manner.

    1. The instructions for completing certification and declaration forms can be found on the U.S. Department of Homeland Security (DHS) website.

    2. Form I-918 Supplement B certification shall be completed if the victim qualifies under Penal Code § 679.10 (multiple serious offenses). Form I-914 Supplement

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

B certification shall be completed if the victim qualifies under Penal Code § 236.5 or Penal Code § 679.11 (human trafficking).

(d) Ensure that any decision to complete, or not complete, a certification or declaration form is documented in the case file and forwarded to the appropriate prosecutor. Include a copy of any completed form in the case file.

(e) Inform the victim liaison of any requests and their status.

428.8.1 TIME FRAMES FOR COMPLETION

Officers and their supervisors who are assigned to investigate a case of human trafficking as defined by Penal Code § 236.1 shall complete the above process and the documents needed for indicating the individual is a victim for the T visa application within 15 business days of the first encounter with the victim, regardless of whether it is requested by the victim (Penal Code § 236.5).

Officers and their supervisors shall complete the above process and the documents needed certifying victim cooperation for a U visa or T visa application pursuant to Penal Code § 679.10 and Penal Code § 679.11 within 30 days of a request from the victim, victim's family, or authorized representative (as defined in Penal Code § 679.10 and Penal Code § 679.11) related to one of their assigned cases. If the victim is in removal proceedings, the certification shall be processed within seven days of the first business day following the day the request was received.

428.8.2 REPORTING TO LEGISLATURE

The Investigative Bureau supervisor or the authorized designee should ensure that certification requests are reported to the Legislature in January of each year and include the number of certifications signed and the number denied. The report shall comply with Government Code § 9795 (Penal Code § 679.10; Penal Code § 679.11).

428.8.3 POLICE REPORTS

Upon request, an officer or supervisor should provide a victim or authorized representative with a copy of the report filed by the victim within seven days of the request (Penal Code § 679.10).

## 428.9 TRAINING

The Training Manager should ensure that all appropriate members receive training on immigration issues.

Training should include:

(a) Identifying civil versus criminal immigration violations.

(b) Factors that may be considered in determining whether a criminal immigration violation has been committed.

(c) Prohibitions contained in the California Values Act (Government Code § 7284 et seq.).

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

# Securing Buildings - Private Property

## 430.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidelines for the boarding up of commercial, residential, and school buildings after a burglary, vandalism, or forced entry by our Department.

This policy is established in addition to City Manager Administrative Policy No. 3, Securing Buildings - Private Property (8-24-09).

### 430.1.1 PROCEDURE

When private property buildings including commercial and residential, school buildings, and other government buildings not owned or operated by the City, are found to be unsecured due to a burglary, vandalism or forced entry by the Police Department, personnel should facilitate securing the building under the following guidelines:

(a) If the owner can be contacted, the owner will be responsible for securing the building.

(b) If the owner can not be contacted, the Public Works Operations shall be contacted to facilitate the securing of the property. Telephone contact at 516-6000 (Monday-Friday, 0700-1500) and after hours at 382-4157 for the Standby person.

(c) A Police Report shall be written that documents the damage and steps taken to secure the property. This documentation may be included in any crime report that is written related to the original incident. Documentation shall include photographs.

### 430.1.2 COORDINATION

The Police Department and Public Works staff will work together to secure buildings and facilities to the extent possible and reconcile documentation according to applicable City procedures.

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

# Patrol Rifles

## 432.1 PURPOSE AND SCOPE

In order to more effectively and accurately address the increasing level of fire power and body armor utilized by criminal suspects, the Brentwood Police Department will make patrol rifles available to qualified patrol officers as an additional and more immediate tactical resource.

## 432.2 PATROL RIFLE

### 432.2.1 DEFINITION

A patrol rifle is an authorized weapon which is owned by the Department and which is made available to properly trained and qualified officers as a supplemental resource to their duty handgun or shotgun. No personally owned rifles may be carried for patrol duty unless pre-approved in writing by the Chief of Police and the Range Program Supervisor.

## 432.3 SPECIFICATIONS

Only weapons and ammunition that meet agency authorized specifications, approved by the Chief of Police, and issued by the Department may be used by officers in their law enforcement responsibilities. The authorized patrol rifle issued by the Department is the Colt AR-15

## 432.4 RIFLE MAINTENANCE

(a) Primary responsibility for maintenance of patrol rifles shall fall on the Rangemaster, who should inspect and service each patrol rifle on a monthly basis.

(b) Each patrol officer carrying a patrol rifle may be required to field strip and clean an assigned patrol rifle as needed.

(c) Each patrol officer shall be responsible for promptly reporting any damage or malfunction of an assigned patrol rifle.

(d) Any patrol rifle found to be unserviceable shall be removed from service. The rifle shall be clearly labeled as “out of service” and details regarding the weapon's condition shall be included on the label and the equipment deficiency form.

(e) Each patrol rifle shall be subject to inspection by a supervisor or the Rangemaster at any time.

(f) No modification shall be made to any patrol rifle without prior written authorization from the Rangemaster.

## 432.5 TRAINING

Officers shall not carry or utilize the patrol rifle unless they have successfully completed departmental training. This training shall consist of an initial 20 hour patrol rifle user's course and qualification score with a Department approved patrol rifle instructor or the successful completion

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

of an approved patrol rifle operator school. Officers shall thereafter be required to successfully complete semi-annual training and qualification conducted by a Department approved patrol rifle instructor.

Any officer who fails to qualify or who fails to successfully complete two or more department sanctioned training/qualification sessions within a calendar year will no longer be authorized to deploy the patrol rifle without successfully completing a remedial course of fire with an approved department instructor showing proficiency, and passing a qualification course.

### 432.6 DEPLOYMENT OF THE PATROL RIFLE

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

(a) Situations where the officer reasonably anticipates an armed encounter.

(b) When an officer is faced with a situation that may require the delivery of accurate and effective fire at long range.

(c) Situations where an officer reasonably expects the need to meet or exceed a suspect's firepower.

(d) When an officer reasonably believes that there may be a need to deliver fire on a barricaded suspect or a suspect with a hostage.

(e) When an officer reasonably believes that a suspect may be wearing body armor.

(f) When authorized or requested by a supervisor.

(g) When needed to euthanize an animal.

### 432.7 DISCHARGE OF THE PATROL RIFLE

The discharge of the patrol rifle shall be governed by the Department's Deadly Force Policy, Policy Manual § 300.

### 432.8 PATROL READY

Any qualified officer carrying a patrol rifle in the field shall maintain the weapon in a patrol ready condition until deployed. A rifle is considered in a patrol ready condition when it has been inspected by the assigned officer and meets the following conditions:

(a) There is no round in the chamber.

(b) Chamber safe inserted.

(c) Rifle bolt lowered onto chamber safe.

(d) The rifle is stored in the locked patrol vehicle's rifle rack or designated area for unmarked vehicles.

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

### 432.9 RIFLE STORAGE

(a) When not in use, patrol rifles will be stored in the department armory in rifle racks.

(b) All stored rifles shall be unloaded with the action (bolt) open and magazine removed. The dust cover shall be in the open position.

(c) All loading and unloading of the rifle, other than at a tactical deployment shall be done at a clearing tube or approved shooting range.

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

# Aircraft Accidents

## 434.1 PURPOSE AND SCOPE

The purpose of this policy is to provide department members with guidelines for handling aircraft accidents.

This policy does not supersede, and is supplementary to, applicable portions of the Crime and Disaster Scene Integrity, Emergency Management Plan and Hazardous Material Response policies.

### 434.1.1 DEFINITIONS

Definitions related to this policy include:

**Aircraft** - Any fixed wing aircraft, rotorcraft, balloon, blimp/dirigible or glider that is capable of carrying a person or any unmanned aerial vehicle other than those intended for non-commercial recreational use.

## 434.2 POLICY

It is the policy of the Brentwood Police Department to provide an appropriate emergency response to aircraft accidents. This includes emergency medical care and scene management.

## 434.3 ARRIVAL AT SCENE

Officers or other authorized members tasked with initial scene management should establish an inner and outer perimeter to:

(a) Protect persons and property.

(b) Prevent any disturbance or further damage to the wreckage or debris, except to preserve life or rescue the injured.

(c) Preserve ground scars and marks made by the aircraft.

(d) Manage the admission and access of public safety and medical personnel to the extent necessary to preserve life or to stabilize hazardous materials.

(e) Maintain a record of persons who enter the accident site.

(f) Consider implementation of an Incident Command System (ICS).

## 434.4 INJURIES AND CASUALTIES

Members should address emergency medical issues and provide care as a first priority.

Those tasked with the supervision of the scene should coordinate with the National Transportation Safety Board (NTSB) before the removal of bodies. If that is not possible, the scene supervisor should ensure documentation of what was disturbed, including switch/control positions and instrument/gauge readings.

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

### 434.5 NOTIFICATIONS

When an aircraft accident is reported to this department, the responding supervisor shall ensure notification is or has been made to NTSB, the Federal Aviation Administration (FAA), and when applicable, the appropriate branch of the military.

Supervisors shall ensure other notifications are made once an aircraft accident has been reported. The notifications will vary depending on the type of accident, extent of injuries or damage, and the type of aircraft involved. When an aircraft accident has occurred, it is generally necessary to notify the following:

(a) Fire department

(b) Appropriate airport tower

(c) Emergency medical services (EMS)

### 434.6 CONTROLLING ACCESS AND SCENE AUTHORITY

Prior to NTSB arrival, scene access should be limited to authorized personnel from the:

(a) FAA.

(b) Fire department, EMS or other assisting law enforcement agencies.

(c) Coroner.

(d) Air Carrier/Operators investigative teams with NTSB approval.

(e) Appropriate branch of the military, when applicable.

(f) Other emergency services agencies (e.g., hazardous materials teams, biohazard decontamination teams, fuel recovery specialists, explosive ordnance disposal specialists).

The NTSB has primary responsibility for investigating accidents involving civil aircraft. In the case of a military aircraft accident, the appropriate branch of the military will have primary investigation responsibility.

After the NTSB or military representative arrives on-scene, the efforts of this department will shift to a support role for those agencies.

If NTSB or a military representative determines that an aircraft or accident does not qualify under its jurisdiction, the on-scene department supervisor should ensure the accident is still appropriately investigated and documented.

### 434.7 DANGEROUS MATERIALS

Members should be aware of potentially dangerous materials that might be present. These may include, but are not limited to:

(a) Fuel, chemicals, explosives, biological or radioactive materials and bombs or other ordnance.

(b) Pressure vessels, compressed gas bottles, accumulators and tires.

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

(c) Fluids, batteries, flares and igniters.

(d) Evacuation chutes, ballistic parachute systems and composite materials.

## 434.8 DOCUMENTATION

All aircraft accidents occurring within the City of Brentwood shall be documented. At a minimum the documentation should include the date, time and location of the incident; any witness statements, if taken; the names of BPD members deployed to assist; other City resources that were utilized; and cross reference information to other investigating agencies. Suspected criminal activity should be documented on the appropriate crime report.

### 434.8.1 WRECKAGE

When reasonably safe, members should:

(a) Obtain the aircraft registration number (N number) and note the type of aircraft.

(b) Attempt to ascertain the number of casualties.

(c) Obtain photographs or video of the overall wreckage, including the cockpit and damage, starting at the initial point of impact, if possible, and any ground scars or marks made by the aircraft.

1. Military aircraft may contain classified equipment and therefore shall not be photographed unless authorized by a military commanding officer (18 USC § 795).

(d) Secure, if requested by the lead authority, any electronic data or video recorders from the aircraft that became dislodged or cell phones or other recording devices that are part of the wreckage.

(e) Acquire copies of any recordings from security cameras that may have captured the incident.

### 434.8.2 WITNESSES

Members tasked with contacting witnesses should obtain:

(a) The location of the witness at the time of his/her observation relative to the accident site.

(b) A detailed description of what was observed or heard.

(c) Any photographs or recordings of the accident witnesses may be willing to voluntarily surrender.

(d) The names of all persons reporting the accident, even if not yet interviewed.

(e) Any audio recordings of reports to 9-1-1 regarding the accident and dispatch records.

## 434.9 MEDIA RELATIONS

The Public Information Officer (PIO) should coordinate a response to the media, including access issues, road closures, detours and any safety information that is pertinent to the surrounding community. Any release of information regarding details of the accident itself should

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

be coordinated with the NTSB or other authority who may have assumed responsibility for the investigation.

Depending on the type of aircraft, the airline or the military may be responsible for family notifications and the release of victims' names. The PIO should coordinate with other involved entities before the release of information.

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

# Field Training Officer Program

## 436.1 PURPOSE AND SCOPE

The Field Training Officer Program is intended to provide a standardized program to facilitate the officer's transition from the academic setting to the actual performance of general law enforcement duties of the Brentwood Police Department.

It is the policy of this department to assign all new police officers to a structured Field Training Officer Program that is designed to prepare the new officer to perform in a patrol assignment, and possessing all skills needed to operate in a safe, productive, and professional manner.

## 436.2 FIELD TRAINING OFFICER - SELECTION AND TRAINING

The Field Training Officer (FTO) is an experienced officer trained in the art of supervising, training, and evaluating entry level and lateral police officers in the application of their previously acquired knowledge and skills.

### 436.2.1 SELECTION PROCESS

FTOs will be selected based on the following requirements:

(a) Desire to be an FTO

(b) Minimum of four years of patrol experience, two of which shall be with this department

(c) Demonstrated ability as a positive role model

(d) Participate and pass an internal oral interview selection process

(e) Evaluation by supervisors and current FTOs

(f) Possess a POST Basic certificate

### 436.2.2 TRAINING

An officer selected as a Field Training Officer shall successfully complete a POST certified (40-hour) Field Training Officer's Course prior to being assigned as an FTO.

All FTOs must complete a 24-hour Field Training Officer update course every three years while assigned to the position of FTO (11 CCR 1004).

All FTOs must meet any training mandate regarding crisis intervention behavioral health training pursuant to Penal Code § 13515.28.

## 436.3 FIELD TRAINING OFFICER PROGRAM SUPERVISOR

The FTO Program supervisor should be selected from the rank of sergeant or above by the Operations Division Commander or a designee and should possess, or be eligible to receive, a POST Supervisory Certificate.

The responsibilities of the FTO Program supervisor include the following:

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

(a) Assignment of trainees to FTOs

(b) Conduct FTO meetings

(c) Maintain and ensure FTO/trainee performance evaluations are completed

(d) Maintain, update, and issue the Field Training Manual to each trainee

(e) Monitor individual FTO performance

(f) Monitor overall FTO Program

(g) Maintain liaison with FTO coordinators of other agencies

(h) Maintain liaison with academy staff on recruit performance during the academy

(i) Develop ongoing training for FTOs

The FTO Program supervisor will be required to successfully complete a POST-approved Field Training Administrator's Course within one year of appointment to this position (11 CCR 1004(c)).

## 436.4 TRAINEE DEFINED

Any entry level or lateral police officer newly appointed to the Brentwood Police Department who has successfully completed a POST approved Basic Academy.

## 436.5 REQUIRED TRAINING

Entry level officers shall be required to successfully complete the Field Training Program, consisting of a minimum of 10 weeks (11 CCR 1004; 11 CCR 1005).

The training period for a lateral officer may be modified depending on the trainee's demonstrated performance and level of experience. A lateral officer may be exempt from the Field Training Program requirement if the officer qualifies for an exemption as provided in 11 CCR 1005(a)(B).

To the extent practicable, entry level and lateral officers should be assigned to a variety of Field Training Officers, shifts, and geographical areas during their Field Training Program.

### 436.5.1 FIELD TRAINING MANUAL

Each new officer will be issued a Field Training Manual at the beginning of his/her Primary Training Phase. This manual is an outline of the subject matter and/or skills necessary to properly function as an officer with the Brentwood Police Department. The officer shall become knowledgeable of the subject matter as outlined. He/she shall also become proficient with those skills as set forth in the manual.

The Field Training Manual will specifically cover those policies, procedures, rules, and regulations adopted by the Brentwood Police Department.

## 436.6 EVALUATIONS

Evaluations are an important component of the training process and shall be completed as outlined below.

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

436.6.1 FIELD TRAINING OFFICER
The FTO will be responsible for the following:

(a) Complete and submit a written evaluation on the performance of his/her assigned trainee to the FTO Coordinator on a daily basis.

(b) Review the Daily Trainee Performance Evaluations with the trainee each day.

(c) Complete a detailed end-of-phase performance evaluation on his/her assigned trainee at the end of each phase of training.

(d) Sign off all completed topics contained in the Field Training Manual, noting the method(s) of learning and evaluating the performance of his/her assigned trainee.

436.6.2 IMMEDIATE SUPERVISOR
The immediate supervisor shall review and approve the Daily Trainee Performance Evaluations and forward them to the Field Training Administrator.

436.6.3 FIELD TRAINING ADMINISTRATOR
The Field Training Administrator will review and approve the Daily Trainee Performance Evaluations submitted by the FTO through his/her immediate supervisor.

436.6.4 TRAINEE
At the completion of the FTO Program, the trainee shall submit a confidential performance evaluation on each of their FTO's and on the FTO Program.

**436.7 DOCUMENTATION**
All documentation of the Field Training Officer Program will be retained in the officer's training files and will consist of the following:

(a) Daily Observation Reports.

(b) End of phase evaluations.

(c) A Certificate of Completion certifying that the trainee has successfully completed the required number of hours of field training.

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

# Obtaining Air Support

## 438.1 PURPOSE AND SCOPE

The use of a police helicopter can be invaluable in certain situations. This policy specifies potential situations where the use of a helicopter may be requested and the responsibilities for making a request.

## 438.2 REQUEST FOR HELICOPTER ASSISTANCE

If a supervisor or officer in charge of an incident determines that the use of a helicopter would be beneficial, a request to obtain helicopter assistance may be made.

### 438.2.1 REQUEST FOR ASSISTANCE FROM ANOTHER AGENCY

After consideration and approval of the request for a helicopter, the field supervisor or Watch Commander, will facilitate calling the Contra Costa County Sheriff's Office (in general, dispatch will make the telephone call). If the Contra Costa County Sheriff's Department helicopter is unavailable, and the need is of high importance, the field supervisor or Watch Commander, may request helicopter assistance from East Bay Regional Parks Police or the California Highway Patrol.

### 438.2.2 CIRCUMSTANCES UNDER WHICH AID MAY BE REQUESTED

Police helicopters may be requested under any of the following conditions:

(a) When the helicopter is activated under existing mutual aid agreements

(b) Whenever the safety of law enforcement personnel is in jeopardy and the presence of the helicopters may reduce such hazard

(c) When the use of the helicopters will aid in the capture of a suspected fleeing felon whose continued freedom represents an ongoing threat to the community

(d) When a helicopter is needed to locate a person who has strayed or is lost and whose continued absence constitutes a serious health or safety hazard

(e) Vehicle pursuits

While it is recognized that the availability of helicopter support will generally provide valuable assistance to ground personnel, the presence of a helicopter will rarely replace the need for officers on the ground.

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

# Code 666 and BOLO Broadcasts

## 439.1 PURPOSE AND SCOPE

The Brentwood Police Department participates in the County Intersection Observation Plan when responding to or implementing "Code 666" or "Be on the Lookout" (BOLO) broadcasts.

## 439.2 DEFINITIONS

(a) **Code 666** - Felonies which have occurred within fifteen (15) minutes of the broadcast and there is specific reason to believe the suspect(s) have fled in a vehicle.

1. Priority 1: Person Felonies - Broadcast may be designed as either "All County" or "Regional" (specify region, East, Central, or West).
2. Priority 2: Property Felonies and/or Officer Safety Incidents - Broadcasts are "Regional" to East County only, but may be extended to an adjacent region based on specific information which suggests flight to that region.

(b) **BOLO** - For other felony crimes or officer safety incidents which have occurred beyond the fifteen (15) minute time period or for which specific vehicle information is not available.

## 439.3 IMPLEMENTATION OF THE BROADCAST

(a) Code 666 and BOLO requests are to have supervisor approval prior to broadcast. If a supervisor is unavailable, the primary officer assigned to the call may initiate the broadcast if it meets criteria.

(b) Code 666 and BOLO information is to be forwarded to Dispatch for broadcast as soon as possible after the incident has occurred.

(c) Code 666 broadcasts must include a complete or exceptionally distinctive vehicle description. Partial information is acceptable if an update soon follows. If sufficient information cannot be obtained, cancel the broadcast.

(d) In addition to suspect and/or vehicle description, the broadcast should include the type, time and location of the incident, possible direction of travel, weapons involved, and information on potential hostages.

(e) Code 666 broadcasts are to be canceled when appropriate and no later than twenty (20) minutes after the time of the original broadcast. Cancellation should include whether the suspect(s) and vehicle are still outstanding . After twenty (20) minutes, all Code 666 broadcasts will automatically be cancel unless an extension is requested by a supervisor, or if unavailable, the implementing officer.

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

### 439.4 RESPONSE TO BROADCAST

(a) Upon receipt of a Code 666 broadcast, an available Brentwood unit will respond to an observation post located at Highway 4 Bypass and Sand Creek Rd.

1. Because of our limited manpower, a unit may not be available to respond to a Code 666 broadcast. An unavailable officer shall pre-empty to respond to a Code 666 request when the serious nature of the broadcast and likelihood of apprehension at the observation point outweigh the need for the officer's presence at another location.

(b) If a suspect is apprehended as a result of a Code 666, the originating agency shall respond to take custody of the suspect, property, and evidence.

(c) If a more serious crime has been committed by the suspect in the jurisdiction of the apprehending agency, supervisors of the implementing and apprehending agencies should negotiate custody, investigative responsibility and scene processing.

1. In the event an officer involved injury or death is associated with a Code 666 apprehension, venue shall be established by the Contra Costa County Officer Fatal Incident Protocol.

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

# Contacts and Temporary Detentions

## 440.1 PURPOSE AND SCOPE

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

### 440.1.1 DEFINITIONS

Definitions related to this policy include:

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

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

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

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

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

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

## 440.2 POLICY

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

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

## 440.3 FIELD INTERVIEWS

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

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

### 440.3.1 INITIATING A FIELD INTERVIEW

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

(a) Appearance or demeanor suggesting that he/she is part of a criminal enterprise or is engaged in a criminal act

(b) Actions suggesting that he/she is engaged in a criminal activity

(c) Presence in an area at an inappropriate hour of the day or night

(d) Presence in a particular area is suspicious

(e) Carrying of suspicious objects or items

(f) Excessive clothes for the climate or clothes bulging in a manner that suggest he/she is carrying a dangerous weapon

(g) Location in proximate time and place to an alleged crime

(h) Physical description or clothing worn that matches a suspect in a recent crime

(i) Prior criminal record or involvement in criminal activity as known by the officer

## 440.4 PAT-DOWN SEARCHES

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

(a) The type of crime suspected, particularly in crimes of violence where the use or threat of deadly weapons is involved.

(b) Where more than one suspect must be handled by a single officer.

(c) The hour of the day and the location or neighborhood where the stop takes place.

(d) Prior knowledge of the suspect's use of force and/or propensity to carry weapons.

(e) The actions and demeanor of the suspect.

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

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

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

## 440.5 FIELD PHOTOGRAPHS

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

### 440.5.1 FIELD PHOTOGRAPHS TAKEN WITH CONSENT

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

### 440.5.2 FIELD PHOTOGRAPHS TAKEN WITHOUT CONSENT

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

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

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

### 440.5.3 SUPERVISOR RESPONSIBILITIES

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

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

### 440.5.4 DISPOSITION OF PHOTOGRAPHS

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

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

(a) If the photograph and associated FI or documentation is relevant to criminal organization/enterprise enforcement, the Watch Commander will forward the

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

photograph and documents to the designated criminal intelligence system supervisor. The supervisor will ensure the photograph and supporting documents are retained as prescribed in the Criminal Organizations Policy.

(b) Photographs that do not qualify for retention in a criminal intelligence system or temporary information file shall be forwarded to the Records Bureau.

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

### 440.6 WITNESS IDENTIFICATION AND INTERVIEWS

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

(a) Identifying all persons present at the scene and in the immediate area.

1. When feasible, a recorded statement should be obtained from those who claim not to have witnessed the incident but who were present at the time it occurred.
2. Any potential witness who is unwilling or unable to remain available for a formal interview should not be detained absent reasonable suspicion to detain or probable cause to arrest. Without detaining the individual for the sole purpose of identification, officers should attempt to identify the witness prior to his/her departure.

(b) Witnesses who are willing to provide a formal interview should be asked to meet at a suitable location where criminal investigators may obtain a recorded statement. Such witnesses, if willing, may be transported by Brentwood Police Department members.

1. A written, verbal, or recorded statement of consent should be obtained prior to transporting a witness. When the witness is a minor, consent should be obtained from the parent or guardian, if available, prior to transport.

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

# Criminal Organizations

## 442.1 PURPOSE AND SCOPE

The purpose of this policy is to ensure that the Brentwood Police Department appropriately utilizes criminal intelligence systems and temporary information files to support investigations of criminal organizations and enterprises.

## 442.2 POLICY

The Brentwood Police Department recognizes that certain criminal activities, including but not limited to gang crimes and drug trafficking, often involve some degree of regular coordination and may involve a large number of participants over a broad geographical area.

It is the policy of this department to collect and share relevant information while respecting the privacy and legal rights of the public.

## 442.3 CRIMINAL INTELLIGENCE SYSTEMS

No department member may create, submit to or obtain information from a criminal intelligence system unless the Chief of Police has approved the system for department use.

Any criminal intelligence system approved for department use should meet or exceed the standards of 28 CFR 23.20.

A designated supervisor will be responsible for maintaining each criminal intelligence system that has been approved for department use. The supervisor or the authorized designee should ensure the following:

(a) Members using any such system are appropriately selected and trained.

(b) Use of every criminal intelligence system is appropriately reviewed and audited.

(c) Any system security issues are reasonably addressed.

### 442.3.1 SYSTEM ENTRIES

It is the designated supervisor's responsibility to approve the entry of any information from a report, field interview (FI), photo or other relevant document into an authorized criminal intelligence system. If entries are made based upon information that is not on file with this department, such as open or public source documents or documents that are on file at another agency, the designated supervisor should ensure copies of those documents are retained by the Records Bureau. Any supporting documentation for an entry shall be retained by the Records Bureau in accordance with the established records retention schedule and for at least as long as the entry is maintained in the system.

The designated supervisor should ensure that any documents retained by the Records Bureau are appropriately marked as intelligence information. The Records Supervisor may not purge such documents without the approval of the designated supervisor.

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

442.3.2 GANG DATABASES

The Chief of Police may approve participation by the gang unit in a shared criminal gang intelligence database, such as CALGANG®. Members must obtain the requisite training before accessing any such database.

It is the gang unit supervisor's responsibility to determine whether any report or FI contains information that would qualify for entry into the database. Prior to designating any person as a suspected gang member, associate or affiliate in a shared gang database; or submitting a document to the Attorney General's office for the purpose of designating a person in a shared gang database; or otherwise identifying the person in a shared gang database, the gang unit supervisor shall provide written notice to the person and, if the person is under the age of 18, to his/her parent or guardian of the designation and the basis for the designation, unless providing that notification would compromise an active criminal investigation or compromise the health or safety of a minor. Notice shall also describe the process to contest the designation (Penal Code § 186.34).

The person, an attorney working on his/her behalf or his/her parent or guardian (if the person is under 18 years of age) may request, in writing, information as to whether the person is designated as a suspected gang member, associate or affiliate in a shared gang database accessible by the department, the basis for that designation and the name of the agency that made the designation. The department shall respond to a valid request in writing within 30 days, and shall provide the information requested unless doing so would compromise an active investigation or compromise the health and safety of the person if he/she is under 18 years of age (Penal Code § 186.34).

The person, or his/her parent or guardian if the person is under 18 years of age, may contest the designation by submitting written documentation which shall be reviewed by the gang unit supervisor. If it is determined that the person is not a suspected gang member, associate or affiliate, the person shall be removed from the database. The person and the parent or guardian shall be provided written verification of the department's decision within 30 days of receipt of the written documentation contesting the designation and shall include the reason for a denial when applicable (Penal Code § 186.34).

The gang unit supervisor should forward reports or FIs to the Records Bureau after appropriate database entries are made. The supervisor should clearly mark the report/FI as gang intelligence information.

It is the responsibility of the Records Bureau supervisor to retain reports and FIs in compliance with the database rules and any applicable end user agreement.

Records contained in a shared gang database shall not be disclosed for employment or military screening purposes, and shall not be disclosed for the purpose of enforcing federal immigration law unless required by state or federal statute or regulation (Penal Code § 186.36).

## 442.4 TEMPORARY INFORMATION FILE

No member may create or keep files on individuals that are separate from the approved criminal intelligence system. However, members may maintain temporary information that is necessary to

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

actively investigate whether a person or group qualifies for entry into the department-approved criminal intelligence system only as provided in this section. Once information qualifies for inclusion, it should be submitted to the supervisor responsible for consideration of criminal intelligence system entries.

442.4.1 FILE CONTENTS

A temporary information file may only contain information and documents that, within one year, will have a reasonable likelihood to meet the criteria for entry into an authorized criminal intelligence system.

Information and documents contained in a temporary information file:

(a) Must only be included upon documented authorization of the responsible department supervisor.

(b) Should not be originals that would ordinarily be retained by the Records Bureau or Property and Evidence Section, but should be copies of, or references to, retained documents such as copies of reports, FI forms, Dispatch records or booking forms.

(c) Shall not include opinions. No person, organization or enterprise shall be labeled as being involved in crime beyond what is already in the document or information.

(d) May include information collected from publicly available sources or references to documents on file with another government agency. Attribution identifying the source should be retained with the information.

442.4.2 FILE REVIEW AND PURGING

The contents of a temporary information file shall not be retained longer than one year. At the end of one year, the contents must be purged.

The designated supervisor shall periodically review the temporary information files to verify that the contents meet the criteria for retention. Validation and purging of files is the responsibility of the supervisor.

## 442.5 INFORMATION RECOGNITION

Department members should document facts that suggest an individual, organization or enterprise is involved in criminal activity and should forward that information appropriately. Examples include, but are not limited to:

(a) Gang indicia associated with a person or residence.

(b) Information related to a drug-trafficking operation.

(c) Vandalism indicating an animus for a particular group.

(d) Information related to an illegal gambling operation.

Department supervisors who utilize an authorized criminal intelligence system should work with the Training Manager to train members to identify information that may be particularly relevant for inclusion.

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

### 442.6 RELEASE OF INFORMATION

Department members shall comply with the rules of an authorized criminal intelligence system regarding inquiries and release of information.

Information from a temporary information file may only be furnished to department members and other law enforcement agencies on a need-to-know basis and consistent with the Records Maintenance and Release Policy.

When an inquiry is made by the parent or guardian of a juvenile as to whether that juvenile's name is in a temporary information file, such information should be provided by the supervisor responsible for the temporary information file, unless there is good cause to believe that the release of such information might jeopardize an ongoing criminal investigation.

### 442.7 CRIMINAL STREET GANGS

The Investigative Bureau supervisor should ensure that there are an appropriate number of department members who can:

(a) Testify as experts on matters related to criminal street gangs, and maintain an above average familiarity with:

1. Any organization, associate or group of three or more persons that meets the definition of a criminal street gang under Penal Code § 186.22(f).
2. Identification of a person as a criminal street gang member and criminal street gang-related crimes.
3. The California Street Terrorism Enforcement and Prevention Act (Penal Code § 186.21 et seq.), associated crimes and what defines a criminal street gang (Penal Code § 186.22).

(b) Coordinate with other agencies in the region regarding criminal street gang-related crimes and information.

(c) Train other members to identify gang indicia and investigate criminal street gang-related crimes.

### 442.8 TRAINING

The Training Manager should provide training on best practices in the use of each authorized criminal intelligence system to those tasked with investigating criminal organizations and enterprises. Training should include:

(a) The protection of civil liberties.

(b) Participation in a multiagency criminal intelligence system.

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

(c) Submission of information into a multiagency criminal intelligence system or the receipt of information from such a system, including any governing federal and state rules and statutes.

(d) The type of information appropriate for entry into a criminal intelligence system or temporary information file.

(e) The review and purging of temporary information files.

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

# Watch Commanders

## 444.1 PURPOSE AND SCOPE

Each patrol platoon must be directed by managers who are capable of making decisions and communicating in a manner consistent with departmental policies, procedures, practices, functions and objectives. To accomplish this goal, a Lieutenant heads each platoon.

## 444.2 DESIGNATION AS ACTING WATCH COMMANDER

When a Lieutenant is unavailable for duty as Watch Commander, in most instances, the senior qualified shift supervisor shall be designated the Watch Commander for purposes of fulfilling Watch Commander duties and notifications.

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

# In-Car Mobile Audio/Video (MAV) Recorders

## 449.1 PURPOSE AND SCOPE

This policy provides guidelines for the use of the In Car Mobile audio/video recording devices by members of this department while in the performance of their duties.

This policy does not apply to lawful surreptitious audio/video recording, interception of communications for authorized investigative purposes (see the Investigation and Prosecution policy).

## 449.2 IN-CAR MOBILE VIDEO RECORDINGS (MVR)

(a) Each officer, at the beginning of his/her shift should inspect all equipment to ensure the MVR is performing correctly.

(b) Any malfunctions, damage, or lost equipment shall be documented on the appropriate equipment form and reported to the on-duty supervisor. Vehicles with malfunctioning equipment should not be put into service until they are repaired.

(c) Each officer is responsible for placing a copy of the file into the Veripic Digital Evidence Manager under its assigned case number. Officers will inform their supervisor if they are unable to place a copy of their audio/video into Veripic Digital Evidence Manager. In the event that the Veripic Digital Manager is unavailable, members are to burn the digital evidence to a compact disc and book the disc into evidence.

(d) When requested, the Property/Evidence clerk will be responsible for copying events onto a DVD and placing it in the case jacket for court purposes. (i.e. District Attorney, City Attorney, etc.)

(e) The MVR should be activated during the following circumstances:

1. All traffic stops.

2. All priority responses.

3. All vehicle pursuits.

4. All crimes in progress.

5. Any situation or event that the officer, through his/her training and experience, believes should be audibly and visually recorded.

(f) The MVR shall not be turned off during any incident until such incident is determined completed.

(g) Data will be downloaded in accordance with the department's evidence procedures and referenced in any related report(s).

(h) Original or copied images are the property of the Brentwood Police Department. Dissemination outside the agency is strictly prohibited without authorization from the Chief of Police or his/her designee.

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

(i) At the conclusion of the court case, all copies of the media required for the case shall be submitted to the Property/Evidence clerk in charge for further storage and/or disposal.

### 449.3 REVIEW OF RECORDINGS

When preparing written reports, members should review their recordings as a resource.

Members shall not retain personal copies of recordings. Members should not use the fact that a recording was made as a reason to write a less detailed report.

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

Recorded files may also be reviewed:

(a) Upon approval by a supervisor, by any member of the Department who is participating in an official investigation, such as a personnel complaint, administrative investigation or criminal investigation.

(b) Pursuant to lawful process or by court personnel who are otherwise authorized to review evidence in a related case.

(c) By media personnel with permission of the [agencyHead] or the authorized designee.

(d) In compliance with a public records request, if permitted, and in accordance with the Records Release and Security Policy.

All recordings should be reviewed by the Custodian of Records or his/her designee prior to public release (see the Records Release and Security 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.

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

# Portable Audio/Video Recorders

## 450.1 PURPOSE AND SCOPE

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

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

## 450.2 POLICY

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

### 450.2.1 BODY WORN CAMERA (BWC) MEMBER RESPONSIBILITIES

Prior to going into service, each uniformed member will be responsible for making sure that he/ she is equipped with a body worn camera issued by the Department, and that the camera is in good working order. If the camera is not in good working order or malfunctions at any time, the member shall promptly report the failure to his/her supervisor and obtain a functioning device as soon as practicable. Uniformed members should wear the body worn camera in a conspicuous manner.

Unless conducting a lawful recording in an authorized undercover capacity, non-uniformed members should wear the camera in a conspicuous manner when in use or otherwise notify persons that they are being recorded, whenever possible.

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

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

(a) All enforcement and investigative contacts

(b) Traffic stops including, but not limited to, traffic violations, stranded motorist assistance and all crime interdiction stops

(c) Self-initiated activity in which a member would normally notify Dispatch

(d) Any other contact that becomes adversarial after the initial contact in a situation that would not otherwise require recording

(e) Vehicle and foot pursuits

(f) Forced entries, search warrants & warrantless searches including vehicles

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

(g) Suspect interrogations (including Miranda advisement) and witness interviews

(h) In field show ups

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

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

450.2.2 CONDUCTED ENERGY CED/TASER DEVICE CAMERA
Anytime the TASER camera is activated, the video and audio data should be downloaded in accordance with the department's evidence procedures and referenced in any related report(s). Pre-shift spark testing of the TASER does not require the video and audio to be downloaded, unless requested by a supervisor.

## 450.3 MEMBER PRIVACY EXPECTATION

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

## 450.4 PROHIBITED USE OF PORTABLE RECORDERS

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

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

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

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

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

450.4.1 PROHIBITED USE OF BIOMETRIC SURVEILLANCE SYSTEM
The installation, activation, or use of biometric surveillance systems, including facial recognition, in connection with portable recorders is prohibited (Penal Code § 832.19).

## 450.5 IDENTIFICATION AND PRESERVATION OF RECORDINGS

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

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

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

(b) A complainant, victim or witness has requested non-disclosure.

(c) A complainant, victim or witness has not requested non-disclosure but the disclosure of the recording may endanger the person.

(d) Disclosure may be an unreasonable violation of someone's privacy.

(e) Medical or mental health information is contained.

(f) Disclosure may compromise an undercover officer or confidential informant.

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

## 450.6 REVIEW OF RECORDED MEDIA FILES

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

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

Recorded files may also be reviewed:

(a) Upon approval by a supervisor, by any member of the Department who is participating in an official investigation, such as a personnel complaint, administrative investigation or criminal investigation.

(b) Pursuant to lawful process or by court personnel who are otherwise authorized to review evidence in a related case.

(c) By media personnel with permission of the Chief of Police or the authorized designee.

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

(d) In compliance with a public records request, if permitted, and in accordance with the Records Maintenance and Release Policy.

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

## 450.7 REQUEST FOR DELETION OF ACCIDENTAL BODY CAMERA RECORDINGS

In the event of an accidental or sensitive personal recording using the Body Worn Camera system, where the resulting recording is of no investigative or evidentiary value, the recording employee may request that the file be deleted by submitting an email request to the Support Services Captain. The Support Services Captain will review the file and recommend approval or denial of the request. In cases where the Support Services Captain denies the request to delete, an appeal may be submitted to the Chief of Police, or designee, for deletion authorization. In all cases of deletion requests, a determination should be made within 7 calendar days.

## 450.8 AUDIT RESPONSIBILITIES

The Support Services Captain will conduct periodic, random audits to ensure the Body Worn camera system is operating properly and the camera is being utilized in accordance with this procedure.

## 450.9 COORDINATOR

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

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

(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.

## 450.10 RETENTION OF RECORDINGS

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

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

(a) Incidents involving use of force by an officer

(b) Officer-involved shootings

(c) Incidents that lead to the detention or arrest of an individual

(d) Recordings relevant to a formal or informal complaint against an officer or the Brentwood Police Department

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

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

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

### 450.10.1 RELEASE OF AUDIO/VIDEO RECORDINGS

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

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

# Medical Marijuana

## 452.1 PURPOSE AND SCOPE

The purpose of this policy is to provide members of this department with guidelines for investigating the acquisition, possession, transportation, delivery, production or use of marijuana under California's medical marijuana laws.

### 452.1.1 DEFINITIONS

Definitions related to this policy include:

**Cardholder** - A person issued a current identification card.

**Compassionate Use Act (CUA)** (Health and Safety Code § 11362.5) - California law intended to provide protection from prosecution to those who are seriously ill and whose health would benefit from the use of marijuana in the treatment of illness for which marijuana provides relief. The CUA does not grant immunity from arrest but rather provides an affirmative defense from prosecution for possession of medical marijuana.

**Identification card** - A valid document issued by the California Department of Public Health to both persons authorized to engage in the medical use of marijuana and also to designated primary caregivers.

**Medical marijuana** - Marijuana possessed by a patient or primary caregiver for legitimate medical purposes.

**Medical Marijuana Program (MMP)** (Health and Safety Code § 11362.7 et seq.) - California laws passed following the CUA to facilitate the prompt identification of patients and their designated primary caregivers in order to avoid unnecessary arrests and provide needed guidance to law enforcement officers. MMP prohibits arrest for possession of medical marijuana in certain circumstances and provides a defense in others.

**Patient** - A person who is entitled to the protections of the CUA because he/she has received a written or oral recommendation or approval from a physician to use marijuana for medical purposes or any person issued a valid identification card.

**Primary caregiver** - A person designated by the patient, who has consistently assumed responsibility for the patient's housing, health or safety, who may assist the patient with the medical use of marijuana under the CUA or the MMP (Health and Safety Code § 11362.5; Health and Safety Code § 11362.7).

**Statutory amount** - No more than 8 ounces of dried, mature, processed female marijuana flowers ("bud") or the plant conversion (e.g., kief, hash, hash oil), and no more than six mature or 12 immature marijuana plants (roots, stems and stem fibers should not be considered) (Health and Safety Code § 11362.77).

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

## 452.2 POLICY

It is the policy of the Brentwood Police Department to prioritize resources to forgo making arrests related to marijuana that the arresting officer reasonably believes would not be prosecuted by state or federal authorities.

California's medical marijuana laws are intended to provide protection to those who are seriously ill and whose health would benefit from the use of medical marijuana.

However, California medical marijuana laws do not affect federal laws and there is no medical exception under federal law for the possession or distribution of marijuana. The Brentwood Police Department will exercise discretion to ensure laws are appropriately enforced without unreasonably burdening both those individuals protected under California law and public resources.

## 452.3 INVESTIGATION

Investigations involving the possession, delivery, production or use of marijuana generally fall into one of several categories:

(a) Investigations when no person makes a medicinal claim.

(b) Investigations when a medicinal claim is made by a cardholder.

(c) Investigations when a medicinal claim is made by a non-cardholder.

### 452.3.1 INVESTIGATIONS WITH NO MEDICINAL CLAIM

In any investigation involving the possession, delivery, production or use of marijuana or drug paraphernalia where no person claims that the marijuana is used for medicinal purposes, the officer should proceed with a criminal investigation if the amount is greater than permitted for personal use under the Control, Regulate and Tax Adult Use of Marijuana Act (Health and Safety Code § 11362.1; Health and Safety Code § 11362.2). A medicinal defense may be raised at any time, so officers should document any statements and observations that may be relevant to whether the marijuana was possessed or produced for medicinal purposes.

### 452.3.2 INVESTIGATIONS INVOLVING A MEDICINAL CLAIM MADE BY A CARDHOLDER

A cardholder or designated primary caregiver in possession of an identification card shall not be arrested for possession, transportation, delivery or cultivation of medical marijuana at or below the statutory amount unless there is probable cause to believe that (Health and Safety Code § 11362.71; Health and Safety Code § 11362.78):

(a) The information contained in the card is false or falsified.

(b) The card has been obtained or used by means of fraud.

(c) The person is otherwise in violation of the provisions of the MMP.

(d) The person possesses marijuana but not for personal medical purposes.

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

Officers who reasonably believe that a person who does not have an identification card in his/her possession has been issued an identification card may treat the investigation as if the person had the card in his/her possession.

Cardholders may possess, transport, deliver or cultivate medical marijuana in amounts above the statutory amount if their doctor has concluded that the statutory amount does not meet the patient's medical needs (Health and Safety Code § 11362.71; Health and Safety Code § 11362.77). Investigations involving cardholders with more than the statutory amount of marijuana should be addressed as provided in this policy for a case involving a medicinal claim made by a non-cardholder.

### 452.3.3 INVESTIGATIONS INVOLVING A MEDICINAL CLAIM MADE BY A NON-CARDHOLDER

No patient or primary caregiver should be arrested for possession or cultivation of an amount of medical marijuana if the officer reasonably believes that marijuana is in a form and amount reasonably related to the qualified patient's current medical needs (Health and Safety Code § 11362.5). This arrest guidance also applies to sales, transportation or delivery of medical marijuana, or maintaining/renting a drug house or building that may be a nuisance if otherwise in compliance with MMP (Health and Safety Code § 11362.765).

Officers are not obligated to accept a person's claim of having a physician's recommendation when the claim cannot be readily verified with the physician but are expected to use their judgment to assess the validity of the person's medical-use claim.

Officers should review any available written documentation for validity and whether it contains the recommending physician's name, telephone number, address and medical license number for verification.

Officers should generally accept verified recommendations by a physician that statutory amounts do not meet the patient's needs (Health and Safety Code § 11362.77).

### 452.3.4 ADDITIONAL CONSIDERATIONS

Officers should consider the following when investigating an incident involving marijuana possession, delivery, production, or use:

(a) Because enforcement of medical marijuana laws can be complex, time consuming, and call for resources unavailable at the time of initial investigation, officers may consider submitting a report to the prosecutor for review, in lieu of making an arrest. This can be particularly appropriate when:

1. The suspect has been identified and can be easily located at a later time.
2. The case would benefit from review by a person with expertise in medical marijuana investigations.
3. Sufficient evidence, such as photographs or samples, has been lawfully obtained.

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

4. Other relevant factors, such as available department resources and time constraints prohibit making an immediate arrest.

(b) Whenever the initial investigation reveals an amount of marijuana greater than the statutory amount, officers should consider the following when determining whether the form and amount is reasonably related to the patient's needs:

1. The amount of marijuana recommended by a medical professional to be ingested.
2. The quality of the marijuana.
3. The method of ingestion (e.g., smoking, eating, nebulizer).
4. The timing of the possession in relation to a harvest (patient may be storing marijuana).
5. Whether the marijuana is being cultivated indoors or outdoors.

(c) Before proceeding with enforcement related to collective gardens or dispensaries, officers should consider conferring with a supervisor, an applicable state regulatory agency or other member with special knowledge in this area, and/or appropriate legal counsel (Business and Professions Code § 26010; Business and Professions Code § 26060). Licensing, zoning, and other related issues can be complex. Patients, primary caregivers, and cardholders who collectively or cooperatively cultivate marijuana for medical purposes may be licensed or may have a defense in certain circumstances (Business and Professions Code § 26032; Business and Professions Code § 26033).

(d) Investigating members should not order a patient to destroy marijuana plants under threat of arrest.

452.3.5 EXCEPTIONS

This policy does not apply to, and officers should consider taking enforcement action for the following:

(a) Persons who engage in illegal conduct that endangers others, such as driving under the influence of marijuana in violation of the Vehicle Code (Health and Safety Code § 11362.5).

(b) Marijuana possession in jails or other correctional facilities that prohibit such possession (Health and Safety Code § 11362.785).

(c) Smoking marijuana (Health and Safety Code § 11362.79):

1. In any place where smoking is prohibited by law.
2. In or within 1,000 feet of the grounds of a school, recreation center or youth center, unless the medical use occurs within a residence.
3. On a school bus.
4. While in a motor vehicle that is being operated.
5. While operating a boat.

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

(d) Use of marijuana by a person on probation or parole, or on bail and use is prohibited by the terms of release (Health and Safety Code § 11362.795).

452.3.6 INVESTIGATIONS INVOLVING A STATE LICENSEE

No person issued a state license under the Business and Professions Code shall be arrested or cited for cultivation, possession, manufacture, processing, storing, laboratory testing, labeling, transporting, distribution or sale of medical cannabis or a medical cannabis product related to qualifying patients and primary caregivers when conducted lawfully. Whether conduct is lawful may involve questions of license classifications, local ordinances, specific requirements of the Business and Professions Code and adopted regulations. Officers should consider conferring with a supervisor, the applicable state agency or other member with special knowledge in this area and/or appropriate legal counsel before taking enforcement action against a licensee or an employee or agent (Business and Professions Code § 26032).

## 452.4 FEDERAL LAW ENFORCEMENT

Officers should provide information regarding a marijuana investigation to federal law enforcement authorities when it is requested by federal law enforcement authorities or whenever the officer believes those authorities would have a particular interest in the information.

## 452.5 PROPERTY AND EVIDENCE SECTION SUPERVISOR RESPONSIBILITIES

The Property and Evidence Section supervisor should ensure that marijuana, drug paraphernalia or other related property seized from a person engaged or assisting in the use of medical marijuana is not destroyed pending any charges and without a court order. The Property and Evidence Section supervisor is not responsible for caring for live marijuana plants.

Upon the prosecutor's decision to forgo prosecution, or the dismissal of charges or an acquittal, the Property and Evidence Section supervisor should, as soon as practicable, return to the person from whom it was seized any useable medical marijuana, plants, drug paraphernalia or other related property.

The Property and Evidence Section supervisor may release marijuana to federal law enforcement authorities upon presentation of a valid court order or by a written order of the Investigative Bureau supervisor.

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

# Homeless Persons

## 464.1 PURPOSE AND SCOPE

The purpose of this policy is to ensure that personnel understand the needs and rights of the homeless and to establish procedures to guide officers during all contacts with the homeless, whether consensual or for enforcement purposes. The Brentwood Police Department recognizes that members of the homeless community are often in need of special protection and services. The Brentwood Police Department will address these needs in balance with the overall mission of this department. Therefore, officers will consider the following when serving the homeless community.

### 464.1.1 POLICY

It is the policy of the Brentwood Police Department to provide law enforcement services to all members of the community, while protecting the rights, dignity and private property of the homeless. Homelessness is not a crime and members of this department will not use homelessness solely as a basis for detention or law enforcement action.

## 464.2 HOMELESS COMMUNITY LIAISON

The Chief of Police will designate a member of this department to act as the Homeless Liaison Officer. The responsibilities of the Homeless Liaison Officer include the following:

(a) Maintain and make available to all department employees a list of assistance programs and other resources that are available to the homeless.

(b) Meet with social services and representatives of other organizations that render assistance to the homeless.

(c) Maintain a list of the areas within and near this jurisdiction that are used as frequent homeless encampments.

(d) Remain abreast of laws dealing with the removal and/or destruction of the personal property of the homeless. This will include:

1. Proper posting of notices of trespass and clean-up operations.
2. Proper retention of property after clean-up, to include procedures for owners to reclaim their property in accordance with the Property and Evidence Policy and other established procedures.

(e) Be present during any clean-up operation conducted by this department involving the removal of personal property of the homeless to ensure that the rights of the homeless are not violated.

(f) Develop training to assist officers in understanding current legal and social issues relating to the homeless.

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

## 464.3 FIELD CONTACTS

Officers are encouraged to contact the homeless for purposes of rendering aid, support and for community-oriented policing purposes. Nothing in this policy is meant to dissuade an officer from taking reasonable enforcement action when facts support a reasonable suspicion of criminal activity. However, when encountering a homeless person who has committed a non-violent misdemeanor and continued freedom is not likely to result in a continuation of the offense or a breach of the peace, officers are encouraged to consider long-term solutions to problems that may relate to the homeless, such as shelter referrals and counseling in lieu of physical arrest.

Officers should provide homeless persons with resource and assistance information whenever it is reasonably apparent that such services may be appropriate.

### 464.3.1 OTHER CONSIDERATIONS

Homeless members of the community will receive the same level and quality of service provided to other members of the community. The fact that a victim or witness is homeless can, however, require special considerations for a successful investigation and prosecution. Officers should consider the following when handling investigations involving homeless victims, witnesses or suspects:

(a) Document alternate contact information. This may include obtaining addresses and phone numbers of relatives and friends.

(b) Document places the homeless person may frequent.

(c) Provide homeless victims with victim/witness resources when appropriate.

(d) Obtain statements from all available witnesses in the event that a homeless victim is unavailable for a court appearance.

(e) Consider whether the person may be a dependent adult or elder, and if so, proceed in accordance with the Adult Abuse Policy.

(f) Arrange for transportation for investigation-related matters, such as medical exams and court appearances.

(g) Consider whether a crime should be reported and submitted for prosecution, even when a homeless victim indicates that he/she does not desire prosecution.

## 464.4 PERSONAL PROPERTY

The personal property of homeless persons must not be treated differently than the property of other members of the public. Officers should use reasonable care when handling, collecting and retaining the personal property of homeless persons and should not destroy or discard the personal property of a homeless person.

When a homeless person is arrested or otherwise removed from a public place, officers should make reasonable accommodations to permit the person to lawfully secure his/her personal property. Otherwise, the personal property should be collected for safekeeping. If the arrestee has more personal property than can reasonably be collected and transported by the officer, a

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

supervisor should be consulted. The property should be photographed and measures should be taken to remove or secure the property. It will be the supervisor's responsibility to coordinate the removal and safekeeping of the property.

Officers should not conduct or assist in clean-up operations of belongings that reasonably appear to be the property of homeless persons without the prior authorization of a supervisor or the department Homeless Liaison Officer. When practicable, requests by the public for clean-up of a homeless encampment should be referred to the Homeless Liaison Officer.

Officers who encounter unattended encampments, bedding or other personal property in public areas that reasonably appears to belong to a homeless person should not remove or destroy such property and should inform the department Homeless Liaison Officer if such property appears to involve a trespass, blight to the community or is the subject of a complaint. It will be the responsibility of the Homeless Liaison Officer to address the matter in a timely fashion.

## 464.5 MENTAL ILLNESS AND MENTAL IMPAIRMENT

Some homeless persons may suffer from a mental illness or a mental impairment. Officers shall not detain a homeless person under a mental illness commitment unless facts and circumstances warrant such a detention (see the Crisis Intervention Incidents Policy).

When a mental illness hold is not warranted, the contacting officer should provide the homeless person with contact information for mental health assistance as appropriate. In these circumstances, officers may provide transportation to a mental health specialist if requested by the person and approved by a supervisor.

## 464.6 ECOLOGICAL ISSUES

Sometimes homeless encampments can impact the ecology and natural resources of the community and may involve criminal offenses beyond mere littering. Officers are encouraged to notify other appropriate agencies or departments when a significant impact to the environment has or is likely to occur. Significant impacts to the environment may warrant a crime report, investigation, supporting photographs and supervisor notification.

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

# Public Recording of Law Enforcement Activity

## 465.1 PURPOSE AND SCOPE

This policy provides guidelines for handling situations in which members of the public photograph or audio/video record law enforcement actions and other public activities that involve members of this department. In addition, this policy provides guidelines for situations where the recordings may be evidence.

## 465.2 POLICY

The Brentwood Police Department recognizes the right of persons to lawfully record members of this department who are performing their official duties. Members of this department will not prohibit or intentionally interfere with such lawful recordings. Any recordings that are deemed to be evidence of a crime or relevant to an investigation will only be collected or seized lawfully.

Officers should exercise restraint and should not resort to highly discretionary arrests for offenses such as interference, failure to comply or disorderly conduct as a means of preventing someone from exercising the right to record members performing their official duties.

## 465.3 RECORDING LAW ENFORCEMENT ACTIVITY

Members of the public who wish to record law enforcement activities are limited only in certain aspects.

(a) Recordings may be made from any public place or any private property where the individual has the legal right to be present (Penal Code § 69; Penal Code § 148).

(b) Beyond the act of photographing or recording, individuals may not interfere with the law enforcement activity. Examples of interference include, but are not limited to:

1. Tampering with a witness or suspect.
2. Inciting others to violate the law.
3. Being so close to the activity as to present a clear safety hazard to the officers.
4. Being so close to the activity as to interfere with an officer's effective communication with a suspect or witness.

(c) The individual may not present an undue safety risk to the officers, him/herself or others.

## 465.4 OFFICER RESPONSE

Officers should promptly request that a supervisor respond to the scene whenever it appears that anyone recording activities may be interfering with an investigation or it is believed that the recording may be evidence. If practicable, officers should wait for the supervisor to arrive before taking enforcement action or seizing any cameras or recording media.

Whenever practicable, officers or supervisors should give clear and concise warnings to individuals who are conducting themselves in a manner that would cause their recording or

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

behavior to be unlawful. Accompanying the warnings should be clear directions on what an individual can do to be compliant; directions should be specific enough to allow compliance. For example, rather than directing an individual to clear the area, an officer could advise the person that he/she may continue observing and recording from the sidewalk across the street.

If an arrest or other significant enforcement activity is taken as the result of a recording that interferes with law enforcement activity, officers shall document in a report the nature and extent of the interference or other unlawful behavior and the warnings that were issued.

### 465.5 SUPERVISOR RESPONSIBILITIES

A supervisor should respond to the scene when requested or any time the circumstances indicate a likelihood of interference or other unlawful behavior.

The supervisor should review the situation with the officer and:

(a) Request any additional assistance as needed to ensure a safe environment.

(b) Take a lead role in communicating with individuals who are observing or recording regarding any appropriate limitations on their location or behavior. When practical, the encounter should be recorded.

(c) When practicable, allow adequate time for individuals to respond to requests for a change of location or behavior.

(d) Ensure that any enforcement, seizure or other actions are consistent with this policy and constitutional and state law.

(e) Explain alternatives for individuals who wish to express concern about the conduct of Department members, such as how and where to file a complaint.

### 465.6 SEIZING RECORDINGS AS EVIDENCE

Officers should not seize recording devices or media unless (42 USC § 2000aa):

(a) There is probable cause to believe the person recording has committed or is committing a crime to which the recording relates, and the recording is reasonably necessary for prosecution of the person.

  1. Absent exigency or consent, a warrant should be sought before seizing or viewing such recordings. Reasonable steps may be taken to prevent erasure of the recording.

(b) There is reason to believe that the immediate seizure of such recordings is necessary to prevent serious bodily injury or death of any person.

(c) The person consents.

  1. To ensure that the consent is voluntary, the request should not be made in a threatening or coercive manner.

  2. If the original recording is provided, a copy of the recording should be provided to the recording party, if practicable. The recording party should be permitted to be present while the copy is being made, if feasible. Another way to obtain the

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

evidence is to transmit a copy of the recording from a device to a department-owned device.

Recording devices and media that are seized will be submitted within the guidelines of the Property and Evidence Policy.

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

# Crisis Intervention Incidents

## 466.1 PURPOSE AND SCOPE

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

### 466.1.1 DEFINITIONS

Definitions related to this policy include:

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

## 466.2 POLICY

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

## 466.3 SIGNS

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

(a) A known history of mental illness

(b) Threats of or attempted suicide

(c) Loss of memory

(d) Incoherence, disorientation or slow response

(e) Delusions, hallucinations, perceptions unrelated to reality or grandiose ideas

(f) Depression, pronounced feelings of hopelessness or uselessness, extreme sadness or guilt

(g) Social withdrawal

(h) Manic or impulsive behavior, extreme agitation, lack of control

(i) Lack of fear

(j) Anxiety, aggression, rigidity, inflexibility or paranoia

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

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

### 466.4 COORDINATION WITH MENTAL HEALTH PROFESSIONALS

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

### 466.5 FIRST RESPONDERS

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

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

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

(a) Promptly assess the situation independent of reported information and make a preliminary determination regarding whether a mental health crisis may be a factor.

(b) Request available backup officers and specialized resources as deemed necessary and, if it is reasonably believed that the person is in a crisis situation, use conflict resolution and de-escalation techniques to stabilize the incident as appropriate.

(c) If feasible, and without compromising safety, turn off flashing lights, bright lights or sirens.

(d) Attempt to determine if weapons are present or available.

    1. Prior to making contact, and whenever possible and reasonable, conduct a search of the Department of Justice Automated Firearms System via the California Law Enforcement Telecommunications System (CLETS) to determine whether the person is the registered owner of a firearm (Penal Code § 11106.4).

(e) Take into account the person's mental and emotional state and potential inability to understand commands or to appreciate the consequences of his/her action or inaction, as perceived by the officer.

(f) Secure the scene and clear the immediate area as necessary.

(g) Employ tactics to preserve the safety of all participants.

(h) Determine the nature of any crime.

(i) Request a supervisor, as warranted.

(j) Evaluate any available information that might assist in determining cause or motivation for the person's actions or stated intentions.

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

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

## 466.6 DE-ESCALATION

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

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

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

Responding officers generally should not:

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

## 466.7 INCIDENT ORIENTATION

When responding to an incident that may involve mental illness or a mental health crisis, the officer should request that the dispatcher provide critical information as it becomes available. This includes:

(a) Whether the person relies on drugs or medication, or may have failed to take his/her medication.

(b) Whether there have been prior incidents, suicide threats/attempts, and whether there has been previous police response.

(c) Contact information for a treating physician or mental health professional.

Additional resources and a supervisor should be requested as warranted.

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

## 466.8 SUPERVISOR RESPONSIBILITIES

A supervisor should respond to the scene of any interaction with a person in crisis. Responding supervisors should:

(a) Attempt to secure appropriate and sufficient resources.

(b) Closely monitor any use of force, including the use of restraints, and ensure that those subjected to the use of force are provided with timely access to medical care (see the Handcuffing and Restraints Policy).

(c) Consider strategic disengagement. Absent an imminent threat to the public and, as circumstances dictate, this may include removing or reducing law enforcement resources or engaging in passive monitoring.

(d) Ensure that all reports are completed and that incident documentation uses appropriate terminology and language.

(e) Conduct an after-action tactical and operational debriefing, and prepare an after-action evaluation of the incident to be forwarded to the Division Commander.

Evaluate whether a critical incident stress management debriefing for involved members is warranted.

## 466.9 INCIDENT REPORTING

Members engaging in any oral or written communication associated with a mental health crisis should be mindful of the sensitive nature of such communications and should exercise appropriate discretion when referring to or describing persons and circumstances.

Members having contact with a person in crisis should keep related information confidential, except to the extent that revealing information is necessary to conform to department reporting procedures or other official mental health or medical proceedings.

### 466.9.1 DIVERSION

Individuals who are not being arrested should be processed in accordance with the Mental Illness Commitments Policy.

## 466.10 NON-SWORN INTERACTION WITH PEOPLE IN CRISIS

Non-sworn members may be required to interact with persons in crisis in an administrative capacity, such as dispatching, records request, and animal control issues.

(a) Members should treat all individuals equally and with dignity and respect.

(b) If a member believes that he/she is interacting with a person in crisis, he/she should proceed patiently and in a calm manner.

(c) Members should be aware and understand that the person may make unusual or bizarre claims or requests.

If a person's behavior makes the member feel unsafe, if the person is or becomes disruptive or violent, or if the person acts in such a manner as to cause the member to believe that the person

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

may be harmful to him/herself or others, an officer should be promptly summoned to provide assistance.

### 466.11 EVALUATION

The Division Commander designated to coordinate the crisis intervention strategy for this department should ensure that a thorough review and analysis of the department response to these incidents is conducted annually. The report will not include identifying information pertaining to any involved individuals, officers or incidents and will be submitted to the Chief of Police through the chain of command.

### 466.12 TRAINING

In coordination with the mental health community and appropriate stakeholders, the Department will develop and provide comprehensive education and training to all department members to enable them to effectively interact with persons in crisis.

This department will endeavor to provide Peace Officer Standards and Training (POST)-approved advanced officer training on interaction with persons with mental disabilities, welfare checks and crisis intervention (Penal Code § 11106.4; Penal Code § 13515.25; Penal Code § 13515.27; Penal Code § 13515.30).

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

# Civil Disputes

## 467.1 PURPOSE AND SCOPE

This policy provides members of the Brentwood Police Department with guidance for addressing conflicts between persons when no criminal investigation or enforcement action is warranted (e.g., civil matters), with the goal of minimizing any potential for violence or criminal acts.

The Domestic Violence Policy will address specific legal mandates related to domestic violence court orders. References in this policy to “court orders” apply to any order of a court that does not require arrest or enforcement by the terms of the order or by California law.

## 467.2 POLICY

The Brentwood Police Department recognizes that a law enforcement presence at a civil dispute can play an important role in the peace and safety of the community. Subject to available resources, members of this department will assist at the scene of civil disputes with the primary goal of safeguarding persons and property, preventing criminal activity and maintaining the peace. When handling civil disputes, members will remain impartial, maintain a calm presence, give consideration to all sides and refrain from giving legal or inappropriate advice.

## 467.3 GENERAL CONSIDERATIONS

When appropriate, members handling a civil dispute should encourage the involved parties to seek the assistance of resolution services or take the matter to the civil courts. Members must not become personally involved in disputes and shall at all times remain impartial.

While not intended to be an exhaustive list, members should give considerations to the following when handling civil disputes:

(a) Civil disputes tend to be confrontational and members should be alert that they can escalate to violence very quickly. De-escalation techniques should be used when appropriate.

(b) Members should not dismiss alleged or observed criminal violations as a civil matter and should initiate the appropriate investigation and report when criminal activity is apparent.

(c) Members shall not provide legal advice, however, when appropriate, members should inform the parties when they are at risk of violating criminal laws.

(d) Members are reminded that they shall not enter a residence or other non-public location without legal authority including valid consent.

(e) Members should not take an unreasonable amount of time assisting in these matters and generally should contact a supervisor if it appears that peacekeeping efforts longer than 30 minutes are warranted.

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

## 467.4 COURT ORDERS

Disputes involving court orders can be complex. Where no mandate exists for an officer to make an arrest for a violation of a court order, the matter should be addressed by documenting any apparent court order violation in a report. If there appears to be a more immediate need for enforcement action, the investigating officer should consult a supervisor prior to making any arrest.

If a person appears to be violating the terms of a court order but is disputing the validity of the order or its applicability, the investigating officer should document the following:

(a) The person's knowledge of the court order or whether proof of service exists.

(b) Any specific reason or rationale the involved person offers for not complying with the terms of the order.

A copy of the court order should be attached to the report when available. The report should be forwarded to the appropriate prosecutor. The report should also be forwarded to the court issuing the order with a notice that the report was also forwarded to the prosecutor for review.

### 467.4.1 STANDBY REQUESTS

Officer responding to a call for standby assistance to retrieve property should meet the person requesting assistance at a neutral location to discuss the process. The person should be advised that items that are disputed will not be allowed to be removed. The member may advise the person to seek private legal advice as to the distribution of disputed property.

Members should accompany the person to the location of the property. Members should ask if the other party will allow removal of the property or whether the other party would remove the property.

If the other party is uncooperative, the person requesting standby assistance should be instructed to seek private legal advice and obtain a court order to obtain the items. Officers should not order the other party to allow entry or the removal of any items. If there is a restraining or similar order against the person requesting standby assistance, that person should be asked to leave the scene or they may be subject to arrest for violation of the order.

If the other party is not present at the location, the member will not allow entry into the location or the removal of property from the location.

## 467.5 VEHICLES AND PERSONAL PROPERTY

Officers may be faced with disputes regarding possession or ownership of vehicles or other personal property. Officers may review documents provided by parties or available databases (e.g., vehicle registration), but should be aware that legal possession of vehicles or personal property can be complex. Generally, officers should not take any enforcement action unless a crime is apparent. The people and the vehicle or personal property involved should be identified and the incident documented.

## 467.6 REAL PROPERTY

Disputes over possession or occupancy of real property (e.g., land, homes, apartments) should generally be handled through a person seeking a court order.

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

*Civil Disputes*

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

# First Amendment Assemblies

## 468.1 PURPOSE AND SCOPE

This policy provides guidance for responding to public assemblies or demonstrations.

## 468.2 POLICY

The Brentwood Police Department respects the rights of people to peaceably assemble. It is the policy of this department not to unreasonably interfere with, harass, intimidate or discriminate against persons engaged in the lawful exercise of their rights, while also preserving the peace, protecting life and preventing the destruction of property.

## 468.3 GENERAL CONSIDERATIONS

Individuals or groups present on the public way, such as public facilities, streets or walkways, generally have the right to assemble, rally, demonstrate, protest or otherwise express their views and opinions through varying forms of communication, including the distribution of printed matter. These rights may be limited by laws or ordinances regulating such matters as the obstruction of individual or vehicle access or egress, trespass, noise, picketing, distribution of handbills and leafleting, and loitering. However, officers shall not take action or fail to take action based on the opinions being expressed.

Participant behavior during a demonstration or other public assembly can vary. This may include, but is not limited to:

- Lawful, constitutionally protected actions and speech.
- Civil disobedience (typically involving minor criminal acts).
- Rioting.

All of these behaviors may be present during the same event. Therefore, it is imperative that law enforcement actions are measured and appropriate for the behaviors officers may encounter. This is particularly critical if force is being used. Adaptable strategies and tactics are essential. The purpose of a law enforcement presence at the scene of public assemblies and demonstrations should be to preserve the peace, to protect life and prevent the destruction of property.

Officers should not:

(a) Engage in assembly or demonstration-related discussion with participants.

(b) Harass, confront or intimidate participants.

(c) Seize the cameras, cell phones or materials of participants or observers unless an officer is placing a person under lawful arrest.

Supervisors should continually observe department members under their commands to ensure that members' interaction with participants and their response to crowd dynamics is appropriate.

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

468.3.1 PHOTOGRAPHS AND VIDEO RECORDINGS
Photographs and video recording, when appropriate, can serve a number of purposes, including support of criminal prosecutions by documenting criminal acts; assistance in evaluating department performance; serving as training material; recording the use of dispersal orders; and facilitating a response to allegations of improper law enforcement conduct.

Photographs and videos will not be used or retained for the sole purpose of collecting or maintaining information about the political, religious or social views of associations, or the activities of any individual, group, association, organization, corporation, business or partnership, unless such information directly relates to an investigation of criminal activities and there is reasonable suspicion that the subject of the information is involved in criminal conduct.

## 468.4 UNPLANNED EVENTS

When responding to an unplanned or spontaneous public gathering, the first responding officer should conduct an assessment of conditions, including, but not limited to, the following:

- Location
- Number of participants
- Apparent purpose of the event
- Leadership (whether it is apparent and/or whether it is effective)
- Any initial indicators of unlawful or disruptive activity
- Indicators that lawful use of public facilities, streets or walkways will be impacted
- Ability and/or need to continue monitoring the incident

Initial assessment information should be promptly communicated to Dispatch, and the assignment of a supervisor should be requested. Additional resources should be requested as appropriate. The responding supervisor shall assume command of the incident until command is expressly assumed by another, and the assumption of command is communicated to the involved members. A clearly defined command structure that is consistent with the Incident Command System (ICS) should be established as resources are deployed.

## 468.5 PLANNED EVENT PREPARATION

For planned events, comprehensive, incident-specific operational plans should be developed. The ICS should be considered for such events.

468.5.1 INFORMATION GATHERING AND ASSESSMENT
In order to properly assess the potential impact of a public assembly or demonstration on public safety and order, relevant information should be collected and vetted. This may include:

- Information obtained from outreach to group organizers or leaders.
- Information about past and potential unlawful conduct associated with the event or similar events.

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

- The potential time, duration, scope, and type of planned activities.
- Any other information related to the goal of providing a balanced response to criminal activity and the protection of public safety interests.

Information should be obtained in a transparent manner, and the sources documented. Relevant information should be communicated to the appropriate parties in a timely manner.

Information will be obtained in a lawful manner and will not be based solely on the purpose or content of the assembly or demonstration, or actual or perceived characteristics such as race, ethnicity, national origin, religion, sex, sexual orientation, gender identity or expression, economic status, age, cultural group, or disability of the participants (or any other characteristic that is unrelated to criminal conduct or the identification of a criminal subject).

468.5.2 OPERATIONAL PLANS

An operational planning team with responsibility for event planning and management should be established. The planning team should develop an operational plan for the event.

The operational plan will minimally provide for:

(a) Command assignments, chain of command structure, roles and responsibilities.

(b) Staffing and resource allocation.

(c) Management of criminal investigations.

(d) Designation of uniform of the day and related safety equipment (e.g., helmets, shields).

(e) Deployment of specialized resources.

(f) Event communications and interoperability in a multijurisdictional event.

(g) Liaison with demonstration leaders and external agencies.

(h) Liaison with City government and legal staff.

(i) Media relations.

(j) Logistics: food, fuel, replacement equipment, duty hours, relief and transportation.

(k) Traffic management plans.

(l) First aid and emergency medical service provider availability.

(m) Prisoner transport and detention.

(n) Review of policies regarding public assemblies and use of force in crowd control.

(o) Parameters for declaring an unlawful assembly.

(p) Arrest protocol, including management of mass arrests.

(q) Protocol for recording information flow and decisions.

(r) Rules of engagement, including rules of conduct, protocols for field force extraction and arrests, and any authorization required for the use of force.

(s) Protocol for handling complaints during the event.

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

(t) Parameters for the use of body-worn cameras and other portable recording devices.

468.5.3 MUTUAL AID AND EXTERNAL RESOURCES
The magnitude and anticipated duration of an event may necessitate interagency cooperation and coordination. The assigned Incident Commander should ensure that any required memorandums of understanding or other agreements are properly executed, and that any anticipated mutual aid is requested and facilitated (see the Mutual Aid and Outside Agency Assistance Policy).

## 468.6 UNLAWFUL ASSEMBLY DISPERSAL ORDERS

If a public gathering or demonstration remains peaceful and nonviolent, and there is no reasonably imminent threat to persons or property, the Incident Commander should generally authorize continued monitoring of the event.

Should the Incident Commander make a determination that public safety is presently or is about to be jeopardized, he/she or the authorized designee should attempt to verbally persuade event organizers or participants to disperse of their own accord. Warnings and advisements may be communicated through established communications links with leaders and/or participants or to the group.

When initial attempts at verbal persuasion are unsuccessful, the Incident Commander or the authorized designee should make a clear standardized announcement to the gathering that the event is an unlawful assembly, and should order the dispersal of the participants. The announcement should be communicated by whatever methods are reasonably available to ensure that the content of the message is clear and that it has been heard by the participants. The announcement should be amplified, made in different languages as appropriate, made from multiple locations in the affected area and documented by audio and video. The announcement should provide information about what law enforcement actions will take place if illegal behavior continues and should identify routes for egress. A reasonable time to disperse should be allowed following a dispersal order.

## 468.7 USE OF FORCE

Use of force is governed by current department policy and applicable law (see the Use of Force, Handcuffing and Restraints, Control Devices and Techniques, and Conducted Energy Device policies).

Individuals refusing to comply with lawful orders (e.g., nonviolent refusal to disperse) should be given a clear verbal warning and a reasonable opportunity to comply. If an individual refuses to comply with lawful orders, the Incident Commander shall evaluate the type of resistance and adopt a reasonable response in order to accomplish the law enforcement mission (such as dispersal or arrest of those acting in violation of the law). Control devices and TASERs should be considered only when the participants' conduct reasonably appears to present the potential to harm officers, themselves or others, or will result in substantial property loss or damage (see the Control Devices and Techniques and the Conducted Energy Device policies).

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

Force or control devices, including oleoresin capsaicin (OC), should be directed toward individuals and not toward groups or crowds, unless specific individuals cannot reasonably be targeted due to extreme circumstances, such as a riotous crowd.

Any use of force by a member of this department shall be documented promptly, completely and accurately in an appropriate report. The type of report required may depend on the nature of the incident.

### 468.8 ARRESTS

The Brentwood Police Department should respond to unlawful behavior in a manner that is consistent with the operational plan. If practicable, warnings or advisements should be communicated prior to arrest.

Mass arrests should be employed only when alternate tactics and strategies have been, or reasonably appear likely to be, unsuccessful. Mass arrests shall only be undertaken upon the order of the Incident Commander or the authorized designee. There must be probable cause for each arrest.

If employed, mass arrest protocols should fully integrate:

(a) Reasonable measures to address the safety of officers and arrestees.

(b) Dedicated arrest, booking and report writing teams.

(c) Timely access to medical care.

(d) Timely access to legal resources.

(e) Timely processing of arrestees.

(f) Full accountability for arrestees and evidence.

(g) Coordination and cooperation with the prosecuting authority, jail and courts (see the Cite and Release Policy).

### 468.9 MEDIA RELATIONS

The Public Information Officer should use all available avenues of communication, including press releases, briefings, press conferences, and social media to maintain open channels of communication with media representatives and the public about the status and progress of the event, taking all opportunities to reassure the public about the professional management of the event (see the Media Relations Policy).

### 468.10 DEMOBILIZATION

When appropriate, the Incident Commander or the authorized designee should implement a phased and orderly withdrawal of law enforcement resources. All relieved personnel should promptly complete any required reports, including use of force reports, and account for all issued equipment and vehicles to their supervisors prior to returning to normal operational duties.

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

## 468.11 POST EVENT

The Incident Commander should designate a member to assemble full documentation of the event, to include the following:

(a) Operational plan

(b) Any incident logs

(c) Any assignment logs

(d) Vehicle, fuel, equipment and supply records

(e) Incident, arrest, use of force, injury and property damage reports

(f) Photographs, audio/video recordings, Dispatch records/tapes

(g) Media accounts (print and broadcast media)

### 468.11.1 AFTER-ACTION REPORTING

The Incident Commander should work with City legal counsel, as appropriate, to prepare a comprehensive after-action report of the event, explaining all incidents where force was used including the following:

(a) Date, time and description of the event

(b) Actions taken and outcomes (e.g., injuries, property damage, arrests)

(c) Problems identified

(d) Significant events

(e) Recommendations for improvement; opportunities for training should be documented in a generic manner, without identifying individuals or specific incidents, facts or circumstances.

## 468.12 TRAINING

Department members should receive periodic training regarding this policy, as well as the dynamics of crowd control and incident management (Penal Code § 13514.5). The Department should, when practicable, train with its external and mutual aid partners.

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

# Medical Aid and Response

## 469.1 PURPOSE AND SCOPE

This policy recognizes that members often encounter persons in need of medical aid and establishes a law enforcement response to such situations.

## 469.2 POLICY

It is the policy of the Brentwood Police Department that all officers and other designated members be trained to provide emergency medical aid and to facilitate an emergency medical response.

## 469.3 FIRST RESPONDING MEMBER RESPONSIBILITIES

Whenever practicable, members should take appropriate steps to provide initial medical aid (e.g., first aid, CPR, use of an automated external defibrillator (AED)) in accordance with their training and current certification levels. This should be done for those in need of immediate care and only when the member can safely do so.

Prior to initiating medical aid, the member should contact Dispatch and request response by Emergency Medical Services (EMS) as the member deems appropriate.

Members should follow universal precautions when providing medical aid, such as wearing gloves and avoiding contact with bodily fluids, consistent with the Communicable Diseases Policy. Members should use a barrier or bag device to perform rescue breathing.

When requesting EMS, the member should provide Dispatch with information for relay to EMS personnel in order to enable an appropriate response, including:

(a) The location where EMS is needed.

(b) The nature of the incident.

(c) Any known scene hazards.

(d) Information on the person in need of EMS, such as:

1. Signs and symptoms as observed by the member.
2. Changes in apparent condition.
3. Number of patients, sex, and age, if known.
4. Whether the person is conscious, breathing, and alert, or is believed to have consumed drugs or alcohol.
5. Whether the person is showing signs or symptoms of excited delirium or other agitated chaotic behavior.

Members should stabilize the scene whenever practicable while awaiting the arrival of EMS.

Members should not direct EMS personnel whether to transport the person for treatment.

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

### 469.4 TRANSPORTING ILL AND INJURED PERSONS

Except in extraordinary cases where alternatives are not reasonably available, members should not transport persons who are unconscious, who have serious injuries or who may be seriously ill. EMS personnel should be called to handle patient transportation.

Officers should search any person who is in custody before releasing that person to EMS for transport.

An officer should accompany any person in custody during transport in an ambulance when requested by EMS personnel, when it reasonably appears necessary to provide security, when it is necessary for investigative purposes or when so directed by a supervisor.

Members should not provide emergency escort for medical transport or civilian vehicles.

### 469.5 PERSONS REFUSING EMS CARE

If a person who is not in custody refuses EMS care or refuses to be transported to a medical facility, an officer shall not force that person to receive care or be transported. However, members may assist EMS personnel when EMS personnel determine the person lacks mental capacity to understand the consequences of refusing medical care or to make an informed decision and the lack of immediate medical attention may result in serious bodily injury or the death of the person.

In cases where mental illness may be a factor, the officer should consider proceeding with a 72-hour treatment and evaluation commitment (5150 commitment) process in accordance with the Mental Illness Commitments Policy.

If an officer believes that a person who is in custody requires EMS care and the person refuses, he/she should encourage the person to receive medical treatment. The officer may also consider contacting a family member to help persuade the person to agree to treatment or who may be able to authorize treatment for the person.

If the person who is in custody still refuses, the officer will require the person to be transported to the nearest medical facility. In such cases, the officer should consult with a supervisor prior to the transport.

Members shall not sign refusal-for-treatment forms or forms accepting financial responsibility for treatment.

### 469.6 MEDICAL ATTENTION RELATED TO USE OF FORCE

Specific guidelines for medical attention for injuries sustained from a use of force may be found in the Use of Force, Handcuffing and Restraints, Control Devices and Techniques, and Conducted Energy Device policies.

### 469.7 AIR AMBULANCE

Generally, when on-scene, EMS personnel will be responsible for determining whether an air ambulance response should be requested. An air ambulance may be appropriate when there are

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

victims with life-threatening injuries or who require specialized treatment (e.g., gunshot wounds, burns, obstetrical cases), and distance or other known delays will affect the EMS response.

The Operations Division Commander should develop guidelines for air ambulance landings or enter into local operating agreements for the use of air ambulances, as applicable. In creating those guidelines, the Department should identify:

- Responsibility and authority for designating a landing zone and determining the size of the landing zone.
- Responsibility for securing the area and maintaining that security once the landing zone is identified.
- Consideration of the air ambulance provider's minimum standards for proximity to vertical obstructions and surface composition (e.g., dirt, gravel, pavement, concrete, grass).
- Consideration of the air ambulance provider's minimum standards for horizontal clearance from structures, fences, power poles, antennas or roadways.
- Responsibility for notifying the appropriate highway or transportation agencies if a roadway is selected as a landing zone.
- Procedures for ground personnel to communicate with flight personnel during the operation.

One department member at the scene should be designated as the air ambulance communications contact. Headlights, spotlights and flashlights should not be aimed upward at the air ambulance. Members should direct vehicle and pedestrian traffic away from the landing zone.

Members should follow these cautions when near an air ambulance:

- Never approach the aircraft until signaled by the flight crew.
- Always approach the aircraft from the front.
- Avoid the aircraft's tail rotor area.
- Wear eye protection during landing and take-off.
- Do not carry or hold items, such as IV bags, above the head.
- Ensure that no one smokes near the aircraft.

## 469.8 AUTOMATED EXTERNAL DEFIBRILLATOR (AED) USE

A member may use an AED only after receiving appropriate training from an approved public safety first aid and CPR course (22 CCR 100014; 22 CCR 100017; 22 CCR 100018).

### 469.8.1 AED USER RESPONSIBILITY

Members who are issued AEDs for use in department vehicles should check the AED at the beginning of the shift to ensure it is properly charged and functioning. Any AED that is not functioning properly will be taken out of service and given to the Training Manager who is responsible for ensuring appropriate maintenance.

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

Following use of an AED, the device shall be cleaned and/or decontaminated as required. The electrodes and/or pads will be replaced as recommended by the AED manufacturer.

Any member who uses an AED should contact Dispatch as soon as possible and request response by EMS.

469.8.2 AED REPORTING
Any member using an AED will complete an incident report detailing its use.

469.8.3 AED TRAINING AND MAINTENANCE
The Training Manager should ensure appropriate training and refresher training is provided to members authorized to use an AED. A list of authorized members and training records shall be made available for inspection by the local EMS agency (LEMSA) or EMS authority upon request (22 CCR 100021; 22 CCR 100022; 22 CCR 100029).

The Training Manager is responsible for ensuring AED devices are appropriately maintained and will retain records of all maintenance in accordance with the established records retention schedule (22 CCR 100021).

## 469.9 ADMINISTRATION OF OPIOID OVERDOSE MEDICATION
Trained members may administer opioid overdose medication (Civil Code § 1714.22; Business and Professions Code § 4119.9).

469.9.1 OPIOID OVERDOSE MEDICATION USER RESPONSIBILITIES
Members who are qualified to administer opioid overdose medication, such as naloxone, should handle, store and administer the medication consistent with their training. Members should check the medication and associated administration equipment at the beginning of their shift to ensure they are serviceable and not expired. Any expired medication or unserviceable administration equipment should be removed from service and given to the Training Manager.

Any member who administers an opioid overdose medication should contact Dispatch as soon as possible and request response by EMS.

469.9.2 OPIOID OVERDOSE MEDICATION REPORTING
Any member administering opioid overdose medication should detail its use in an appropriate report.

The Training Manager will ensure that the Records Supervisor is provided enough information to meet applicable state reporting requirements.

469.9.3 OPIOID OVERDOSE MEDICATION TRAINING
The Training Manager should ensure initial and refresher training is provided to members authorized to administer opioid overdose medication. Training should be coordinated with the local health department and comply with the requirements in 22 CCR 100019 and any applicable POST standards (Civil Code § 1714.22).

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

469.9.4 DESTRUCTION OF OPIOID OVERDOSE MEDICATION
The Training Manager shall ensure the destruction of any expired opioid overdose medication (Business and Professions Code § 4119.9).

469.9.5 OPIOID OVERDOSE MEDICATION RECORD MANAGEMENT
Records regarding acquisition and disposition of opioid overdose medications shall be maintained and retained in accordance with the established records retention schedule and at a minimum of three years from the date the record was created (Business and Professions Code § 4119.9).

## 469.10 SICK OR INJURED ARRESTEE

If an arrestee appears ill or injured, or claims illness or injury, he/she should be medically cleared prior to booking. If the officer has reason to believe the arrestee is feigning injury or illness, the officer should contact a supervisor, who will determine whether medical clearance will be obtained prior to booking.

If the jail or detention facility refuses to accept custody of an arrestee based on medical screening, the officer should note the name of the facility person refusing to accept custody and the reason for refusal, and should notify a supervisor to determine the appropriate action.

Arrestees who appear to have a serious medical issue should be transported by ambulance. Officers shall not transport an arrestee to a hospital without a supervisor's approval.

Nothing in this section should delay an officer from requesting EMS when an arrestee reasonably appears to be exhibiting symptoms that appear to be life threatening, including breathing problems or an altered level of consciousness, or is claiming an illness or injury that reasonably warrants an EMS response in accordance with the officer's training.

## 469.11 ADMINISTRATION OF EPINEPHRINE AUTO-INJECTORS

The Operations Division Commander may authorize the acquisition of epinephrine auto-injectors for use by Department members as provided by Health and Safety Code § 1797.197a. The Training Manager shall create and maintain an operations plan for the storage, maintenance, use and disposal of epinephrine auto-injectors as required by Health and Safety Code § 1797.197a(f).

Trained members who possess valid certification may administer an epinephrine auto-injector for suspected anaphylaxis (Health and Safety Code § 1797.197a(b); 22 CCR 100019).

469.11.1 EPINEPHRINE USER RESPONSIBILITIES
Members should handle, store and administer epinephrine auto-injectors consistent with their training and the Department operations plan. Members should check the auto-injectors at the beginning of their shift to ensure the medication is not expired. Any expired medication should be removed from service in accordance with the Department Operations Plan.

Any member who administers an epinephrine auto-injector medication should contact Dispatch as soon as possible and request response by EMS (Health and Safety Code § 1797.197a(b)).

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

469.11.2 EPINEPHRINE AUTO-INJECTOR REPORTING
Any member who administers an epinephrine auto-injector should detail its use in an appropriate report.

The Training Manager should ensure that the Records Supervisor is provided enough information for required reporting to the EMS Authority within 30 days after each use (Health and Safety Code § 1797.197a(f)).

Records regarding the acquisition and disposition of epinephrine auto-injectors shall be maintained pursuant to the established records retention schedule but no less than three years (Business and Professions Code § 4119.4(d)).

469.11.3 EPINEPHRINE AUTO-INJECTOR TRAINING
The Training Manager should ensure that members authorized to administer epinephrine auto-injectors are provided with initial and refresher training that meets the requirements of Health and Safety Code § 1797.197a(c) and 22 CCR 100019.

**469.12 FIRST AID TRAINING**
The Training Manager should ensure officers receive initial first aid training within one year of employment and refresher training every two years thereafter (22 CCR 100016; 22 CCR 100022).

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

# Automated License Plate Readers (ALPRs)

## 469.1 PURPOSE AND SCOPE

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

## 469.2 POLICY

The policy of the Brentwood Police Department is to utilize ALPR technology to capture and store digital license plate data and images while recognizing the established privacy rights of the public.

All data and images gathered by the ALPR are for the official use of this department. Because such data may contain confidential information, it is not open to public review.

## 469.3 ADMINISTRATION

The ALPR technology, also known as License Plate Recognition (LPR), allows for the automated detection of license plates. It is used by the Brentwood Police Department to convert data associated with vehicle license plates for official law enforcement purposes, including identifying stolen or wanted vehicles, stolen license plates and missing persons. It may also be used to gather information related to active warrants, homeland security, electronic surveillance, suspect interdiction and stolen property recovery.

All installation and maintenance of ALPR equipment, as well as ALPR data retention and access, shall be managed by the Support Service's Captain. The Support Service's Captain will assign members under his/her command to administer the day-to-day operation of the ALPR equipment and data.

### 469.3.1 ALPR ADMINISTRATOR

The Support Service's 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) A description of the job title or other designation of the members and independent contractors who are authorized to use or access the ALPR system or to collect ALPR information.

(b) Training requirements for authorized users.

(c) A description of how the ALPR system will be monitored to ensure the security of the information and compliance with applicable privacy laws.

(d) Procedures for system operators to maintain records of access in compliance with Civil Code § 1798.90.52.

(e) The title and name of the current designee in overseeing the ALPR operation.

(f) Working with the Custodian of Records on the retention and destruction of ALPR data.

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

(g) Ensuring this policy and related procedures are conspicuously posted on the department's website.

## 469.4 OPERATIONS

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

(a) An ALPR shall only be used for official law enforcement business.

(b) An ALPR may be used in conjunction with any routine patrol operation or criminal investigation. Reasonable suspicion or probable cause is not required before using an ALPR.

(c) While an ALPR may be used to canvass license plates around any crime scene, particular consideration should be given to using ALPR-equipped cars to canvass areas around homicides, shootings and other major incidents. Partial license plates reported during major crimes should be entered into the ALPR system in an attempt to identify suspect vehicles.

(d) No member of this department shall operate ALPR equipment or access ALPR data without first completing department-approved training.

(e) No ALPR operator may access department, state or federal data unless otherwise authorized to do so.

(f) If practicable, the officer should verify an ALPR response through the California Law Enforcement Telecommunications System (CLETS) before taking enforcement action that is based solely on an ALPR alert.

## 469.5 DATA COLLECTION AND RETENTION

The Support Service's Captain or his/her designee is responsible for ensuring systems and processes are in place for the proper collection and retention of ALPR data. Data will be transferred from vehicles to the designated storage in accordance with department procedures.

All ALPR data downloaded to the server should be stored for a minimum of one year (Government Code § 34090.6) and in accordance with the established records retention schedule. Thereafter, ALPR data should be purged unless it has become, or it is reasonable to believe it will become, evidence in a criminal or civil action or is subject to a discovery request or other lawful action to produce records. In those circumstances the applicable data should be downloaded from the server onto portable media and booked into evidence.

## 469.6 ACCOUNTABILITY

All data will be closely safeguarded and protected by both procedural and technological means. The Brentwood 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):

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

(a) All ALPR data downloaded to the mobile workstation and in storage shall be accessible only through a login/password-protected system capable of documenting all access of information by name, date and time (Civil Code § 1798.90.52).

(b) Members approved to access ALPR data under these guidelines are permitted to access the data for legitimate law enforcement purposes only, such as when the data relate to a specific criminal investigation or department-related civil or administrative action.

(c) ALPR system audits should be conducted on a periodic basis by the Support Service's Captain, or his/her designee.

For security or data breaches, see the Records Release and Maintenance Policy.

### 469.7 RELEASING ALPR DATA

The ALPR data may be shared only with other law enforcement or prosecutorial agencies for official law enforcement purposes or as otherwise permitted by law, using the following procedures:

(a) The agency makes a written request for the ALPR data that includes:

1. The name of the agency.
2. The name of the person requesting.
3. The intended purpose of obtaining the information.

(b) The request is reviewed by the Administration Division Commander or the authorized designee and approved before the request is fulfilled.

(c) The approved request is retained on file.

Requests for ALPR data by non-law enforcement or non-prosecutorial agencies will be processed as provided in the Records Maintenance and Release Policy (Civil Code § 1798.90.55).

### 469.8 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).

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

# Quiet Room

## 471.1 PURPOSE AND SCOPE

The purpose of this policy is to establish procedures and responsibilities for employees of the Police Department using the Quiet Room.

## 471.2 POLICY

It shall be the policy of the Brentwood Police Department to provide a location (Quiet Room) designated for Department personnel to rest under certain circumstances, as approved by a Manager or Supervisor.

## 471.3 PROCEDURES

The on-duty Manager or Supervisor will monitor use of the Quiet Room using the electronicaccessreport.The room will be utilized on a "first come, first served basis" and cannot be reserved. No two employees of the opposite sex shall occupy the room for rest at any time.

If necessary, users should change clothes in their respective locker rooms before entering the Quiet Room.Personnel using the Quiet Room shall remain clothed at all times. No clothing should be worn that may damage the furniture.Athletic type sweats are recommended. No revealing clothes or bed clothing is allowed. Foot coverings are not required.

Employees shall provide their own clean bedding. Bedding will consist of a sleeping bag and pillow.When "in-use", the door to the Quiet Room shall remain closed and locked. Employees using the Quiet Room shall slide the "Vacant/Occupied"sign located on the exterior of the door (for the bunk they are occupying) to "Occupied".Upon leaving the Quiet Room the employee Is to slide the "Vacant/Occupied"sign back to "Vacant".

The Quiet Room is a City facility and as such, all City and Police Department rules and regulations apply.The storage of clothing, bedding, or other personal items shall not be permitted in any part of the Quiet Room beyond the duration of its immediate use. Employees using the Quiet Room are responsible for meeting their work obligations by making any necessary and appropriate wake-up arrangements

The On-Duty Watch Commander or Supervisor is responsible for periodic inspections of the Quiet Room as appropriate.

Use of the Quiet Room is a privilege extended to employees to provide temporary respite for those, who out of necessity, must rest.Continued use of the Quiet Room is dependent on the user's ability to maintain a clean and orderly space.All users must recognize it is their responsibility to ensure the room is kept neat and clean. No food or beverages (other than water) are allowed in the Quiet Room.
Employees must remove all personal items when they are finished using the room and return the furniture to its original condition/position.

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

*Quiet Room*

**The Quiet Room and the availability of any temporary place to rest maybe discontinued at any time at the sole discretion of the department.**

The facility shall not be used by anyone other than Department personnel without permission from the Chief of Police.

471.3.1 AUTHORIZED USE

Use of the Quiet Room may be requested when employees are in need of rest prior to or after a work assignment. Extended working hours, protracted emergency operations, emergency call backs, court appearances, on-duty illness,and those situationsr equiring personnel to remain on-site and immediately available for duty are examples of authorized use.

471.3.2 QUIET ROOM LOCATION

The quiet room is located adjacent to the Information Systems offices.

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

# Chapter 5 - Traffic Operations

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

# Traffic Function and Responsibility

## 500.1 PURPOSE AND SCOPE

The ultimate goal of traffic law enforcement is to reduce traffic collisions. This may be achieved through the application of such techniques as geographic/temporal assignment of personnel and equipment and the establishment of preventive patrols to deal with specific categories of unlawful driving behavior. Traffic enforcement techniques are based on accident data, enforcement activity records, traffic volume, and traffic conditions. This department provides enforcement efforts toward violations, not only in proportion to the frequency of their occurrence in accident situations, but also in terms of traffic-related needs.

## 500.2 TRAFFIC OFFICER DEPLOYMENT

Several factors are considered in the development of deployment schedules for officers of the Brentwood Police Department. Information provided by the California Statewide Integrated Traffic Reporting System (SWITRS) is a valuable resource for traffic accident occurrences and therefore officer deployment. Some of the factors for analysis include:

- Location
- Time
- Day
- Violation factors

All officers assigned to patrol or traffic enforcement functions will emphasize enforcement of accident causing violations during high accident hours and at locations of occurrence. All officers will take directed enforcement action on request, and random enforcement action when appropriate against violators as a matter of routine. All officers shall maintain high visibility while working general enforcement, especially at high accident locations.

Other factors to be considered for deployment are requests from the public, construction zones or special events.

## 500.3 ENFORCEMENT

Enforcement actions are commensurate with applicable laws and take into account the degree and severity of the violation committed. This department does not establish ticket quotas and the number of arrests or citations issued by any officer shall not be used as the sole criterion for evaluating officer overall performance (Vehicle Code § 41603). The visibility and quality of an officer’s work effort will be commensurate with the philosophy of this policy. Several methods are effective in the reduction of collisions:

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

500.3.1 WARNINGS
Warnings or other non-punitive enforcement actions should be considered in each situation and substituted for arrests or citations when circumstances warrant, especially in the case of inadvertent violations.

500.3.2 CITATIONS
Citations may be issued when an officer believes it is appropriate. It is essential that officers fully explain the rights and requirements imposed on motorists upon issuance of a citation for a traffic violation. Officers should provide the following information at a minimum:

(a) Explanation of the violation or charge

(b) Court appearance procedure including the optional or mandatory appearance by the motorist

(c) Notice of whether the motorist can enter a plea and pay the fine by mail or at the court

500.3.3 PHYSICAL ARREST
Physical arrest can be made on a number of criminal traffic offenses outlined in the Vehicle Code or Penal Code. These physical arrest cases usually deal with, but are not limited to:

(a) Vehicular manslaughter

(b) Felony and misdemeanor driving under the influence of alcohol/drugs

(c) Felony or misdemeanor hit-and-run

(d) Refusal to sign notice to appear

(e) Any other misdemeanor at the discretion of the officer, such as reckless driving with extenuating circumstances

## 500.4 SUSPENDED OR REVOKED DRIVERS LICENSES
If an officer contacts a traffic violator for driving on a suspended or revoked license, the officer may issue a traffic citation pursuant to Vehicle Code § 14601.

If a computer check of a traffic violator's license status reveals a suspended or revoked driver license and the traffic violator still has his or her license in possession, the license shall be seized by the officer. The officer shall verbally advise the traffic violator of the suspension or revocation and issue the citation. The officer will be responsible for filling out the Verbal Notice form (DMV form DL-310) and causing that form and license to be forwarded to the Department of Motor Vehicles.

## 500.5 HIGH-VISIBILITY VESTS
The Department has provided American National Standards Institute (ANSI) Class II high-visibility vests to increase the visibility of department members who may be exposed to hazards presented by passing traffic, maneuvering or operating vehicles, machinery and equipment (23 CFR 655.601; 8 CCR 1598).

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

Although intended primarily for use while performing traffic related assignments, high-visibility vests should be worn at any time increased visibility would improve the safety or efficiency of the member.

### 500.5.1 REQUIRED USE

Except when working in a potentially adversarial or confrontational role, such as during vehicle stops, high-visibility vests should be worn at any time it is anticipated that an employee will be exposed to the hazards of approaching traffic or construction and recovery equipment. Examples of when high-visibility vests should be worn include traffic control duties, accident investigations, lane closures and while at disaster scenes, or anytime high visibility is desirable. When emergency conditions preclude the immediate donning of the vest, officers should retrieve and wear the vest as soon as conditions reasonably permit. Use of the vests shall also be mandatory when directed by a supervisor.

Vests maintained in the investigation units may be used any time a plainclothes officer might benefit from being readily identified as a member of law enforcement.

### 500.5.2 CARE AND STORAGE OF HIGH-VISIBILITY VESTS

High-visibility vests shall be maintained in the trunk of each patrol and investigation unit and in the side box of each police motorcycle. Each vest should be stored inside the re-sealable plastic bag provided to protect and maintain the vest in a serviceable condition. Before going into service each employee shall ensure a serviceable high-visibility vest is properly stored in the vehicle.

A supply of high-visibility vests will be maintained in the equipment room for replacement of damaged or unserviceable vests. Replacements can be obtained by contacting the CSO in charge of supplies or by completing an Equipment Deficiency Report. Patrol vehicles should not be placed into service in the absence of a high-visibility vest. When a need exists to replenish the equipment room supply, notification should be made to the CSO in charge of supplies. Additional vests will then be obtained for this purpose.

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

# Traffic Collision Reporting

## 502.1 PURPOSE AND SCOPE

The Brentwood Police Department investigates and documents traffic collisions in a manner which is efficient and appropriate to the severity of the collision.

### 502.1.1 DEFINTIONS

**Collision** – An unintended event involving a vehicle in-transport which produces damage or injury.

**Highway** – Highway is a way or place of whatever nature, publicly maintained and open to the use of the public for purposes of vehicular traffic. The term highway includes streets, shoulders, and sidewalks. Any collision which does not occur on a highway as described in this definition is an “off-highway” collision.

## 502.2 RESPONSIBILITY

The Traffic Sergeant will be responsible for distribution of the Collision Investigation Manual. The Traffic Sergeant will receive all changes in the state manual and ensure conformity with this policy.

## 502.3 REPORTING SITUATIONS

### 502.3.1 INFORMATION EXCHANGE ONLY

(a) The purpose of this type of documentation is to assist in the exchange of identifying information between parties involved in a property damage only collision on a highway.

(b) Criteria

1. Property damage only, not a department tow, not a criminal collision (no DUI or hit-and-run), no arrest, no citation is being sought for a party who is not on scene, and a material fact or cause of the collision is not in dispute

(c) Documentation

1. Use Property Damage Only (PDO) form CHP 555-03
2. At the scene, complete the top half of the form except for the sketch. Write "Info Exchange Only" in the special conditions box. Obtain and write the case report number in the "number" box.
3. Do not complete the second half of the form or write a narrative.

(d) Give each party a pressure sensitive copy of the form at the scene.

(e) If the parties have already exchanged information, officer documentation is not required.

### 502.3.2 COLLISION SUMMARY

(a) This type of documentation provides statistical and summary information for collisions which meet the listed criteria.

(b) Criteria

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

1. Off-highway collision involving any of the below circumstances:
    (a) Injuries which are not life-threatening;
    (b) Criminal collisions (DUI or hit-and-run);
    (c) City-owned vehicles involved;
    (d) City property is damaged
2. On-highway collision involving any of the below circumstances:
    (a) Injuries which are not life-threatening;
    (b) Criminal collisions (DUI or hit-and-run);
    (c) Department tow away;
    (d) Issuance of a citation for a party not on scene;
    (e) A material fact or cause of the collision is in dispute;
    (f) City-owned vehicles involved;
    (g) City property is damaged.

(c) Documentation

1. CHP 555 – Traffic Collision Report
    (a) Officers may complete the top portion of CHP 555 in the field and provide a copy to the involved drivers to facilitate an information exchange. The narrative summary and statistical areas of the CHP 555 are to be completed later.
        1. Do not provide a copy to any of the parties if the collision does, or may, result in criminal detention, or arrest of a juvenile.
2. If any forms are handwritten in the field, the information must still be entered into the department's report writing system.
3. The narrative summary, commonly referred to as a "summary cause", describes the relevant circumstances of the collision, and when applicable, supports the elements of any traffic offense to be charged.
    (a) The summary is to be descriptive, yet concise. The narrative should contain the following headings, in order:
        1. Notification
        2. Summary
        3. Area of Impact
        4. Intoxication Narrative (for DUI collisions)
        5. Cause
        6. Case Status

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

(d) A sketch need only be completed in circumstances where it would lend to understanding of how the collision occurred.

(e) Injured/Witnesses/Passengers: CHP 555, Page 3, when applicable.

502.3.3 COLLISION INVESTIGATION

(a) Collision "Investigation" documentation is an extensive, thorough and comprehensive report of a serious traffic collision.

(b) Criteria

1. On-highway or off-highway collision involving any of the below circumstances:

(a) A fatality or serious injuries which have the potential of leading to death;

(b) Serious or unique circumstances which warrant an investigation, as determined by the on-scene supervisor.

(c) Documentation

1. Documentation is to be consistent with the CHP "Investigation" format found in the CIM.

502.3.4 COUNTER REPORTS

Counter reports involving property damage only will not be accepted. Parties may be provided a DMV Traffic Accident Report Financial Responsibility form #SR1A for self-reporting.

502.3.5 LATE REPORTS

Late reports involving fatalities or injuries will be accepted and documented as described above.

## 502.4 OTHER DOCUMENTATION

Officers are to refer to the CHP CIM for documentation considerations not otherwise addressed or modified by these procedures.

## 502.5 COPIES OF REPORTS

Parties who request a completed copy or a collision report are to be referred to the Police Department Records Unit during normal business hours. As a guideline, such reports are generally not available for at least a week.

## 502.6 TRAFFIC OFFICER CALL-OUT

In the event of a serious injury or death related traffic collision, the Field Supervisor shall notify the Watch Commander, to relate the circumstances of the traffic collision and seek assistance from the Traffic Unit. In the absence of the Watch Commander, any supervisor may assign a Traffic Officer to investigate the traffic collision.

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

# Collision Review On-Duty Vehicles

## 504.1 PURPOSE AND SCOPE

To establish a process for reviewing vehicle collisions involving employees of the Brentwood Police Department during the course and scope of their duties.

### 504.1.1 DEFINITIONS

**Vehicle Collision:** A vehicle collision, for the purpose of this policy, is any unintended event that produces damage or injury, involving a City vehicle (or privately owned vehicle being used for City business) under the care or control of a Police Department employee, regardless of whether the event occurs on or off a highway.

**Driver:** Police Department Employee

(a) Preventable: A preventable collision is one in which the driver was determined to be most at fault for the collision. All preventable collisions shall be classified as one of the following categories:

1. Category 1: A collision which occurred because of misjudgment of clearance (i.e., a collision during a parking maneuver).
2. Category 2: A collision which occurred because the employee violated or failed to comply with the California Vehicle Code.
3. Category 3: A collision which occurred because the employee flagrantly and willfully disregarded their duty to drive with regard for the safety of all persons or property.
    (a) It is important to note that the California Vehicle Code Section 21056 states the driver of an On-Duty Emergency Vehicle (ODEV) must have “due regard” for others and is not protected from the “arbitrary exercise” of the privileges granted in CVC Section 21055. Simply stated, the absence of “due regard” forfeits the ODEV driver’s exemptions from the rules of the road.

(b) Non-Preventable: A non-preventable collision is one in which the driver was not determined to be the party most at fault.

(c) Operational Damage: An Operational Damage collision is one in which the driver may be responsible, but the cause can be attributed to circumstances that are a byproduct of the course and scope of their duties. A collision that is deemed as such will generally not result in an injury or damage to privately owned property.

(d) Intentional Acts: An intentional act is any action taken which, by its very nature; one could reasonably expect resultant property damage or injury. It is not intended for these acts to be reviewed pursuant to the Collision Policy Review policy. These acts are to be reviewed pursuant to other established policies and procedures (i.e., legal intervention or road blocks).

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

## 504.2 PROCEDURES

(a) Initial Reporting: All applicable collisions will be immediately reported to a supervisor who will be responsible for insuring that the collision is documented per policy XXX. All collisions to Police Department vehicles or personal vehicles being used for City business shall be documented on a State of California Traffic Collision Report (CHP 555 form).

1. All vehicle collision reports subject to this policy shall be forwarded to the applicable Division Captain as soon as practical.
2. Each report will be reviewed by the Division Captain to insure completeness, and forwarded to the Professional Standards Unit for assignment to the Collision Review Board.
3. Sworn Employees – When the vehicle collision being investigated could lead to any punitive action against a sworn employee, the subject employee shall be advised of their rights pursuant to the Public Safety Officers Procedural Bill of Rights Act, to specifically include their right to representation. These advisement's shall occur prior to any interrogation of the subject employee or requiring the employee to submit a written statement.

(b) Review:

1. All vehicle collisions involving a Police Department employee operating any vehicle during the course and scope of their employment shall be reviewed by the Police Department’s Collision Review Board.
2. All vehicle collisions involving a Police Department employee operating any vehicle during the course and scope of their employment shall be handled in accordance with this policy.

(c) Brentwood Police Department Collision Review Board shall review all collisions subject to this policy within 15 days, or as soon as practical. The Board will determine if reasonable precautions or proper handling was exercised, and if a violation of law or Department policy or procedure occurred. When the incident being reviewed is a traffic collision, by definition, the Board should utilize the California Highway Patrol Collision Investigation Manual as a guide to determine fault. The Collision Review Board will categorize their findings and report them to the Chief of Police.

1. The Operations Division Captain is the Board’s non-voting Chairperson who is responsible for ensuring the aforementioned process and reporting the recommendations to the Chief of Police. In the event the Board cannot reach a majority decision the Operations Division Captain will vote as the tiebreaker. The voting members of the Board shall consist of the Operation Division Lieutenants, Professional Standards Sergeant, Administration Bureau Lieutenants, a department Subject Matter Expert on emergency vehicle operations, and a similarly situated peer of the involved employee.
2. A notice will be sent to the involved employee 14 days prior to the review board listing who will be reviewing the collision.

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

3. If an employee, subject to review, believes any Board member may be unable to view the investigation package without prejudice, the employee may request, within 5 days of receipt of the notice, that the Operations Division Captain replace the person. If the request is denied, the employee will be notified as to the reasons for the refusal. Conversely, any Board member who feels they are unable to review the investigation package without prejudice may request to be substituted for that incident, at the discretion of the Operations Division Captain.
4. Appearance by an employee before the Board shall be mandatory if requested by the Operation Division Captain or the employee.

### 504.3 RECOMMENDATIONS

Upon completion of the review, the Collision Review Board shall inform the Operations Division Captain of the circumstances of each collision and the Board's recommendation as to the type of collision.If the Board recommends that the collision be found preventable, then the Board will also make a recommendation as to which category of preventable collision the incident should be classified.

### 504.4 FINDINGS

The Operations Division Captain shall be responsible for the final determination of an appropriate finding in all collisions subject to this policy. The involved employee's Division Captain shall be notified within 15 days as to the findings, the employee's previous vehicle collision history, and any prior specialized driver training.

Within 5 days of receipt of the Collision Review Board's findings, the Division Captain will notify the employee of the Board's findings.

### 504.5 APPEALS OF THE COLLISION REVIEW BOARD'S DETERMINATION

An employee may appeal the decision of the Board to the Operations Division Captain by submitting a written request within 10 days of being notified of the findings. The Captain will consider the information provided by the employee. The Operations Division Captain will then render the final decision within 5 days of receipt of the appeal.

### 504.6 CORRECTIVE ACTION

Upon receipt of a report of findings by the Operations Division Captain, each other involved Division Captain is responsible for taking appropriate corrective action to insure compliance with laws, policies, procedures, and the safe operation of all vehicles being operated pursuant to City Business.

(a) Training and Prevention: Administrators and supervisors shall have the responsibility for training employees in the safe operation of vehicles the employee will operate while on duty. They shall also insure that the appropriate corrective action is taken on vehicles which have been reported unsafe.

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

(b) Discipline: Preventable collisions are grounds for disciplinary action. All disciplinary action for preventable collisions shall be administered in accordance with established City and Department procedures. The following guidelines generally apply unless the employee's Division Captain determines there are extenuating circumstances:

1. A single Category 1 collision shall result in training and counseling or a formal verbal admonishment.
2. A single Category 2 collision, or two Category 1 collisions within a three-year period, shall result in a written reprimand.
3. Three Category 1 collisions within a three-year period shall result in disciplinary action up to and including a 30-hour suspension from duties without pay.
4. Two Category 2 collisions within three years, or two Category 1 and one Category 2 collision within three years, shall result in disciplinary action up to and including a 30-hour suspension from duties without pay.
5. Any Category 3 collision shall result in disciplinary action of a minimum 40-hour suspension from duty without pay or action up to and including dismissal. Other action may include a transfer and/or a demotion to a position which would not involve the operation of a City vehicle.
6. An employee's pattern of driving shall also be considered during their annual performance evaluation.

(c) Extenuating Circumstances: Division Commanders will consider an employee's past collision record, the severity of the collision, and the specific duties being performed by the employee at the time of the collision. Any consideration of mitigating or aggravating circumstances in deviating from the disciplinary guidelines described above must be approved by the Chief of Police or designee prior to the implementation of any disciplinary action. In addition, such consideration must be documented in the notice of disciplinary action.

## 504.7 EMPLOYEE RIGHTS

Employees shall retain all legislated and/or negotiated benefits and rights, including the right to appeal discipline imposed pursuant to this policy.

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

# Vehicle Towing and Release

## 510.1 PURPOSE AND SCOPE

This policy provides the procedures for towing a vehicle by or at the direction of the Brentwood Police Department. Nothing in this policy shall require the Department to tow a vehicle.

## 510.2 STORAGE AND IMPOUNDS

When circumstances permit, for example when towing a vehicle for parking or registration violations, the handling employee should, prior to having the vehicle towed, make a good faith effort to notify the owner of the vehicle that it is subject to removal. This may be accomplished by personal contact, telephone or by leaving a notice attached to the vehicle at least 24 hours prior to removal. If a vehicle presents a hazard, such as being abandoned on the roadway, it may be towed immediately.

The responsibilities of those employees towing, storing or impounding a vehicle are listed below.

### 510.2.1 VEHICLE STORAGE REPORT

Department members requesting towing, storage or impound of a vehicle shall complete CHP Form 180 and accurately record the mileage and a description of property within the vehicle (Vehicle Code § 22850). A copy of the storage report should to be given to the tow truck operator and the original shall be submitted to the Records Bureau as soon as practicable after the vehicle is stored.

### 510.2.2 REMOVAL FROM TRAFFIC COLLISION SCENES

When a vehicle has been involved in a traffic collision and must be removed from the scene, the officer shall have the driver select a towing company, if possible, and shall relay the request for the specified towing company to the dispatcher. When there is no preferred company requested, a company will be selected from the rotational list of towing companies in Dispatch.

If the owner is incapacitated, or for any reason it is necessary for the Department to assume responsibility for a vehicle involved in a collision, the officer shall request the dispatcher to call the official towing garage for the City of Brentwood. The officer will then store the vehicle using a CHP Form 180.

### 510.2.3 STORAGE AT ARREST SCENES

Whenever a person in charge or in control of a vehicle is arrested, it is the policy of this department to provide reasonable safekeeping by storing the arrestee’s vehicle subject to the exceptions described below. The vehicle, however, shall be stored whenever it is needed for the furtherance of the investigation or prosecution of the case, or when the community caretaker doctrine would reasonably suggest that the vehicle should be stored (e.g., traffic hazard, high-crime area).

The following are examples of situations where consideration should be given to leaving a vehicle at the scene in lieu of storing, provided the vehicle can be lawfully parked and left in a reasonably secured and safe condition:

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

- Traffic-related warrant arrest.
- Situations where the vehicle was not used to further the offense for which the driver was arrested.
- Whenever the licensed owner of the vehicle is present, willing, and able to take control of any vehicle not involved in criminal activity.
- Whenever the vehicle otherwise does not need to be stored and the owner requests that it be left at the scene. In such cases, the owner shall be informed that the Department will not be responsible for theft or damages.

### 510.2.4 IMPOUNDMENT AT SOBRIETY CHECKPOINTS

Whenever a driver is stopped at a sobriety checkpoint and the only violation is that the operator is driving without a valid driver's license, the officer shall make a reasonable attempt to identify the registered owner of the vehicle (Vehicle Code § 2814.2). The officer shall release the vehicle to the registered owner if the person is a licensed driver, or to another licensed driver authorized by the registered owner, provided the vehicle is claimed prior to the conclusion of the checkpoint operation.

If the vehicle is released at the checkpoint, the officer shall list on his/her copy of the notice to appear the name and driver's license number of the person to whom the vehicle is released.

When a vehicle cannot be released at the checkpoint, it shall be towed (Vehicle Code § 22651(p)). When a vehicle is removed at the checkpoint, it shall be released during the normal business hours of the storage facility to the registered owner or his/her agent upon presentation of a valid driver's license and current vehicle registration.

### 510.2.5 DRIVING A NON-CITY VEHICLE

Vehicles which have been towed by or at the direction of the Department should not be driven by police personnel unless it is necessary to move a vehicle a short distance to eliminate a hazard, prevent the obstruction of a fire hydrant or to comply with posted signs.

### 510.2.6 DISPATCHER'S RESPONSIBILITIES

Upon receiving a request for towing, the dispatcher shall promptly telephone the specified authorized towing service. The officer shall be advised when the request has been made and the towing service has been dispatched.

When there is no preferred company requested, the dispatcher shall call the next firm in rotation from the list of approved towing companies and shall make appropriate entries on that form to ensure the following firm is called on the next request.

### 510.2.7 RECORDS UNIT RESPONSIBILITY

Records personnel shall promptly enter pertinent data from the completed storage form (CHP Form 180) into the Stolen Vehicle System and return the form to the Watch Commander for approval (Vehicle Code § 22651.5(b); Vehicle Code § 22851.3(b); Vehicle Code § 22854.5).

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

Approved storage forms shall be promptly placed into the auto-file so that they are immediately available for release or review should inquiries be made.

Within 48 hours, excluding weekends and holidays, of the storage of any such vehicle it shall be the responsibility of the Records Bureau to determine the names and addresses of any individuals having an interest in the vehicle through DMV or CLETS computers. Notice shall be sent to all such individuals by first-class mail (Vehicle Code § 22851.3(d); Vehicle Code § 22852(a); Vehicle Code § 14602.6(a)(2)). The notice shall include the following (Vehicle Code § 22852(b)):

(a) The name, address, and telephone number of this Department.

(b) The location of the place of storage and description of the vehicle, which shall include, if available, the name or make, the manufacturer, the license plate number, and the mileage.

(c) The authority and purpose for the removal of the vehicle.

(d) A statement that, in order to receive their post-storage hearing, the owners, or their agents, shall request the hearing in person, writing, or by telephone within 10 days of the date appearing on the notice.

### 510.3 TOWING SERVICES

The Brentwood Police Department has established a list of companies that are used for towing vehicles. Companies are selected from the list on a rotational basis unless there is a specific need for a particular company to respond to the scene.

### 510.4 VEHICLE INVENTORY

All property in a stored or impounded vehicle shall be inventoried and listed on the vehicle storage form. This includes the trunk and any compartments or containers, even if closed and/or locked. Members conducting inventory searches should be as thorough and accurate as practical in preparing an itemized inventory. These inventory procedures are for the purpose of protecting an owner's property while in police custody, to provide for the safety of officers, and to protect the Department against fraudulent claims of lost, stolen, or damaged property.

### 510.5 SECURITY OF VEHICLES AND PROPERTY

Unless it would cause an unreasonable delay in the completion of a vehicle impound/storage or create an issue of officer safety, officers should make reasonable accommodations to permit a driver/owner to retrieve small items of value or personal need (e.g., cash, jewelry, cell phone, prescriptions) that are not considered evidence or contraband.

If a search of a vehicle leaves the vehicle or any property contained therein vulnerable to unauthorized entry, theft, or damage, personnel conducting the search shall take such steps as are reasonably necessary to secure and/or preserve the vehicle or property from such hazards.

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

### 510.6 RELEASE OF VEHICLE

The Department will maintain a listed, 24-hour telephone number to provide information regarding impoundment of vehicles and the right of the registered owner to request a storage hearing. Releases for towed vehicles will be made available during regular, non-emergency business hours (Vehicle Code § 14602.6).

(a) Vehicles removed pursuant to Vehicle Code § 22850 shall be released after proof of current registration is provided by the owner or the person in control of the vehicle and after all applicable fees are paid (Vehicle Code § 22850.3; Vehicle Code § 22850.5).

(b) Vehicles removed that require payment of parking fines or proof of valid driver's license shall only be released upon presentation of proof of compliance, proof of payment, completion of affidavit, and payment of applicable fees related to the removal (Vehicle Code § 22651 et seq., Vehicle Code § 22652 et seq., Vehicle Code § 22850.3; Vehicle Code § 22850.5).

(c) A vehicle removed pursuant to Vehicle Code § 14602.6(a) shall be released to the registered owner or his/her agent with proof of current registration, proof of a valid driver's license, and applicable fees paid prior to the end of the 30-day impoundment period under any of the following circumstances:

1. The vehicle was stolen.
2. If the driver reinstates his/her driver's license or acquires a license and provides proof of proper insurance.
3. Any other circumstance as set forth in Vehicle Code § 14602.6.
4. When there is no remaining community caretaking need to continue impound of the vehicle or the continued impound would not otherwise comply with the Fourth Amendment.

(d) An autonomous vehicle removed under authority of Vehicle Code § 22651(o)(1)(D) shall be released to the registered owner or person in control of the autonomous vehicle if the requirements of Vehicle Code § 22651(o)(3)(B) are met.

Personnel whose duties include releasing towed vehicles should consult the Vehicle Code under which the vehicle was towed or impounded for any specific requirements prior to release.

Employees who suspect that a vehicle was impounded in error should promptly advise a supervisor. Supervisors should approve, when appropriate, the release of the vehicle without requiring the registered owner or his/her agent to request a hearing, as described in the Vehicle Impound Hearings Policy.

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

# Vehicle Impound Hearings

## 512.1 PURPOSE AND SCOPE

This policy establishes a procedure for the requirement to provide vehicle storage or impound hearings pursuant to Vehicle Code § 22852.

## 512.2 STORED OR IMPOUND HEARING

When a vehicle is stored or impounded by any member of the Brentwood Police Department, a hearing will be conducted upon the request of the registered or legal owner of the vehicle or his/her agent (Vehicle Code § 22650(a); Vehicle Code § 22852(a)).

The hearing shall be conducted within 48 hours of the request, excluding weekends and holidays. The hearing officer must be a person other than the person who directed the storage or impound of the vehicle (Vehicle Code § 22852(c)).

### 512.2.1 HEARING PROCEDURES

The vehicle storage hearing is an informal process to evaluate the validity of an order to store or impound a vehicle. The employee who caused the storage or removal of the vehicle does not need to be present for this hearing.

All requests for a hearing on a stored or impounded vehicle shall be submitted in person, in writing or by telephone within 10 days of the date appearing on the notice (Vehicle Code § 22852(b)). The Watch Commander will generally serve as the hearing officer. The person requesting the hearing may record the hearing at his/her own expense.

The failure of either the registered or legal owner or interested person or his/her agent to request a hearing in a timely manner or to attend a scheduled hearing shall be considered a waiver of and satisfaction of the post-storage hearing requirement (Vehicle Code § 22851.3(e)(2); Vehicle Code § 22852(d)).

Any relevant evidence may be submitted and reviewed by the hearing officer to determine if reasonable grounds have been established for the storage or impound of the vehicle. The initial burden of proof established by a preponderance of the evidence that the storage/impound was based on probable cause rests with the Department.

After consideration of all information, the hearing officer shall determine the validity of the storage or impound of the vehicle in question and then render a decision. The hearing officer shall also consider any mitigating circumstances attendant to the storage that reasonably would warrant the release of the vehicle or a modification or reduction of the period the vehicle is impounded (Vehicle Code §14602.6(b); Vehicle Code § 14602.8(b)).

Aside from those mitigating circumstances enumerated in the Vehicle Code, the registered owner's lack of actual knowledge that the driver to whom the vehicle was loaned was not validly licensed may constitute a mitigating circumstance under Vehicle Code § 14602.6(b) or 14602.8(b), warranting release of the vehicle. This mitigating circumstance exception is not limited to situations

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

where the owner made a reasonable inquiry as to the licensed status of the driver before lending the vehicle.

The legislative intent and this department's policy is to prevent unlicensed driving pursuant to Vehicle Code §14602.6. If this purpose is not furthered by the continued impoundment of a vehicle, release is most often appropriate.

(a) If a decision is made that reasonable grounds for storage or impound have been established, the hearing officer shall advise the inquiring party of the decision and that the inquiring party may pursue further civil remedies if desired.

1. If mitigating circumstances are found to be relevant, the hearing officer shall make reasonable adjustments to the impound period, storage or assessment of fees as warranted.

(b) If a decision is made that reasonable grounds for storage or impound have not been established or sufficient mitigating circumstances exist, the vehicle in storage shall be released immediately. Towing and storage fees will be paid at the Department's expense (Vehicle Code § 22852(e)).

(c) If a decision is made that reasonable grounds for storage have not been established or sufficient mitigating circumstances exist, and the vehicle has been released with fees having been paid, the receipt for such fees will be forwarded with a letter to the appropriate Division Commander. The hearing officer will recommend to the appropriate Division Commander that the fees paid by the registered or legal owner of the vehicle in question or their agent be reimbursed by the Department.

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

# Impaired Driving

## 514.1 PURPOSE AND SCOPE

This policy provides guidance to those department members who play a role in the detection and investigation of driving under the influence (DUI).

## 514.2 POLICY

The Brentwood Police Department is committed to the safety of the roadways and the community and will pursue fair but aggressive enforcement of California's impaired driving laws.

### 514.2.1 TESTING OF CONSCIOUS SUSPECT AT A HOSPITAL

Most blood, breath and urine tests will be administered at the Temporary Holding Facility. However, if a timely breath or urine test cannot be administered because the person is transported to a medical facility where such tests cannot be facilitated, the person shall be advised that a blood test will be the only choice available and a blood sample may be taken at the medical facility (Vehicle Code § 23612(a)(3)).

Based on probable cause, the officer should place the conscious person under arrest in the presence of a witnessing officer or medical personnel and advise the attending physician of the intention to collect a sample of the person's blood. Unless the attending physician objects for medical reasons a blood sample will be collected in the prescribed manner.

## 514.3 INVESTIGATIONS

Officers should not enforce DUI laws to the exclusion of their other duties unless specifically assigned to DUI enforcement. All officers are expected to enforce these laws with due diligence.

## 514.4 CHEMICAL TESTS

A person implies consent to a chemical test or tests, and to providing the associated chemical sample, under any of the following (Vehicle Code § 23612):

(a) The person is arrested for driving a vehicle while under the influence, pursuant to Vehicle Code § 23152.

(b) The person is under 21 years of age and is arrested by an officer having reasonable cause to believe that the person's blood alcohol content is 0.05 or more (Vehicle Code § 23140).

(c) The person is under 21 years of age and detained by an officer having reasonable cause to believe that the person was driving a vehicle while having a blood alcohol content of 0.01 or more (Vehicle Code § 23136).

(d) The person was operating a vehicle while under the influence and proximately caused bodily injury to another person (Vehicle Code § 23153).

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

If a person withdraws this implied consent, or is unable to withdraw consent (e.g., the person is unconscious), the officer should consider implied consent revoked and proceed as though the person has refused to provide a chemical sample.

### 514.4.1 CHOICE OF TESTS

Officers shall respect a viable choice of chemical test made by an arrestee, as provided for by law (e.g., breath will not be acceptable for suspected narcotics influence).

A person arrested for DUI has the choice of whether the test is of his/her blood or breath, and the officer shall advise the person that he/she has that choice. If the person arrested either is incapable, or states that he/she is incapable, of completing the chosen test, the person shall submit to the remaining test.

If the person chooses to submit to a breath test and there is reasonable cause to believe that the person is under the influence of a drug or the combined influence of alcohol and any drug, the officer may also request that the person submit to a blood test. If the person is incapable of completing a blood test, the person shall submit to and complete a urine test (Vehicle Code § 23612(a)(2)(C)).

### 514.4.2 BREATH SAMPLES

The Traffic Sergeant should ensure that all devices used for the collection and analysis of breath samples are properly serviced and tested, and that a record of such service and testing is properly maintained.

Officers obtaining a breath sample should monitor the device for any sign of malfunction. Any anomalies or equipment failures should be noted in the appropriate report and promptly reported to the Traffic Sergeant.

When the arrested person chooses a breath test, the handling officer shall advise the person that the breath-testing equipment does not retain a sample, and the person may, if desired, provide a blood or urine specimen, which will be retained to facilitate subsequent verification testing (Vehicle Code § 23614).

The officer should also require the person to submit to a blood test if the officer has a clear indication that a blood test will reveal evidence of any drug or the combined influence of an alcoholic beverage and any drug. Evidence of the officer’s belief shall be included in the officer’s report (Vehicle Code § 23612(a)(2)(C)).

### 514.4.3 BLOOD SAMPLES

Only persons authorized by law to draw blood shall collect blood samples (Vehicle Code § 23158). The blood draw should be witnessed by the assigned officer. No officer, even if properly certified, should perform this task.

Officers should inform an arrestee that if he/she chooses to provide a blood sample, a separate sample can be collected for alternate testing. Unless medical personnel object, two samples should be collected and retained as evidence, so long as only one puncture is required.

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

The blood sample shall be packaged, marked, handled, stored and transported as required by the testing facility.

If an arrestee cannot submit to a blood draw because he/she has a bleeding disorder or has taken medication that inhibits coagulation, he/she shall not be required to take a blood test. Such inability to take a blood test should not be considered a refusal. However, that arrestee may be required to complete another available and viable test.

### 514.4.4 URINE SAMPLES

If a urine test will be performed, the arrestee should be promptly transported to the appropriate testing site. The officer shall follow any directions accompanying the urine evidence collection kit.

Urine samples shall be collected and witnessed by an officer or jail staff member of the same sex as the individual giving the sample. The arrestee should be allowed sufficient privacy to maintain his/her dignity, to the extent possible, while still ensuring the accuracy of the sample (Vehicle Code § 23158(i)).

The sample shall be packaged, marked, handled, stored and transported as required by the testing facility.

### 514.4.5 STATUTORY NOTIFICATIONS

Officers requesting that a person submit to chemical testing shall provide the person with the mandatory warning pursuant to Vehicle Code § 23612(a)(1)(D) and Vehicle Code § 23612(a)(4).

### 514.4.6 PRELIMINARY ALCOHOL SCREENING

Officers may use a preliminary alcohol screening (PAS) test to assist in establishing reasonable cause to believe a person is DUI. The officer shall advise the person that the PAS test is being requested to assist in determining whether the person is under the influence of alcohol or drugs, or a combination of the two. Unless the person is under the age of 21, he/she shall be advised that the PAS test is voluntary. The officer shall also advise the person that submitting to a PAS test does not satisfy his/her obligation to submit to a chemical test as otherwise required by law (Vehicle Code § 23612).

### 514.4.7 PRELIMINARY ALCOHOL SCREENING FOR A PERSON UNDER AGE 21

If an officer lawfully detains a person under 21 years of age who is driving a motor vehicle and the officer has reasonable cause to believe that the person has a blood alcohol content of 0.01 or more, the officer shall request that the person take a PAS test to determine the presence of alcohol in the person, if a PAS test device is immediately available. If a PAS test device is not immediately available, the officer may request the person to submit to chemical testing of his/her blood, breath or urine, conducted pursuant to Vehicle Code § 23612 (Vehicle Code § 13388).

If the person refuses to take or fails to complete the PAS test or other chemical test, or if the result of either test reveals a blood alcohol content of 0.01 or more, the officer shall proceed to serve the person with a notice of order of suspension pursuant to this policy (Vehicle Code § 13388).

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

## 514.5 REFUSALS

When an arrestee refuses to provide a viable chemical sample, officers should:

(a) Advise the arrestee of the requirement to provide a sample (Vehicle Code § 23612).

(b) Audio- and/or video-record the admonishment when it is practicable.

(c) Document the refusal in the appropriate report.

### 514.5.1 BLOOD SAMPLE WITHOUT CONSENT

A blood sample may be obtained from a person who refuses a chemical test when any of the following conditions exist:

(a) A search warrant has been obtained (Penal Code § 1524).

(b) The officer can articulate that exigent circumstances exist. Exigency does not exist solely because of the short time period associated with the natural dissipation of alcohol or controlled or prohibited substances in the person's bloodstream. Exigency can be established by the existence of special facts such as a lengthy time delay in obtaining a blood sample due to an accident investigation or medical treatment of the person.

### 514.5.2 FORCED BLOOD SAMPLE

If an arrestee indicates by word or action that he/she will physically resist a blood draw, the officer should request a supervisor to respond.

The responding supervisor should:

(a) Evaluate whether using force to obtain a blood sample is appropriate under the circumstances.

(b) Ensure that all attempts to obtain a blood sample through force cease if the person agrees to, and completes a viable form of testing in a timely manner.

(c) Advise the person of his/her duty to provide a sample (even if this advisement was previously done by another officer) and attempt to persuade the individual to submit to such a sample without physical resistance.

1. This dialogue should be recorded on audio and/or video if practicable.

(d) Ensure that the blood sample is taken in a medically approved manner.

(e) Ensure the forced blood draw is recorded on audio and/or video when practicable.

(f) Monitor and ensure that the type and level of force applied appears reasonable under the circumstances:

1. Unless otherwise provided in a warrant, force should generally be limited to handcuffing or similar restraint methods.

2. In misdemeanor cases, if the arrestee becomes violent or more resistant, no additional force will be used and a refusal should be noted in the report.

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

3. In felony cases, force which reasonably appears necessary to overcome the resistance to the blood draw may be permitted.

(g) Ensure the use of force and methods used to accomplish the collection of the blood sample are documented in the related report.

If a supervisor is unavailable, officers are expected to use sound judgment and perform as a responding supervisor, as set forth above.

514.5.3 STATUTORY NOTIFICATIONS UPON REFUSAL
Upon refusal to submit to a chemical test as required by law, officers shall personally serve the notice of order of suspension upon the arrestee and take possession of any state-issued license to operate a motor vehicle that is held by that individual (Vehicle Code § 23612(e); Vehicle Code § 23612(f)).

## 514.6 ARREST AND INVESTIGATION

514.6.1 WARRANTLESS ARREST
In addition to the arrest authority granted to officers pursuant to Penal Code § 836, an officer may make a warrantless arrest of a person that the officer has reasonable cause to believe has been driving under the influence of an alcoholic beverage or any drug, or under the combined influence of the same when (Vehicle Code § 40300.5):

(a) The person is involved in a traffic accident.

(b) The person is observed in or about a vehicle that is obstructing the roadway.

(c) The person will not be apprehended unless immediately arrested.

(d) The person may cause injury to him/herself or damage property unless immediately arrested.

(e) The person may destroy or conceal evidence of a crime unless immediately arrested.

514.6.2 OFFICER RESPONSIBILITIES
The officer serving the arrested person with a notice of an order of suspension shall immediately (Vehicle Code § 23612):

(a) Forward a copy of the completed notice of suspension or revocation form and any confiscated driver’s license to the Department of Motor Vehicles (DMV).

(b) Forward a sworn report to DMV that contains the required information in Vehicle Code § 13380.

(c) Forward the results to the appropriate forensic laboratory if the person submitted to a blood or urine test.

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

# Traffic Citations

## 516.1 PURPOSE AND SCOPE

This policy outlines the responsibility for traffic citations, the procedure for dismissal, correction, and voiding of traffic citations.

## 516.2 RESPONSIBILITIES

The Special Operations Sergeant shall be responsible for the development and design of all Department traffic citations in compliance with state law and the Judicial Council.

The Sergeants shall be responsible for the supply and accounting of all traffic citations issued to employees of this department.

## 516.3 DISMISSAL OF TRAFFIC CITATIONS

Employees of this department do not have the authority to dismiss a citation once it has been issued. Only the court has the authority to dismiss a citation that has been issued (Vehicle Code § 40500(d)). All requests from citizens to dismiss a citation shall be referred to a sergeant. Upon a review of the circumstances involving the issuance of the traffic citation, the sergeant may request the Watch Commander to recommend dismissal of the traffic citation. If approved, the citation will be forwarded to the appropriate court with a request for dismissal. All recipients of traffic citations whose request for the dismissal of a traffic citation has been denied shall be referred to the appropriate court.

Should an officer determine during a court proceeding that a traffic citation should be dismissed in the interest of justice or where prosecution is deemed inappropriate the officer may request the court to dismiss the citation. Upon dismissal of the traffic citation by the court, the officer shall notify his/her immediate supervisor of the circumstances surrounding the dismissal and shall complete any paperwork as directed or required. The citation dismissal shall then be forwarded to the Watch Commander for review. Upon review, the citation along with any accompanying paperwork ,will be forwarded to the Records Unit.

## 516.4 VOIDING TRAFFIC CITATIONS

Voiding a traffic citation may occur when a traffic citation has not been completed or where it is completed, but not issued. All copies of the citation shall be presented to a supervisor to approve the voiding of the citation. The citation and copies shall then be forwarded to the Records Unit.

## 516.5 CORRECTION OF TRAFFIC CITATIONS

When a traffic citation is issued and in need of correction, the officer issuing the citation shall complete a "Notice of Correction and Proof of Service" form. The correction notice shall then be sent to the court having jurisdiction and to the recipient of the citation by Records Unit personnel.

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

## 516.6 DISPOSITION OF TRAFFIC CITATIONS

The court and file copies of all traffic citations issued by members of this department shall be forwarded to the employee's immediate supervisor for review. The citation copies shall then be filed with the Records Unit.

Upon separation from employment with the this department, all employees issued traffic citations books shall return any unused citations to the Special Operations Sergeant.

## 516.7 NOTICE OF PARKING VIOLATION APPEAL PROCEDURE

Disposition of notice of parking violation appeals is conducted pursuant to Vehicle Code § 40215.

### 516.7.1 APPEAL STAGES

Appeals may be pursued sequentially at three different levels (Vehicle Code § 40215; Vehicle Code § 40230):

(a) Administrative reviews are conducted by the Special Operations Sergeant who will review written/documentary data. Requests for administrative reviews are available at the front desk of the Brentwood Police Department. These requests are informal written statements outlining why the notice of parking violation should be dismissed. Copies of documentation relating to the notice of parking violation and the request for dismissal must be mailed to the current mailing address of the processing agency.

(b) If the appellant wishes to pursue the matter beyond administrative review, an administrative hearing may be conducted in person or by written application, at the election of the appellant. Independent referees review the existent administrative file, amendments, and/or testimonial material provided by the appellant and may conduct further investigation or follow-up on their own.

(c) If the appellant wishes to pursue the matter beyond an administrative hearing, a Superior Court review may be presented in person by the appellant after an application for review and designated filing fees have been paid to the Superior Court of California.

### 516.7.2 TIME REQUIREMENTS

Administrative review or appearance before a hearing examiner will not be provided if the mandated time limits are not adhered to by the violator.

(a) Requests for an administrative review must be postmarked within 21 calendar days of issuance of the notice of parking violation, or within 14 calendar days of the mailing of the Notice of Delinquent Parking Violation (Vehicle Code § 40215(a)).

(b) Requests for administrative hearings must be made no later than 21 calendar days following the notification mailing of the results of the administrative review (Vehicle Code § 40215(b)).

(c) An administrative hearing shall be held within 90 calendar days following the receipt of a request for an administrative hearing, excluding time tolled pursuant to Vehicle Code § 40200 - 40225. The person requesting the hearing may request one continuance, not to exceed 21 calendar days (Vehicle Code § 40215).

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

(d) Registered owners of vehicles may transfer responsibility for the violation via timely affidavit of non-liability when the vehicle has been transferred, rented or under certain other circumstances (Vehicle Code § 40209; Vehicle Code § 40210).

### 516.8 JUVENILE CITATIONS

Completion of traffic citation for juveniles may vary slightly from the procedure for adults. Such variance includes a different date and time of appearance, and checking the "bring a parent" box. The juvenile's age, place of residency, and the type of offense should be considered before issuing the juvenile a citation.

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

# Disabled Vehicles

## 520.1 PURPOSE AND SCOPE

Vehicle Code § 20018 provides that all law enforcement agencies having responsibility for traffic enforcement may develop and adopt a written policy to provide assistance to motorists in disabled vehicles within their primary jurisdiction.

## 520.2 OFFICER RESPONSIBILITY

When an on-duty officer observes a disabled vehicle on the roadway, the officer should make a reasonable effort to provide assistance. If that officer is assigned to a call of higher priority, the dispatcher should be advised of the location of the disabled vehicle and the need for assistance. The dispatcher should then assign another available officer to respond for assistance as soon as practical.

## 520.3 EXTENT OF ASSISTANCE

In most cases, a disabled motorist will require assistance. After arrangements for assistance are made, continued involvement by department personnel will be contingent on the time of day, the location, the availability of departmental resources, and the vulnerability of the disabled motorist.

### 520.3.1 MECHANICAL REPAIRS

Department personnel shall not make mechanical repairs to a disabled vehicle. The use of push bumpers to relocate vehicles to a position of safety is not considered a mechanical repair.

### 520.3.2 RELOCATION OF DISABLED VEHICLES

The relocation of disabled vehicles by members of this department by pushing or pulling a vehicle should only occur when the conditions reasonably indicate that immediate movement is necessary to reduce a hazard presented by the disabled vehicle.

### 520.3.3 RELOCATION OF DISABLED MOTORIST

The relocation of a disabled motorist should only occur with the person’s consent and should be suggested when conditions reasonably indicate that immediate movement is necessary to mitigate a potential hazard. The department member may stay with the disabled motorist or transport him/her to a safe area to await pickup.

## 520.4 PUBLIC ACCESS TO THIS POLICY

This written policy is available upon request.

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

# 72-Hour Parking Violations

## 524.1 PURPOSE AND SCOPE

This policy provides procedures for the marking, recording, and storage of vehicles parked in violation of the Brentwood City Ordinance regulating 72-hour parking violations and abandoned vehicles under the authority of Vehicle Code § 22669.

## 524.2 MARKING VEHICLES

Vehicles suspected of being in violation of the City of Brentwood 72-Hour Parking Ordinance shall be marked and noted on the Brentwood Police Department Abandoned Vehicle Warning Notice (BPD form 404). No case number is required at this time.

A visible mark should be placed on the rear tire unless missing tires or other vehicle conditions prevent marking. Any deviation in markings shall be noted on the Abandoned Vehicle Warning Notice.

If a marked vehicle has been moved or the markings have been removed during a 72-hour investigation period, the vehicle may be remarked.

### 524.2.1 MARKED VEHICLE FILE

Community Service Officers shall be responsible for maintaining a file for all Abandoned Vehicles Warning Notices and the follow-up investigation of all 72-hour parking violations noted on the Abandoned Vehicle Warning Notices.

### 524.2.2 VEHICLE STORAGE

Any vehicle in violation may cited for 10.13.260 (a) BMC. The vehicle may be stored by an authorized towing service. A case number shall be drawn and a Vehicle Report (CHP form 180) shall be completed by the officer authorizing the storage of the vehicle.

The Vehicle Report form and required computer entries shall be submitted to a supervisor for approval, and immediately forwarded to the Records Unit for processing and mailing of notice. It shall be the responsibility of the officer taking the report to ensure that immediate notification is made to the Stolen Vehicle System (SVS) of the Department of Justice in Sacramento ( Vehicle Code § 22851.3(b)). Notification may also be made to the National Law Enforcement Telecommunications System (NLETS)(Vehicle Code § 22854.5).

Within 48 hours of the storage of any such vehicle, excluding weekends and holidays, it shall be the responsibility of the Records Unit to determine the names and addresses of any individuals having an interest in the vehicle through DMV or CLETS computers. Notice to all such individuals shall be sent first-class or certified mail pursuant to Vehicle Code § 22851.3(d).

### 524.2.3 VEHICLE DISPOSAL

If, after 15 days from the notification, the vehicle remains unclaimed and towing and storage fees have not been paid, and if no request for a post storage hearing has been made, the Department may provide the lienholder storing the vehicle with authorization on an approved DMV form, to

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

dispose of any vehicle which the lienholder has determined has an estimated value of $500 or less (Vehicle Code Section 22851.3(h)).

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

# Chapter 6 - Investigation Operations

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

# Investigation and Prosecution

## 600.1 PURPOSE AND SCOPE

The purpose of this policy is to set guidelines and requirements pertaining to the handling and disposition of criminal investigations.

## 600.2 PHOTOGRAPHIC IDENTIFICATION OF SUSPECTS

When practicable, the employee composing and the employee presenting the photo lineup should not be directly involved in the investigation of the case. When this is not possible, the employee presenting the lineup must take the utmost care not to communicate the identity of the suspect in any way.

The following precautions should be taken by any employee presenting a photographic lineup:

(a) The person of interest or suspect in the photo lineup should not stand out from the other persons depicted in the photos.

(b) At no time prior to, during or after the presentation of a photographic lineup should it be suggested to a witness that any person depicted in the lineup is a suspect or was in any way connected to the offense.

(c) The employee presenting the photographs to a witness should not know which photograph depicts the suspect.

(d) The employee presenting the photographs to a witness should do so sequentially (i.e., showing the witness one photograph at a time) and not simultaneously. The witness should view all photographs in the lineup.

(e) The position of the suspect's photo and filler photos should be placed in a different random order for each witness.

(f) In order to avoid undue influence, witnesses viewing a photographic lineup should do so individually and outside the presence of other witnesses. Witnesses should be instructed to avoid discussing details of the incident or of the photographic lineup with other witnesses.

(g) An admonishment should be given to each witness that the suspect's photograph may or may not be among those in the lineup and that the witness is not required to make an identification.

The procedure employed and the results of any photographic lineup should be documented in the case report. A copy of the photographic lineup presented to the witness should be included in the case report. Witness comments of how certain he/she is of the identification or non-identification should be quoted in the appropriate report.

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

### 600.2.1 PHOTO IDENTIFICATION FORM

The Investigation supervisor shall be responsible for the development and maintenance of a photographic lineup identification form consistent with this policy.

The form, at minimum, shall contain the following:

- The date, time and location of the lineup procedure
- The name and identifying information of the witness
- The name of the investigator administering the lineup procedure
- The names of all of the individuals present during the lineup
- An admonishment that the suspect's photograph may or may not be among those in the lineup and that the witness is not required to make an identification
- A signature line where the witness acknowledges that he/she understands the lineup procedures and instructions

The photo identification form should be reviewed at least annually and modified when necessary.

## 600.3 POLICY

It is the policy of the Brentwood 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.

## 600.4 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.

### 600.4.1 AUDIO/VIDEO RECORDINGS

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

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

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

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

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

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

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

(a) Recording is not feasible because of exigent circumstances that are later documented in a report.

(b) The suspect refuses to have the interrogation recorded, including a refusal any time during the interrogation, and the refusal is documented in a report. If feasible, the refusal shall be electronically recorded.

(c) The custodial interrogation occurred in another state by law enforcement officers of that state, unless the interrogation was conducted with the intent to avoid the requirements of Penal Code § 859.5.

(d) The interrogation occurs when no member conducting the interrogation has a reason to believe that the individual may have committed murder. Continued custodial interrogation concerning that offense shall be electronically recorded if the interrogating member develops a reason to believe the individual committed murder.

(e) The interrogation would disclose the identity of a confidential informant or would jeopardize the safety of an officer, the individual being interrogated or another individual. Such circumstances shall be documented in a report.

(f) A recording device fails despite reasonable maintenance and the timely repair or replacement is not feasible.

(g) The questions are part of a routine processing or booking, and are not an interrogation.

(h) The suspect is in custody for murder and the interrogation is unrelated to a murder. However, if any information concerning a murder is mentioned during the interrogation, the remainder of the interrogation shall be recorded.

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

## 600.5 INITIAL INVESTIGATION

600.5.1 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.

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

2. A cursory examination for evidence.

(b) If information indicates a crime has occurred, the officer shall:

1. Preserve the scene and any evidence as required to complete the initial and follow-up investigation.
2. Determine if additional investigative resources (e.g., investigators or scene processing) are necessary and request assistance as required.
3. If assistance is warranted, or if the incident is not routine, notify a supervisor or the Watch Commander.
4. Make reasonable attempts to locate, identify and interview all available victims, complainants, witnesses and suspects.
5. Collect any evidence.
6. Take any appropriate law enforcement action.
7. Complete and submit the appropriate reports and documentation.

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

600.5.2 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.

## 600.6 DISCONTINUATION OF INVESTIGATIONS

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

(a) All reasonable investigative efforts have been exhausted, no reasonable belief that the person who committed the crime can be identified, and the incident has been documented appropriately.

(b) The perpetrator of a misdemeanor has been identified and a warning is the most appropriate disposition.

1. In these cases, the investigator shall document that the person was warned and why prosecution was not sought.
2. Warnings shall not be given for felony offenses or other offenses identified in this policy or by law that require an arrest or submission of a case to a prosecutor.

(c) The case has been submitted to the appropriate prosecutor but no charges have been filed. Further investigation is not reasonable nor has the prosecutor requested further investigation.

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

(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 may also require an arrest or submittal of a case to a prosecutor.

## 600.7 COMPUTERS AND DIGITAL EVIDENCE

The collection, preservation, transportation and storage of computers, cell phones and other digital devices may require specialized handling to preserve the value of the related evidence. If it is anticipated that computers or similar equipment will be seized, officers should request that computer forensic examiners assist with seizing computers and related evidence. If a forensic examiner is unavailable, officers should take reasonable steps to prepare for such seizure and use the resources that are available.

## 600.8 INVESTIGATIVE USE OF SOCIAL MEDIA AND INTERNET SOURCES

Use of social media and any other Internet source to access information for the purpose of criminal investigation shall comply with applicable laws and policies regarding privacy, civil rights and civil liberties. Information gathered via the Internet should only be accessed by members while on-duty and for purposes related to the mission of this department. If a member encounters information relevant to a criminal investigation while off-duty or while using his/her own equipment, the member should note the dates, times and locations of the information and report the discovery to his/her supervisor as soon as practicable. The member, or others who have been assigned to do so, should attempt to replicate the finding when on-duty and using department equipment.

Information obtained via the Internet should not be archived or stored in any manner other than department-established record keeping systems (see the Records Maintenance and Release and the Criminal Organizations policies).

### 600.8.1 ACCESS RESTRICTIONS

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

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

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

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.

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

## 600.9 MODIFICATION OF CHARGES FILED

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

## 600.10 CELLULAR COMMUNICATIONS INTERCEPTION TECHNOLOGY

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

(a) Security procedures are developed to protect information gathered through the use of the technology.

(b) A usage and privacy policy is developed that includes:

1. The purposes for which using cellular communications interception technology and collecting information is authorized.
2. Identification by job title or other designation of employees who are authorized to use or access information collected through the use of cellular communications interception technology.
3. Training requirements necessary for those authorized employees.
4. A description of how the Department will monitor the use of its cellular communications interception technology to ensure the accuracy of the information collected and compliance with all applicable laws.
5. Process and time period system audits.
6. Identification of the existence of any memorandum of understanding or other agreement with any other local agency or other party for the shared use of cellular communications interception technology or the sharing of information collected through its use, including the identity of signatory parties.

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

7. The purpose of, process for and restrictions on the sharing of information gathered through the use of cellular communications interception technology with other local agencies and persons.
8. The length of time information gathered through the use of cellular communications interception technology will be retained, and the process the local agency will utilize to determine if and when to destroy retained information.

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

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

# Sexual Assault Investigations

## 602.1 PURPOSE AND SCOPE

The purpose of this policy is to establish guidelines for the investigation of sexual assaults. These guidelines will address some of the unique aspects of such cases and the effects that these crimes have on the victims.

Mandatory notifications requirements are addressed in the Child Abuse and Adult Abuse policies.

### 602.1.1 DEFINITIONS

Definitions related to this policy include:

**Sexual assault** - Any crime or attempted crime of a sexual nature, to include but not limited to offenses defined in Penal Code § 243.4, Penal Code § 261 et seq., and Penal Code § 285 et seq.

**Sexual Assault Response Team (SART)** - A multidisciplinary team generally comprised of advocates; law enforcement officers; forensic medical examiners, including sexual assault forensic examiners (SAFEs) or sexual assault nurse examiners (SANEs) if possible; forensic laboratory personnel; and prosecutors. The team is designed to coordinate a broad response to sexual assault victims.

## 602.2 POLICY

It is the policy of the Brentwood Police Department that its members, when responding to reports of sexual assaults, will strive to minimize the trauma experienced by the victims, and will aggressively investigate sexual assaults, pursue expeditious apprehension and conviction of perpetrators, and protect the safety of the victims and the community.

## 602.3 QUALIFIED INVESTIGATORS

Qualified investigators should be available for assignment of sexual assault investigations. These investigators should:

(a) Have specialized training in, and be familiar with, interview techniques and the medical and legal issues that are specific to sexual assault investigations.

(b) Conduct follow-up interviews and investigation.

(c) Present appropriate cases of alleged sexual assault to the prosecutor for review.

(d) Coordinate with other enforcement agencies, social service agencies and medical personnel as needed.

(e) Provide referrals to therapy services, victim advocates and support for the victim.

(f) Participate in or coordinate with SART.

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

### 602.4 REPORTING

In all reported or suspected cases of sexual assault, a report should be written and assigned for follow-up investigation. This includes incidents in which the allegations appear unfounded or unsubstantiated.

### 602.5 RELEASING INFORMATION TO THE PUBLIC

In cases where the perpetrator is not known to the victim, and especially if there are multiple crimes where more than one appear to be related, consideration should be given to releasing information to the public whenever there is a reasonable likelihood that doing so may result in developing helpful investigative leads. The Investigative Bureau supervisor should weigh the risk of alerting the suspect to the investigation with the need to protect the victim and the public, and to prevent more crimes.

### 602.6 TRAINING

Subject to available resources, periodic training should be provided to:

(a) Members who are first responders. Training should include:

1. Initial response to sexual assaults.
2. Legal issues.
3. Victim advocacy.
4. Victim’s response to trauma.
5. Proper use and handling of the California standardized SAFE kit (Penal Code § 13823.14).

(b) Qualified investigators, who should receive advanced training on additional topics. Advanced training should include:

1. Interviewing sexual assault victims.
2. SART.
3. Medical and legal aspects of sexual assault investigations.
4. Serial crimes investigations.
5. Use of community and other federal and state investigative resources, such as the Violent Criminal Apprehension Program (ViCAP).
6. Techniques for communicating with victims to minimize trauma.

### 602.7 VICTIM INTERVIEWS

The primary considerations in sexual assault investigations, which begin with the initial call to Dispatch, should be the health and safety of the victim, the preservation of evidence, and preliminary interviews to determine if a crime has been committed and to attempt to identify the suspect.

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

Whenever possible, a member of SART should be included in the initial victim interviews. An in-depth follow-up interview should not be conducted until after the medical and forensic examinations are completed and the personal needs of the victim have been met (e.g., change of clothes, bathing). The follow-up interview may be delayed to the following day based upon the circumstances. Whenever practicable, the follow-up interview should be conducted by a qualified investigator.

No opinion of whether the case is unfounded shall be included in the report.

Victims shall not be asked or required to take a polygraph examination (34 USC § 10451; Penal Code § 637.4).

Victims should be apprised of applicable victim's rights provisions, as outlined in the Victim and Witness Assistance Policy.

### 602.7.1 VICTIM RIGHTS

Whenever there is an alleged sexual assault, the assigned officer shall accomplish the following:

(a) Advise the victim in writing of the right to have a victim advocate and a support person of the victim's choosing present at any interview or contact by law enforcement, any other rights of a sexual assault victim pursuant to Penal Code § 680.2, and the right to have a person of the same or opposite gender present in the room during any interview with a law enforcement official unless no such person is reasonably available (Penal Code § 679.04).

(b) If the victim is transported to a hospital for any medical evidentiary or physical examination, the officer shall immediately cause the local rape victim counseling center to be notified (Penal Code § 264.2).

    1. The officer shall not discourage a victim from receiving a medical evidentiary or physical examination (Penal Code § 679.04).

    2. A support person may be excluded from the examination by the officer or the medical provider if his/her presence would be detrimental to the purpose of the examination (Penal Code § 264.2).

### 602.7.2 VICTIM CONFIDENTIALITY

Officers investigating or receiving a report of an alleged sex offense shall inform the victim, or the victim's parent or guardian if the victim is a minor, that his/her name will become a matter of public record unless the victim requests that his/her name not be made public. The reporting officer shall document in his/her report that the victim was properly informed and shall include any related response made by the victim, or if a minor, any response made by the victim's parent or guardian (Penal Code § 293).

Except as authorized by law, members of this department shall not publicly disclose the name of any victim of a sex crime who has exercised his/her right to confidentiality (Penal Code § 293).

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

## 602.8 COLLECTION AND TESTING OF BIOLOGICAL EVIDENCE

Whenever possible, a SART member should be involved in the collection of forensic evidence from the victim.

When the facts of the case indicate that collection of biological evidence is warranted, it should be collected regardless of how much time has elapsed since the reported assault.

If a drug-facilitated sexual assault is suspected, urine and blood samples should be collected from the victim as soon as practicable.

Subject to requirements set forth in this policy, biological evidence from all sexual assault cases, including cases where the suspect is known by the victim, should be submitted for testing.

Victims who choose not to assist with an investigation, do not desire that the matter be investigated, or wish to remain anonymous may still consent to the collection of evidence under their control. In these circumstances, the evidence should be collected and stored appropriately.

### 602.8.1 COLLECTION AND TESTING REQUIREMENTS

Members investigating a sexual assault offense should take every reasonable step to ensure that DNA testing of such evidence is performed in a timely manner and within the time periods prescribed by Penal Code § 803(g). SAFE kits should be submitted to the crime lab within 20 days after being booked into evidence (Penal Code § 680).

In order to maximize the effectiveness of such testing and identify the perpetrator of any sexual assault, the assigned officer shall ensure that an information profile for the SAFE kit evidence has been created in the California Department of Justice (DOJ) SAFE-T database within 120 days of collection and should further ensure that the results of any such test have been timely entered into and checked against both the DOJ Cal-DNA database and the Combined DNA Index System (CODIS) (Penal Code § 680.3).

If the assigned officer determines that a SAFE kit submitted to a private laboratory for analysis has not been tested within 120 days after submission, the officer shall update the SAFE-T database to reflect the reason for the delay in testing. The assigned officer shall continue to update the status every 120 days thereafter until the evidence has been analyzed or the statute of limitations has run (Penal Code § 680.3).

If, for any reason, DNA evidence in a sexual assault case in which the identity of the perpetrator is in issue and is not going to be analyzed within 18 months of the crime, the assigned officer shall notify the victim of such fact in writing no less than 60 days prior to the expiration of the 18-month period (Penal Code § 680).

Additional guidance regarding evidence retention and destruction is found in the Property and Evidence Policy.

### 602.8.2 DNA TEST RESULTS

A SART member should be consulted regarding the best way to deliver biological testing results to a victim so as to minimize victim trauma, especially in cases where there has been a significant

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

delay in getting biological testing results (e.g., delays in testing the evidence or delayed DNA databank hits). Members should make reasonable efforts to assist the victim by providing available information on local assistance programs and organizations as provided in the Victim and Witness Assistance Policy.

(a) Upon receipt of a written request from a sexual assault victim or the victim's authorized designee, members investigating sexual assault cases shall inform the victim of the status of the DNA testing of any evidence from the victim's case (Penal Code § 680).

1. Although such information may be communicated orally, the assigned officer should thereafter follow-up with and retain a copy of confirmation by either written or electronic mail.

2. Absent a written request, no member of this department is required to, but may, communicate with the victim or the victim's authorized designee regarding the status of any DNA testing.

(b) Subject to the commitment of sufficient resources to respond to requests for information, sexual assault victims shall further have the following rights (Penal Code § 680):

1. To be informed if a DNA profile of the assailant was obtained from the testing of the SAFE kit or other crime scene evidence from their case.

2. To be informed if there is a match between the DNA profile of the assailant developed from the evidence and a DNA profile contained in the DOJ Convicted Offender DNA Database, providing that disclosure would not impede or compromise an ongoing investigation.

3. To be informed if the DNA profile of the assailant developed from the evidence has been entered into the DOJ Databank of case evidence.

(c) Provided that the sexual assault victim or the victim's authorized designee has kept the assigned officer informed with regard to current address, telephone number, and email address (if available), any victim or the victim's authorized designee shall, upon request, be advised of any known significant changes regarding the victim's case (Penal Code § 680).

1. Although such information may be communicated orally, the assigned officer should thereafter follow-up with and retain a copy of confirmation by either written or electronic mail.

2. No officer shall be required or expected to release any information which might impede or compromise any ongoing investigation.

### 602.8.3 STANDARDIZED SEXUAL ASSAULT FORENSIC MEDICAL EVIDENCE KIT

The Property and Evidence Section supervisor should make California standardized sexual assault forensic medical evidence (SAFE) kits available to members who may investigate sexual assault cases. Members investigating a sexual assault should use these SAFE kits when appropriate and follow related usage guidelines issued by the California Clinical Forensic Medical Training Center (Penal Code § 13823.14).

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

### 602.9 DISPOSITION OF CASES

If the assigned investigator has reason to believe the case is without merit, the case may be classified as unfounded only upon review and approval of the Investigative Bureau supervisor.

Classification of a sexual assault case as unfounded requires the Investigative Bureau supervisor to determine that the facts have significant irregularities with reported information and that the incident could not have happened as it was reported. When a victim has recanted his/her original statement, there must be corroborating evidence that the allegations were false or baseless (i.e., no crime occurred) before the case should be determined as unfounded.

### 602.10 CASE REVIEW

The Investigative Bureau supervisor should ensure case dispositions are reviewed on a periodic basis, at least annually, using an identified group that is independent of the investigation process. The reviews should include an analysis of:

- Case dispositions.
- Decisions to collect biological evidence.
- Submissions of biological evidence for lab testing.

The SART and/or victim advocates should be considered for involvement in this audit. Summary reports on these reviews should be forwarded through the chain of command to the Chief of Police.

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

# Asset Forfeiture

## 606.1 PURPOSE AND SCOPE

This policy describes the authority and procedure for the seizure, forfeiture and liquidation of property associated with designated offenses.

### 606.1.1 DEFINITIONS

Definitions related to this policy include:

**Fiscal agent** - The person designated by the Chief of Police to be responsible for securing and maintaining seized assets and distributing any proceeds realized from any forfeiture proceedings. This includes any time the Brentwood Police Department seizes property for forfeiture or when the Brentwood Police Department is acting as the fiscal agent pursuant to a multi-agency agreement.

**Forfeiture** - The process by which legal ownership of an asset is transferred to a government or other authority.

**Forfeiture reviewer** - The department member assigned by the Chief of Police who is responsible for reviewing all forfeiture cases and for acting as the liaison between the Department and the assigned attorney.

**Property subject to forfeiture** - The following may be subject to forfeiture:

(a) Property related to a narcotics offense, which includes (Heath and Safety Code § 11470; Health and Safety Code § 11470.1):

1. Property (not including real property or vehicles) used, or intended for use, as a container for controlled substances, materials to manufacture controlled substances, etc.
2. Interest in a vehicle (car, boat, airplane, other vehicle) used to facilitate the manufacture, possession for sale or sale of specified quantities of controlled substances.
3. Money, negotiable instruments, securities or other things of value furnished or intended to be furnished by any person in exchange for a controlled substance, proceeds traceable to an exchange, etc.
4. Real property when the owner is convicted of violating Health and Safety Code § 11366, Health and Safety Code § 11366.5 or Health and Safety Code § 11366.6 (drug houses) when the property was not used as a family residence or for other lawful purposes, or property owned by two or more persons, one of whom had no knowledge of its unlawful use.
5. The expenses of seizing, eradicating, destroying or taking remedial action with respect to any controlled substance or its precursors upon conviction for the unlawful manufacture or cultivation of any controlled substance or its precursors.

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

(b) Property related to criminal profiteering (may include gang crimes), to include (Penal Code § 186.2; Penal Code § 186.3):

1. Any property interest, whether tangible or intangible, acquired through a pattern of criminal profiteering activity.
2. All proceeds acquired through a pattern of criminal profiteering activity, including all things of value that may have been received in exchange for the proceeds immediately derived from the pattern of criminal profiteering activity.

**Seizure** - The act of law enforcement officials taking property, cash or assets that have been used in connection with or acquired by specified illegal activities.

## 606.2 POLICY

The Brentwood Police Department recognizes that appropriately applied forfeiture laws are helpful to enforce the law, deter crime and reduce the economic incentive of crime. However, the potential for revenue should never compromise the effective investigation of criminal offenses, officer safety or any person's due process rights.

It is the policy of the Brentwood Police Department that all members, including those assigned to internal or external law enforcement task force operations, shall comply with all state and federal laws pertaining to forfeiture.

## 606.3 ASSET SEIZURE

Property may be seized for forfeiture as provided in this policy.

### 606.3.1 PROPERTY SUBJECT TO SEIZURE

The following may be seized upon review and approval of a supervisor and in coordination with the forfeiture reviewer:

(a) Property subject to forfeiture authorized for seizure under the authority of a search warrant or court order.

(b) Property subject to forfeiture not authorized for seizure under the authority of a search warrant or court order when any of the following apply (Health and Safety Code § 11471; Health and Safety Code § 11488):

1. The property subject to forfeiture is legally seized incident to an arrest.
2. There is probable cause to believe that the property was used or is intended to be used in a violation of the Uniform Controlled Substances Act and the seizing officer can articulate a nexus between the property and the controlled substance offense that would lead to the item being property subject for forfeiture.

Officers aware of assets that may be forfeitable as a result of criminal profiteering or human trafficking should consider contacting the district attorney regarding a court order to protect the assets (Penal Code § 186.6; Penal Code § 236.6).

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

Whenever practicable, a search warrant or court order for seizure prior to making a seizure is the preferred method.

A large amount of money standing alone is insufficient to establish the probable cause required to make a seizure.

606.3.2 PROPERTY NOT SUBJECT TO SEIZURE
The following property should not be seized for forfeiture:

(a) Cash and property that does not meet the forfeiture counsel's current minimum forfeiture thresholds should not be seized.

(b) Real property is not subject to seizure, absent exigent circumstances, without a court order (Health and Safety Code § 11471).

(c) A vehicle which may be lawfully driven on the highway if there is a community property interest in the vehicle by a person other than the suspect and the vehicle is the sole vehicle available to the suspect's immediate family (Health and Safety Code § 11470).

(d) Vehicles, boats or airplanes owned by an "innocent owner," such as a common carrier with no knowledge of the suspected offense (Health and Safety Code § 11490).

(e) Any property when the associated activity involves the possession of marijuana or related paraphernalia that is permissible under the Control, Regulate and Tax Adult Use of Marijuana Act (Health and Safety Code § 11362.1).

606.3.3 SEIZED VEHICLES
Vehicles seized subject to forfeiture will be taken to a designated secure storage facility. A seized vehicle should not be impounded. The officer seizing the vehicle shall notify the detective supervisor of the seizure of the vehicle and circumstances of the seizure as soon as possible.

If the vehicle cannot be driven, a tow truck will be used to tow the vehicle to the storage facility.

Personal property located in a seized vehicle shall be removed and booked into Property as either evidence or for safekeeping.

## 606.4 PROCESSING SEIZED PROPERTY FOR FORFEITURE PROCEEDINGS

When property or cash subject to this policy is seized, the officer making the seizure should ensure compliance with the following:

(a) Complete applicable seizure forms and present the appropriate copy to the person from whom the property is seized. If cash or property is seized from more than one person, a separate copy must be provided to each person, specifying the items seized. When property is seized and no one claims an interest in the property, the officer must leave the copy in the place where the property was found, if it is reasonable to do so.

(b) Complete and submit a report and original seizure forms within 24 hours of the seizure, if practicable.

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

(c) Forward the original seizure forms and related reports to the forfeiture reviewer within two days of seizure.

The officer will book seized property as evidence with the notation in the comment section of the property form, “Seized Subject to Forfeiture.” Property seized subject to forfeiture should be booked on a separate property form. No other evidence from the case should be booked on this form.

Photographs should be taken of items seized, particularly cash, jewelry and other valuable items.

Officers who suspect property may be subject to seizure but are not able to seize the property (e.g., the property is located elsewhere, the whereabouts of the property is unknown, it is real estate, bank accounts, non-tangible assets) should document and forward the information in the appropriate report to the forfeiture reviewer.

## 606.5 MAINTAINING SEIZED PROPERTY

The Property and Evidence Section Supervisor is responsible for ensuring compliance with the following:

(a) All property received for forfeiture is reasonably secured and properly stored to prevent waste and preserve its condition.

(b) All property received for forfeiture is checked to determine if the property has been stolen.

(c) All property received for forfeiture is retained in the same manner as evidence until forfeiture is finalized or the property is returned to the claimant or the person with an ownership interest.

(d) Property received for forfeiture is not used unless the forfeiture action has been completed.

## 606.6 FORFEITURE REVIEWER

The Chief of Police will appoint an officer as the forfeiture reviewer. Prior to assuming duties, or as soon as practicable thereafter, the forfeiture reviewer should attend a department-approved course on asset forfeiture.

The responsibilities of the forfeiture reviewer include:

(a) Remaining familiar with forfeiture laws, particularly Health and Safety Code § 11469 et seq. and Penal Code § 186.2 et seq. and the forfeiture policies of the forfeiture counsel.

(b) Serving as the liaison between the Department and the forfeiture counsel and ensuring prompt legal review of all seizures.

(c) Making reasonable efforts to obtain annual training that includes best practices in pursuing, seizing and tracking forfeitures.

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

(d) Ensuring that property seized under state law is not referred or otherwise transferred to a federal agency seeking the property for federal forfeiture as prohibited by Health and Safety Code § 11471.2.

(e) Ensuring that responsibilities, including the designation of a fiscal agent, are clearly established whenever multiple agencies are cooperating in a forfeiture case.

(f) Ensuring that seizure forms are available and appropriate for department use. These should include notice forms, a receipt form and a checklist that provides relevant guidance to officers. The forms should be available in languages appropriate for the region and should contain spaces for:

1. Names and contact information for all relevant persons and law enforcement officers involved.
2. Information as to how ownership or other property interests may have been determined (e.g., verbal claims of ownership, titles, public records).
3. A space for the signature of the person from whom cash or property is being seized.
4. A tear-off portion or copy, which should be given to the person from whom cash or property is being seized, that includes the legal authority for the seizure, information regarding the process to contest the seizure and a detailed description of the items seized.

(g) Ensuring that officers who may be involved in asset forfeiture receive training in the proper use of the seizure forms and the forfeiture process. The training should be developed in consultation with the appropriate legal counsel and may be accomplished through traditional classroom education, electronic media, Daily Training Bulletins (DTBs) or Department Directives. The training should cover this policy and address any relevant statutory changes and court decisions.

(h) Reviewing each asset forfeiture case to ensure that:

1. Written documentation of the seizure and the items seized is in the case file.
2. Independent legal review of the circumstances and propriety of the seizure is made in a timely manner.
3. Notice of seizure has been given in a timely manner to those who hold an interest in the seized property (Health and Safety Code § 11488.4).
4. Property is promptly released to those entitled to its return (Health and Safety Code § 11488.2).
5. All changes to forfeiture status are forwarded to any supervisor who initiates a forfeiture case.
6. Any cash received is deposited with the fiscal agent.

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

7. Assistance with the resolution of ownership claims and the release of property to those entitled is provided.
8. Current minimum forfeiture thresholds are communicated appropriately to officers.
9. This policy and any related policies are periodically reviewed and updated to reflect current federal and state statutes and case law.

(i) Ensuring that a written plan that enables the Chief of Police to address any extended absence of the forfeiture reviewer, thereby ensuring that contact information for other law enforcement officers and attorneys who may assist in these matters is available.

(j) Ensuring that the process of selling or adding forfeited property to the department's regular inventory is in accordance with all applicable laws and consistent with the department's use and disposition of similar property.

(k) Keeping a manual that details the statutory grounds for forfeitures and department procedures related to asset forfeiture, including procedures for prompt notice to interest holders, the expeditious release of seized property, where appropriate, and the prompt resolution of claims of innocent ownership (Heath and Safety Code § 11469).

(l) Providing copies of seized business records to the person or business from whom such records were seized, when requested (Heath and Safety Code §11471).

(m) Notifying the California Franchise Tax Board when there is reasonable cause to believe that the value of seized property exceeds $5,000.00 (Health and Safety Code § 11471.5).

Forfeiture proceeds should be maintained in a separate fund or account subject to appropriate accounting control, with regular reviews or audits of all deposits and expenditures.

Forfeiture reporting and expenditures should be completed in the manner prescribed by the law and City financial directives (Health and Safety Code § 11495).

## 606.7 DISPOSITION OF FORFEITED PROPERTY

Forfeited funds distributed under Health and Safety Code § 11489 et seq. shall only be used for purposes allowed by law, but in no case shall a peace officer's employment or salary depend upon the level of seizures or forfeitures he/she achieves (Heath and Safety Code § 11469).

The Department may request a court order so that certain uncontaminated science equipment is relinquished to a school or school district for science classroom education in lieu of destruction (Health and Safety Code § 11473; Health and Safety Code § 11473.5).

### 606.7.1 RECEIVING EQUITABLE SHARES

When participating in a joint investigation with a federal agency, the Brentwood Police Department shall not receive an equitable share from the federal agency of all or a portion of the forfeiture

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

proceeds absent either a required conviction under Health and Safety Code § 11471.2 or the flight, death or willful failure to appear of the defendant. This does not apply to forfeited cash or negotiable instruments of $40,000 or more.

### 606.8 CLAIM INVESTIGATIONS

An investigation shall be made as to any claimant of a vehicle, boat or airplane whose right, title, interest or lien is on the record in the Department of Motor Vehicles or in an appropriate federal agency. If investigation reveals that any person, other than the registered owner, is the legal owner, and that ownership did not arise subsequent to the date and time of arrest or notification of the forfeiture proceedings or seizure of the vehicle, boat or airplane, notice shall be made to the legal owner at his/her address appearing on the records of the Department of Motor Vehicles or the appropriate federal agency (Health and Safety Code § 11488.4).

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

# Informants

## 608.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidelines for the use of informants.

### 608.1.1 DEFINITIONS

Definitions related to this policy include:

**Informant** - A person who covertly interacts with other individuals or suspects at the direction of, request of, or by agreement with, the Brentwood Police Department for law enforcement purposes. This also includes a person agreeing to supply information to the Brentwood Police Department for a benefit (e.g., a quid pro quo in the form of a reduced criminal penalty, money).

## 608.2 POLICY

The Brentwood Police Department recognizes the value of informants to law enforcement efforts and will strive to protect the integrity of the informant process. It is the policy of this department that all funds related to informant payments will be routinely audited and that payments to informants will be made according to the criteria outlined in this policy.

## 608.3 USE OF INFORMANTS

### 608.3.1 INITIAL APPROVAL

Before using an individual as an informant, an officer must receive approval from his/her supervisor. The officer shall compile sufficient information through a background investigation and experience with the informant in order to determine the suitability of the individual, including age, maturity and risk of physical harm, as well as any indicators of his/her reliability and credibility.

Members of this department should not guarantee absolute safety or confidentiality to an informant.

### 608.3.2 JUVENILE INFORMANTS

The use of informants under the age of 13 is prohibited.

Except for the enforcement of laws related to the commercial sale of alcohol, marijuana or tobacco products, a juvenile 13 years of age or older may only be used as an informant with the written consent of each of the following:

(a) The juvenile’s parents or legal guardians

(b) The juvenile’s attorney, if any

(c) The court in which the juvenile’s case is being handled, if applicable (Penal Code § 701.5)

(d) The Chief of Police or the authorized designee

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

608.3.3 INFORMANT AGREEMENTS

All informants are required to sign and abide by the provisions of the designated department informant agreement. The officer using the informant shall discuss each of the provisions of the agreement with the informant.

Details of the agreement are to be approved in writing by a supervisor before being finalized with the informant.

## 608.4 INFORMANT INTEGRITY

To maintain the integrity of the informant process, the following must be adhered to:

(a) The identity of an informant acting in a confidential capacity shall not be withheld from the Chief of Police, Division Commander, Investigation Bureau supervisor or their authorized designees.

1. Identities of informants acting in a confidential capacity shall otherwise be kept confidential.

(b) Criminal activity by informants shall not be condoned.

(c) Informants shall be told they are not acting as police officers, employees or agents of the Brentwood Police Department, and that they shall not represent themselves as such.

(d) The relationship between department members and informants shall always be ethical and professional.

1. Members shall not become intimately involved with an informant.
2. Social contact shall be avoided unless it is necessary to conduct an official investigation, and only with prior approval of the Investigation Bureau supervisor.
3. Members shall neither solicit nor accept gratuities or engage in any private business transaction with an informant.

(e) Officers shall not meet with informants in a private place unless accompanied by at least one additional officer or with prior approval of the Investigation Bureau supervisor.

1. Officers may meet informants alone in an occupied public place, such as a restaurant.

(f) When contacting informants for the purpose of making payments, officers shall arrange for the presence of another officer.

(g) In all instances when department funds are paid to informants, a voucher shall be completed in advance, itemizing the expenses.

(h) Since the decision rests with the appropriate prosecutor, officers shall not promise that the informant will receive any form of leniency or immunity from criminal prosecution.

608.4.1 UNSUITABLE INFORMANTS

The suitability of any informant should be considered before engaging him/her in any way in a covert or other investigative process. Members who become aware that an informant may be

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

unsuitable will notify the supervisor, who will initiate a review to determine suitability. Until a determination has been made by a supervisor, the informant should not be used by any member. The supervisor shall determine whether the informant should be used by the Department and, if so, what conditions will be placed on his/her participation or any information the informant provides. The supervisor shall document the decision and conditions in file notes and mark the file “unsuitable” when appropriate.

Considerations for determining whether an informant is unsuitable include, but are not limited to, the following:

(a) The informant has provided untruthful or unreliable information in the past.

(b) The informant behaves in a way that may endanger the safety of an officer.

(c) The informant reveals to suspects the identity of an officer or the existence of an investigation.

(d) The informant appears to be using his/her affiliation with this department to further criminal objectives.

(e) The informant creates officer-safety issues by providing information to multiple law enforcement agencies simultaneously, without prior notification and approval of each agency.

(f) The informant engages in any other behavior that could jeopardize the safety of officers or the integrity of a criminal investigation.

(g) The informant commits criminal acts subsequent to entering into an informant agreement.

### 608.5 INFORMANT FILES

Informant files shall be utilized as a source of background information about the informant, to enable review and evaluation of information provided by the informant, and to minimize incidents that could be used to question the integrity of department members or the reliability of the informant.

Informant files shall be maintained in a secure area within the Investigation Bureau. The Investigation Bureau supervisor or the authorized designee shall be responsible for maintaining informant files. Access to the informant files shall be restricted to the Chief of Police, Division Commander, Investigation Bureau supervisor or their authorized designees.

The Investigation Division Commander should arrange for an audit using a representative sample of randomly selected informant files on a periodic basis, but no less than one time per year. If the Investigation Bureau supervisor is replaced, the files will be audited before the new supervisor takes over management of the files. The purpose of the audit is to ensure compliance with file content and updating provisions of this policy. The audit should be conducted by a supervisor who does not have normal access to the informant files.

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

608.5.1 FILE SYSTEM PROCEDURE

A separate file shall be maintained on each informant and shall be coded with an assigned informant control number. An informant history that includes the following information shall be prepared for each file:

(a) Name and aliases

(b) Date of birth

(c) Physical description: sex, race, height, weight, hair color, eye color, scars, tattoos or other distinguishing features

(d) Photograph

(e) Current home address and telephone numbers

(f) Current employers, positions, addresses and telephone numbers

(g) Vehicles owned and registration information

(h) Places frequented

(i) Briefs of information provided by the informant and his/her subsequent reliability

1. If an informant is determined to be unsuitable, the informant's file is to be marked "unsuitable" and notations included detailing the issues that caused this classification.

(j) Name of the officer initiating use of the informant

(k) Signed informant agreement

(l) Update on active or inactive status of informant

## 608.6 INFORMANT PAYMENTS

No informant will be told in advance or given an exact amount or percentage for his/her service. The amount of funds to be paid to any informant will be evaluated against the following criteria:

- The extent of the informant's personal involvement in the case
- The significance, value or effect on crime
- The value of assets seized
- The quantity of the drugs or other contraband seized
- The informant’s previous criminal activity
- The level of risk taken by the informant

The Investigation Bureau supervisor will discuss the above factors with the Operations Division Commander and recommend the type and level of payment subject to approval by the Chief of Police.

608.6.1 PAYMENT PROCESS

Approved payments to an informant should be in cash using the following process:

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

(a) Payments of $500 and under may be paid in cash from a Investigation Bureau buy/expense fund.

1. The Investigation Bureau supervisor shall sign the voucher for cash payouts from the buy/expense fund.

(b) Payments exceeding $500 shall be made by issuance of a check, payable to the officer who will be delivering the payment.

1. The check shall list the case numbers related to and supporting the payment.
2. A written statement of the informant's involvement in the case shall be placed in the informant's file.
3. The statement shall be signed by the informant verifying the statement as a true summary of his/her actions in the case.
4. Authorization signatures from the Chief of Police and the City Manager are required for disbursement of the funds.

(c) To complete the payment process for any amount, the officer delivering the payment shall complete a cash transfer form.

1. The cash transfer form shall include the following:
   (a) Date
   (b) Payment amount
   (c) Brentwood Police Department case number
   (d) A statement that the informant is receiving funds in payment for information voluntarily rendered.
2. The cash transfer form shall be signed by the informant.
3. The cash transfer form will be kept in the informant's file.

### 608.6.2 REPORTING OF PAYMENTS

Each informant receiving a cash payment shall be advised of his/her responsibility to report the cash to the Internal Revenue Service (IRS) as income. If funds distributed exceed $600 in any reporting year, the informant should be provided IRS Form 1099 (26 CFR 1.6041-1). If such documentation or reporting may reveal the identity of the informant and by doing so jeopardize any investigation, the safety of officers or the safety of the informant (26 CFR 1.6041-3), then IRS Form 1099 should not be issued.

In such cases, the informant shall be provided a letter identifying the amount he/she must report on a tax return as “other income” and shall be required to provide a signed acknowledgement of receipt of the letter. The completed acknowledgement form and a copy of the letter shall be retained in the informant’s file.

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

### 608.6.3 AUDIT OF PAYMENTS

The Investigation Bureau supervisor or the authorized designee shall be responsible for compliance with any audit requirements associated with grant provisions and applicable state and federal law.

At least once every six months, the Chief of Police or the authorized designee should conduct an audit of all informant funds for the purpose of accountability and security of the funds. The funds and related documents (e.g., buy/expense fund records, cash transfer forms, invoices, receipts and logs) will assist with the audit process.

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

# Brady Material Disclosure

## 612.1 PURPOSE AND SCOPE

This policy establishes guidelines for identifying and releasing potentially exculpatory or impeachment information (so-called "*Brady* information") to a prosecuting attorney.

### 612.1.1 DEFINITIONS

Definitions related to this policy include:

***Brady* information** -Information known or possessed by the Brentwood Police Department that is both favorable and material to the current prosecution or defense of a criminal defendant.

## 612.2 POLICY

The Brentwood Police Department will conduct fair and impartial criminal investigations and will provide the prosecution with both incriminating and exculpatory evidence, as well as information that may adversely affect the credibility of a witness. In addition to reporting all evidence of guilt, the Brentwood Police Department will assist the prosecution by complying with its obligation to disclose information that is both favorable and material to the defense. The Department will identify and disclose to the prosecution potentially exculpatory information, as provided in this policy.

## 612.3 DISCLOSURE OF INVESTIGATIVE INFORMATION

Officers must include in their investigative reports adequate investigative information and reference to all material evidence and facts that are reasonably believed to be either incriminating or exculpatory to any individual in the case. If an officer learns of potentially incriminating or exculpatory information any time after submission of a case, the officer or the handling investigator must prepare and submit a supplemental report documenting such information as soon as practicable. Supplemental reports shall be promptly processed and transmitted to the prosecutor's office.

If information is believed to be privileged or confidential (e.g., confidential informant or protected personnel files), the officer should discuss the matter with a supervisor and/or prosecutor to determine the appropriate manner in which to proceed.

Evidence or facts are considered material if there is a reasonable probability that they would affect the outcome of a criminal proceeding or trial. Determining whether evidence or facts are material often requires legal or even judicial review. If an officer is unsure whether evidence or facts are material, the officer should address the issue with a supervisor.

Supervisors who are uncertain about whether evidence or facts are material should address the issue in a written memo to an appropriate prosecutor. A copy of the memo should be retained in the Department case file.

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

### 612.4 DISCLOSURE OF PERSONNEL INFORMATION

Whenever it is determined that *Brady* information is located in the personnel file of a member of this department who is a material witness in a criminal case, the following procedure shall apply:

(a) In the event that a *Pitchess* motion has not already been filed by the criminal defendant or other party pursuant to Evidence Code § 1043, the prosecuting attorney shall be notified of the potential presence of *Brady* information in the officer's personnel file.

(b) The prosecuting attorney should then be requested to file a *Pitchess* motion in order to initiate an in camera review by the court.

(c) Any member who is the subject of such a motion shall be notified in writing that a motion has been filed.

(d) The Custodian of Records shall accompany all relevant files during any in camera inspection and address any issues or questions raised by the court in determining whether any information contained in the files is both material and favorable to the criminal defendant.

(e) If the court determines that there is relevant *Brady* information contained in the files, only that information ordered released will be copied and released to the parties filing the motion.

    1. Prior to the release of any information pursuant to this process, the Custodian of Records should request a protective order from the court limiting the use of such information to the involved case and requiring the return of all copies upon completion of the case.

### 612.5 INVESTIGATING BRADY ISSUES

If the Department receives information from any source that a member may have issues of credibility, dishonesty or has been engaged in an act of moral turpitude or criminal conduct, the information shall be investigated and processed in accordance with the Personnel Complaints Policy.

### 612.6 TRAINING

Department members should receive periodic training on the requirements of this policy.

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

# Unmanned Aircraft System (UAS) Operations

## 613.1 PURPOSE AND SCOPE

The purpose of this policy is to establish guidelines for the use of an unmanned aircraft system (UAS) and for the storage, retrieval and dissemination of images and data captured by the UAS.

### 613.1.1 DEFINITIONS

**Unmanned Aircraft System (UAS)** - An unmanned aircraft of any type that is capable of sustaining directed flight, whether preprogrammed or remotely controlled, and all of the supporting or attached systems designed for gathering information through imaging, recording or any other means.

## 613.2 POLICY

Unmanned aircraft systems may be utilized to enhance the department's mission of protecting lives and property when other means and resources are not available or are less effective. Any use of a UAS will be in strict accordance with constitutional and privacy rights and Federal Aviation Administration (FAA) regulations.

## 613.3 PRIVACY

The use of the UAS potentially involves privacy considerations. Absent a warrant or exigent circumstances, personnel shall adhere to FAA altitude regulations and shall not intentionally record or transmit images of any location where a person would have a reasonable expectation of privacy (e.g., residence, yard, enclosure). Personnel shall take reasonable precautions to avoid inadvertently recording or transmitting images of areas where there is a reasonable expectation of privacy. Reasonable precautions can include, for example, deactivating or turning imaging devices away from such areas or persons during UAS operations.

## 613.4 USE OF UAS

Only authorized personnel who have completed the required training, including a Remote Pilot certificate from the FAA, shall be permitted to pilot the unmanned aircraft. All UAS operations shall be conducted in compliance with the FAA Small UAS Rule (14 CFR Part 107) and/or the provisions of the Certificate of Authorization (COA) issued by the FAA.

All UAS operations must be authorized by a supervisor. UAS deployment should be considered when an aerial view would assist officers or incident commanders during the following incidents:

(a) Missing persons investigations

(b) Search and rescue operations

(c) Disaster management

(d) Suspected explosive devices

(e) Perimeter searches and security

(f) Crime and accident scene preservation and documentation

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

(g) Supporting criminal investigations

(h) Special Events and community demonstrations

(i) Training missions

Anytime a UAS would enhance public safety, improve operational safety, incident stabilization or incident mitigation as determined by the authorizing person

Anti-UAS operations when a person is operating a UAS in a manner which impedes emergency personnel who, in the course of their duties, are coping with an emergency (refer to Penal Code § 402(a)1)

In support of other public safety agencies when the underlying mission meets the uses outlined in this policy.

### 613.5 PROHIBITED USE

The UAS video surveillance equipment shall not be used:

- To conduct random surveillance activities.
- To target a person based solely on actual or perceived characteristics, such as race, ethnicity, national origin, religion, sex, sexual orientation, gender identity or expression, economic status, age, cultural group, or disability.
- To harass, intimidate, or discriminate against any individual or group.
- To conduct personal business of any type.

The UAS shall not be weaponized.

### 613.6 ROLES AND RESPONSIBILITIES

Program Coordinator - a Brentwood Police Sergeant or Lieutenant who manages the UAS Program and ensures the program operates in accordance with all Federal, State and local laws, and within department policy and guidelines. In addition, the Program Coordinator will:

Maintain all training flight and maintenance records for each remote pilot and visual observer, as well as individual unmanned aircraft.

Ensure remote pilots and visual observers stay current with their training and certifications.

Maintain contact with the FAA and familiarity with the pertinent FAA regulations.

Evaluate unmanned aircraft systems based on mission needs.

Remain up to date with current UAS case law, best practices, and industry standards.

Remote Pilot in Command (“RPIC”) - the RPIC is responsible for safely piloting the unmanned aircraft in accordance with all applicable law and policy.

The RPIC may reject a flight based on personnel safety or violation of FAA regulations.

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

The RPIC shall be responsive to requests and input from the visual observer in order to accomplish the safe and effective deployment of the unmanned aircraft.

The RPIC is responsible for mission documentation.

Visual Observer ("VO") - the visual observer's role is to assist in the safe and effective operation of the unmanned aircraft. The observer shall:

1. Assist the pilot in avoiding obstacles
2. Assist with the operation of any attachments to the UAS
3. Remain alert for safety issues surrounding the pilot and observer
4. Handle radio communications

### 613.7 RETENTION OF UAS DATA

Data collected by the UAS shall be retained as provided in the established records retention schedule.

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

# Warrant Service

## 614.1 PURPOSE AND SCOPE

This policy establishes guidelines for the planning and serving of arrest and search warrants by members of this department. It is understood that this policy cannot address every variable or circumstance that can arise in the service of a search or arrest warrant, as these tasks can involve rapidly evolving and unique circumstances.

This policy is intended to be used in conjunction with the Operations Planning and Deconfliction Policy, which has additional guidance on planning and serving high-risk warrants.

This policy is not intended to address the service of search warrants on locations or property already secured or routine field warrant arrests by patrol officers.

## 614.2 POLICY

It is the policy of the Brentwood Police Department to balance the safety needs of the public, the safety of department members, privacy interests and other relevant factors when making decisions related to the service of search and arrest warrants.

## 614.3 OPERATIONS DIRECTOR

The operations director (see the Operations Planning and Deconfliction Policy) shall review all risk assessment forms with the involved supervisor to determine the risk level of the warrant service.

The operations director will also have the responsibility to coordinate service of those warrants that are categorized as high risk. Deconfliction, risk assessment, operational planning, briefing and debriefing should follow guidelines in the Operations Planning and Deconfliction Policy.

## 614.4 SEARCH WARRANTS

Officers should receive authorization from a supervisor before preparing a search warrant application. Once authorization is received, the officer will prepare the affidavit and search warrant, consulting with the applicable prosecuting attorney as needed. He/she will also complete the risk assessment form and submit it, along with the warrant affidavit, to the appropriate supervisor and the operations director for review and classification of risk (see the Operations Planning and Deconfliction Policy).

## 614.5 ARREST WARRANTS

If an officer reasonably believes that serving an arrest warrant may pose a higher risk than commonly faced on a daily basis, the officer should complete the risk assessment form and submit it to the appropriate supervisor and the operations director for review and classification of risk (see the Operations Planning and Deconfliction Policy).

If the warrant is classified as high risk, service will be coordinated by the operations director. If the warrant is not classified as high risk, the supervisor should weigh the risk of entry into a residence

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

to make an arrest against other alternatives, such as arresting the person outside the residence where circumstances may pose a lower risk.

### 614.6 WARRANT PREPARATION

An officer who prepares a warrant should ensure the documentation in support of the warrant contains as applicable:

(a) Probable cause to support the search or arrest, including relevant dates and times to demonstrate timeliness and facts to support any request for nighttime warrant execution.

(b) A clear explanation of the affiant's training, experience and relevant education.

(c) Adequately supported opinions, when relevant, that are not left to unsubstantiated conclusions.

(d) A nexus between the place to be searched and the persons or items central to the investigation. The facts supporting this nexus should be clear and current. For example, the affidavit shall explain why there is probable cause to believe that a particular person is currently residing at a particular location or that the items sought are present at a particular location.

(e) Full disclosure of known or suspected residents at the involved location and any indication of separate living spaces at the involved location. For example, it should be disclosed that several people may be renting bedrooms at a single location, even if the exact location of the rooms is not known.

(f) A specific description of the location to be searched, including current photographs of the location, if reasonably available.

(g) A sufficient description of the items to be seized.

(h) Full disclosure of any known exculpatory information relevant to the warrant application (refer to the Brady Material Disclosure Policy).

### 614.7 HIGH-RISK WARRANT SERVICE

The operations director or the authorized designee shall coordinate the service of warrants that are categorized as high risk and shall have sole authority in determining the manner in which the warrant will be served, including the number of officers deployed.

The member responsible for directing the service should ensure the following as applicable:

(a) When practicable and when doing so does not cause unreasonable risk, video or photographic documentation is made of the condition of the location prior to execution of a search warrant. The images should include the surrounding area and persons present.

(b) The warrant service is audio- and video-recorded when practicable and reasonable to do so.

(c) Evidence is handled and collected only by those members who are designated to do so. All other members involved in the service of the warrant should alert one of the

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

designated members to the presence of potential evidence and not touch or disturb the items.

(d) Reasonable efforts are made during the search to maintain or restore the condition of the location.

(e) Persons who are detained as part of the warrant service are handled appropriately under the circumstances.

(f) Reasonable care provisions are made for children and dependent adults (see the Child and Dependent Adult Safety Policy).

(g) A list is made of all items seized and a copy provided to the person in charge of the premises if present or otherwise left in a conspicuous place.

(h) A copy of the search warrant is left at the location.

(i) The condition of the property is documented with video recording or photographs after the search.

## 614.8 DETENTIONS DURING WARRANT SERVICE

Officers must be sensitive to the safety risks of all persons involved with the service of a warrant. Depending on circumstances and facts present, it may be appropriate to control movements of any or all persons present at a warrant service, including those who may not be the subject of a warrant or suspected in the case. However, officers must be mindful that only reasonable force may be used and weapons should be displayed no longer than the officer reasonably believes is necessary (see the Use of Force Policy).

As soon as it can be determined that an individual is not subject to the scope of a warrant and that no further reasonable suspicion or safety concerns exist to justify further detention, the person should be promptly released.

Officers should, when and to the extent reasonable, accommodate the privacy and personal needs of people who have been detained.

## 614.9 ACTIONS AFTER WARRANT SERVICE

The supervisor should ensure that all affidavits, warrants, receipts and returns, regardless of any associated cases, are filed with the issuing judge or magistrate as soon as reasonably possible, but in any event no later than any date specified on the warrant.

## 614.10 OUTSIDE AGENCIES AND CROSS-JURISDICTIONAL WARRANTS

The operations director will ensure that cooperative efforts with other agencies in the service of warrants conform to existing mutual aid agreements or other memorandums of understanding and will work cooperatively to mitigate risks including, but not limited to, the following:

- Identity of team members
- Roles and responsibilities
- Familiarity with equipment

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

- Rules of engagement
- Asset forfeiture procedures

Any outside agency requesting assistance in the service of a warrant within this jurisdiction should be referred to the operations director. The director should review and confirm the warrant, including the warrant location, and should discuss the service with the appropriate supervisor from the other agency. The director should ensure that members of the Brentwood Police Department are utilized appropriately. Any concerns regarding the requested use of Brentwood Police Department members should be brought to the attention of the Chief of Police or the authorized designee. The actual service of the warrant will remain the responsibility of the agency requesting assistance.

If the operations director is unavailable, the Watch Commander should assume this role.

If officers intend to serve a warrant outside Brentwood Police Department jurisdiction, the operations director or involved supervisor should provide reasonable advance notice to the applicable agency, request assistance as needed and work cooperatively on operational planning and the mitigation of risks detailed in this policy.

Officers will remain subject to the policies of the Brentwood Police Department when assisting outside agencies or serving a warrant outside Brentwood Police Department jurisdiction.

### 614.11 MEDIA ACCESS

No advance information regarding warrant service operations shall be released without the approval of the Chief of Police. Any media inquiries or press release after the fact shall be handled in accordance with the News Media Relations Policy.

### 614.12 TRAINING

The Training Manager should ensure officers receive periodic training on this policy and associated topics, such as legal issues, warrant preparation, warrant service and reporting requirements.

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

# Operations Planning and Deconfliction

## 615.1 PURPOSE AND SCOPE

This policy provides guidelines for planning, deconfliction and execution of high-risk operations.

Additional guidance on planning and serving high-risk warrants is provided in the Warrant Service Policy.

### 615.1.1 DEFINITIONS

Definitions related to this policy include:

**High-risk operations** - Operations, including service of search and arrest warrants and sting operations, that are likely to present higher risks than are commonly faced by officers on a daily basis, including suspected fortified locations, reasonable risk of violence or confrontation with multiple persons, or reason to suspect that persons anticipate the operation.

## 615.2 POLICY

It is the policy of the Brentwood Police Department to properly plan and carry out high-risk operations, including participation in a regional deconfliction system, in order to provide coordination, enhance the safety of members and the public, decrease the risk of compromising investigations and prevent duplicating efforts.

## 615.3 OPERATIONS DIRECTOR

The Chief of Police will designate a member of this department to be the operations director.

The operations director will develop and maintain a risk assessment form to assess, plan and coordinate operations. This form should provide a process to identify high-risk operations.

The operations director will review risk assessment forms with involved supervisors to determine whether a particular incident qualifies as a high-risk operation. The director will also have the responsibility for coordinating operations that are categorized as high risk.

## 615.4 RISK ASSESSMENT

### 615.4.1 RISK ASSESSMENT FORM PREPARATION

Officers assigned as operational leads for any operation that may qualify as a high-risk operation shall complete a risk assessment form.

When preparing the form, the officer should query all relevant and reasonably available intelligence resources for information about the subject of investigation, others who may be present and the involved location. These sources may include regional intelligence and criminal justice databases, target deconfliction systems, firearm records, commercial databases and property records. Where appropriate, the officer should also submit information to these resources.

The officer should gather available information that includes, but is not limited to:

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

(a) Photographs, including aerial photographs, if available, of the involved location, neighboring yards and obstacles.

(b) Maps of the location.

(c) Diagrams of any property and the interior of any buildings that are involved.

(d) Historical information about the subject of investigation (e.g., history of weapon possession or use, known mental illness, known drug use, threats against police, gang affiliation, criminal history).

(e) Historical information about others who may be present at the location (e.g., other criminals, innocent third parties, dependent adults, children, animals).

(f) Obstacles associated with the location (e.g., fortification, booby traps, reinforced doors/windows, surveillance measures, number and type of buildings, geographic and perimeter barriers, the number and types of weapons likely to be present, information that suggests the presence of explosives, chemicals or other hazardous materials, the potential for multiple dwellings or living spaces, availability of keys/door combinations).

(g) Other environmental factors (e.g., nearby venues such as schools and day care centers, proximity of adjacent homes or other occupied buildings, anticipated pedestrian and vehicle traffic at the time of service).

(h) Other available options that may minimize the risk to officers and others (e.g., making an off-site arrest or detention of the subject of investigation).

615.4.2 RISK ASSESSMENT REVIEW

Officers will present the risk assessment form and other relevant documents (such as copies of search warrants and affidavits and arrest warrants) to their supervisor and the operations director.

The supervisor and operations director should review the determining factors and level of threat presented. Supervisors should take reasonable actions if there is a change in circumstances that elevates the risks associated with the operation.

615.4.3 HIGH-RISK OPERATIONS

If the operations director and involved supervisor, determines that the operation is high risk, the operations director should:

(a) Determine what resources will be needed at the location, and contact and/or place on standby any of the following appropriate and available resources:

1. (SWAT)
2. Additional personnel
3. Outside agency assistance
4. Special equipment
5. Medical personnel/Fire personnel
6. Persons trained in negotiation

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

7. Additional surveillance
8. Canines
9. Property and Evidence Section or analytical personnel to assist with cataloguing seizures
10. Forensic specialists
11. Specialized mapping for larger or complex locations
12. Animal Control

(b) Contact the appropriate department members or other agencies as warranted to begin preparation.

(c) Ensure that all legal documents such as search warrants are complete and have any modifications reasonably necessary to support the operation.

(d) Coordinate the actual operation.

## 615.5 DECONFLICTION

Deconfliction systems are designed to identify persons and locations associated with investigations or law enforcement operations and alert participating agencies when others are planning or conducting operations in close proximity or time or are investigating the same individuals, groups or locations.

The officer who is the operations lead shall ensure the subject of investigation and operations information have been entered in an applicable deconfliction system to determine if there is reported conflicting activity. This should occur as early in the process as practicable, but no later than two hours prior to the commencement of the operation. The officer should also enter relevant updated information when it is received.

If any conflict is discovered, the supervisor will contact the involved jurisdiction and resolve the potential conflict before proceeding.

## 615.6 OPERATIONS PLAN

The operations director should ensure that a written operations plan is developed for all high-risk operations. Plans should also be considered for other operations that would benefit from having a formal plan.

The plan should address such issues as:

(a) Operation goals, objectives and strategies.

(b) Operation location and people:

1. The subject of investigation (e.g., history of weapon possession/use, known mental illness issues, known drug use, threats against police, gang affiliation, criminal history)
2. The location (e.g., fortification, booby traps, reinforced doors/windows, surveillance cameras and/or lookouts, number/type of buildings, geographic

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

and perimeter barriers, the number and types of weapons likely to be present, information that suggests the presence of explosives, chemicals or other hazardous materials, the potential for multiple dwellings or living spaces, availability of keys/door combinations), including aerial photos, if available, and maps of neighboring yards and obstacles, diagrams and other visual aids

3. Other environmental factors (e.g., nearby venues such as schools and day care centers, proximity of adjacent homes or other occupied buildings, anticipated pedestrian and vehicle traffic at the time of service)

4. Identification of other people who may be present in or around the operation, such as other criminal suspects, innocent third parties and children

(c) Information from the risk assessment form by attaching a completed copy in the operational plan.

1. The volume or complexity of the information may indicate that the plan includes a synopsis of the information contained on the risk assessment form to ensure clarity and highlighting of critical information.

(d) Participants and their roles.

1. An adequate number of uniformed officers should be included in the operation team to provide reasonable notice of a legitimate law enforcement operation.

2. How all participants will be identified as law enforcement.

(e) Whether deconfliction submissions are current and all involved individuals, groups and locations have been deconflicted to the extent reasonably practicable.

(f) Identification of all communications channels and call-signs.

(g) Use of force issues.

(h) Contingencies for handling medical emergencies (e.g., services available at the location, closest hospital, closest trauma center).

(i) Plans for detaining people who are not under arrest.

(j) Contingencies for handling children, dependent adults, animals and other people who might be at the location in accordance with the Child Abuse, Adult Abuse, Child and Dependent Adult Safety and Animal Control policies.

(k) Communications plan

(l) Responsibilities for writing, collecting, reviewing and approving reports.

615.6.1 OPERATIONS PLAN RETENTION

Since the operations plan contains intelligence information and descriptions of law enforcement tactics, it shall not be filed with the report. The operations plan shall be stored separately and retained in accordance with the established records retention schedule.

## 615.7 OPERATIONS BRIEFING

A briefing should be held prior to the commencement of any high-risk operation to allow all participants to understand the operation, see and identify each other, identify roles and

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

responsibilities and ask questions or seek clarification as needed. Anyone who is not present at the briefing should not respond to the operation location without specific supervisory approval.

(a) The briefing should include a verbal review of plan elements, using visual aids, to enhance the participants' understanding of the operations plan.

(b) All participants should be provided a copy of the operations plan and search warrant, if applicable. Participating personnel should be directed to read the search warrant and initial a copy that is retained with the operation plan. Any items to be seized should be identified at the briefing.

(c) The operations director shall ensure that all participants are visually identifiable as law enforcement officers.

1. Exceptions may be made by the operations director for officers who are conducting surveillance or working under cover. However, those members exempt from visual identification should be able to transition to a visible law enforcement indicator at the time of enforcement actions, such as entries or arrests, if necessary.

(d) The briefing should include details of the communications plan.

1. It is the responsibility of the operations director to ensure that Dispatch is notified of the time and location of the operation, and to provide a copy of the operation plan prior to officers arriving at the location.

2. If the radio channel needs to be monitored by Dispatch, the dispatcher assigned to monitor the operation should attend the briefing, if practicable, but at a minimum should receive a copy of the operation plan.

3. The briefing should include a communications check to ensure that all participants are able to communicate with the available equipment on the designated radio channel.

## 615.8 SWAT PARTICIPATION

If the operations director determines that SWAT participation is appropriate, the director and the SWAT supervisor shall work together to develop a written plan. The SWAT supervisor shall assume operational control until all persons at the scene are appropriately detained and it is safe to begin a search. When this occurs, the SWAT supervisor shall transfer control of the scene to the handling supervisor. This transfer should be communicated to the officers present.

## 615.9 MEDIA ACCESS

No advance information regarding planned operations shall be released without the approval of the Chief of Police. Any media inquiries or press release after the fact shall be handled in accordance with the News Media Relations Policy.

## 615.10 OPERATIONS DEBRIEFING

High-risk operations should be debriefed as soon as reasonably practicable. The debriefing should include as many participants as possible. This debrief may be separate from any SWAT debriefing.

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

### 615.11 TRAINING

The Training Manager should ensure officers and SWAT team members who participate in operations subject to this policy should receive periodic training including, but not limited to, topics such as legal issues, deconfliction practices, operations planning concepts and reporting requirements.

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

# Chapter 7 - Equipment

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

# Department Owned and Personal Property

## 700.1 PURPOSE AND SCOPE

Department employees are expected to properly care for department property assigned or entrusted to them. Employees may also suffer occasional loss or damage to personal or department property while performing their assigned duty. Certain procedures are required depending on the loss and ownership of the item.

## 700.2 CARE OF DEPARTMENTAL PROPERTY

Employees shall be responsible for the safekeeping, serviceable condition, proper care, use and replacement of department property assigned or entrusted to them. An employee's intentional or negligent abuse or misuse of department property may lead to discipline including, but not limited to the cost of repair or replacement.

(a) Employees shall promptly report through their chain of command, any loss, damage to, or unserviceable condition of any department issued property or equipment assigned for their use. An Equipment Deficiency Report should be completed describing the property and its issue.

(b) The use of damaged or unserviceable department property should be discontinued as soon as practical and replaced with comparable Department property as soon as available and following notice to a supervisor.

(c) Except when otherwise directed by competent authority or required by exigent circumstances, department property shall only be used by those to whom it was assigned. Use should be limited to official purposes and in the capacity for which it was designed. Absent prior consent, personnel shall not use or possess the personal property of another, unless it is under exigent circumstances and a supervisor and the owner are informed as soon as practical thereafter.

(d) Department property shall not be thrown away, sold, traded, donated, destroyed, or otherwise disposed of without proper authority.

(e) In the event that any department property becomes damaged or unserviceable, no employee shall attempt to repair the property without prior approval of a supervisor.

## 700.3 FILING CLAIMS FOR PERSONAL PROPERTY

Claims for reimbursement for damage or loss of personal property must be made via memorandum. The memo is submitted to the employee's immediate supervisor. The supervisor may require a separate written report of the loss or damage.

The supervisor shall direct a memo to the appropriate Bureau or Watch Commander, which shall include the results of his/her investigation and whether the employee followed proper procedures. The supervisor's report shall address whether reasonable care was taken to prevent the loss or damage.

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

Upon review by staff and a finding that no misconduct or negligence was involved, repair or replacement may be recommended by the Chief of Police who will then forward the claim to the Finance Department.

The Department will not replace or repair luxurious or overly expensive items (jewelry, exotic equipment, etc.) that are not reasonably required as a part of work.

The maximum amount allowed for a damaged wristwatch is fifty dollars ($50).

700.3.1 REPORTING REQUIREMENT

A verbal report shall be made to the employee's immediate supervisor as soon as circumstances permit.

A written report shall be submitted before the employee goes off duty or within the time frame directed by the supervisor to whom the verbal report is made.

## 700.4 LOSS OR DAMAGE OF PROPERTY OF ANOTHER

Officers and other employees intentionally or unintentionally may cause damage to the real or personal property of another while performing their duties. Any employee who damages or causes to be damaged any real or personal property of another while performing any law enforcement functions, regardless of jurisdiction, shall report it as provided below.

(a) A verbal report shall be made to the employee's immediate supervisor as soon as circumstances permit.

(b) A written report shall be submitted before the employee goes off duty or within the time frame directed by the supervisor to whom the verbal report is made.

700.4.1 DAMAGE BY PERSON OF ANOTHER AGENCY

If employees of another jurisdiction cause damage to real or personal property belonging to the City of Brentwood, it shall be the responsibility of the Brentwood employee present or the Brentwood employee responsible for the property to make a verbal report to his/her immediate supervisor as soon as circumstances permit. The employee shall submit a written report before going off duty or as otherwise directed by the supervisor.

These written reports, accompanied by the supervisor's written report, shall promptly be forwarded to the appropriate Lieutenant.

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

# Equipment Deficiency Report

## 703.1 PURPOSE AND SCOPE

Deficiencies in equipment shall be reported to the appropriate authority within the organization as soon as noted in order to facilitate repairs and ensure the safety and welfare of all personnel.

## 703.2 EQUIPMENT DEFICIENCY REPORT

The Equipment Deficiency Report form shall be utilized by all members of the Department to report malfunctions or other problems with Departmental equipment which requires some type of formal repair.

## 703.3 PROCEDURE

The member first noting the equipment defect or deficiency shall complete the Equipment Deficiency Report describing the problem. The member shall then place the Report in the original reports basket.

(a) The on-duty supervisor, or if no supervisor is on-duty, then the next on-duty supervisor, shall review the Equipment Deficiency Reports and forward them to the appropriate authority.

(b) If the use of this defective equipment creates a hazard or could result in further damage to the equipment, the equipment will be dead-lined immediately by either writing on the appropriate board or attaching a note to the equipment "Do Not Use."

If the deficiency is simply re-stocking an item and its is within the members authority and ability to do so, then it shall be done without the completion of the Equipment Deficiency Report.

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

# Vehicle Maintenance

## 704.1 PURPOSE AND SCOPE

Employees are responsible for assisting in maintaining Department vehicles so that they are properly equipped, properly maintained, properly refueled and present a clean appearance.

## 704.2 DEFECTIVE VEHICLES

When a Department vehicle becomes inoperative or in need of repair that affects the safety of the vehicle, that vehicle shall be removed from service for repair. Proper documentation shall be promptly completed by the employee who first becomes aware of the defective condition, describing the correction needed on an Equipment Deficiency Report. The paperwork shall be promptly forwarded to vehicle maintenance for repair.

### 704.2.1 REMOVAL OF WEAPONS

All firearms, weapons and control devices shall be removed from a vehicle and properly secured in the department armory prior to the vehicle being released for maintenance, service or repair.

### 704.2.2 DAMAGE OR POOR PERFORMANCE

Vehicles that may have been damaged, or perform poorly shall be removed from service for inspections and repairs as soon as practicable.

## 704.3 VEHICLE EQUIPMENT

Certain items shall be maintained in all department vehicles for emergency purposes and to perform routine duties.

### 704.3.1 PATROL VEHICLES

Officers shall inspect the patrol vehicle at the beginning of the shift and ensure that the following equipment, at a minimum, is present in the vehicle:

- 20 Emergency road flares
- 2 Sticks yellow crayon or chalk
- 1 Roll Crime Scene Barricade Tape
- 1 Trauma Kit
- 1 Blanket
- 1 Protective Equipment per Policy Manual Section 1016 and 1024
- 1 Fire Extinguisher
- 1 Pry Bar
- 2 Traffic Cones
- 1 Camera Kit

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

- 1 Bio-hazard Kit
- 1 Key Storage Container
- 1 Binoculars
- 1 Roll-a-tape
- 1 Traffic Vest
- 1 Stuffed Animal for children
- 1 Emergency Blanket
- 1 DOT Hazmat Book

### 704.4 VEHICLE REFUELING

Absent emergency conditions or supervisor approval, officers driving patrol vehicles shall not allow the vehicle to have less than one-quarter tank of fuel. Vehicles shall only be refueled at the authorized locations.

### 704.5 WASHING OF VEHICLES

Weather conditions permitting, all police units shall be kept clean at all times and washed as necessary to enhance their appearance. Should a marked unit become excessively dirty between routine scheduled cleanings, the officer may obtain permission from a supervisor to have the vehicle cleaned at a mechanical car wash.

Employees using a vehicle shall remove any trash or debris at the end of their shift. Confidential material should be placed in a designated receptacle provided for the shredding of this matter.

### 704.6 CIVILIAN EMPLOYEE USE

Civilian employees using marked vehicles shall ensure all weapons are removed from vehicles before going into service. Civilian employees shall also prominently display the "out of service" or "Community Service Officer" placards or lightbar covers at all times. Civilian employees shall not operate the emergency lights or siren of any vehicle unless expressly authorized by a supervisor.

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

# Vehicle Use

## 706.1 PURPOSE AND SCOPE

This policy establishes a system of accountability to ensure City-owned vehicles are used appropriately. For the purposes of this policy, “City-owned” includes any vehicle owned, leased or rented by the City.

## 706.2 POLICY

The Brentwood Police Department provides vehicles for department-related business and may assign patrol and unmarked vehicles based on a determination of operational efficiency, economic impact to the Department, requirements for tactical deployments and other considerations.

## 706.3 TOLL ROAD USAGE

Law enforcement vehicles are not routinely exempted from incurring toll road charges.

To avoid unnecessary toll road charges, all members operating department vehicles on a toll road shall adhere to the following:

(a) Members operating department vehicles for any reason other than in response to an emergency shall pay the appropriate toll charge or utilize the appropriate toll way transponder. Members may submit a request for reimbursement from the City for any toll fees incurred in the course of official business.

(b) Members passing through a toll plaza or booth during a response to an emergency shall notify, in writing, the appropriate Division Commander within five working days explaining the circumstances.

## 706.4 PROCEDURE

### 706.4.1 MARKED FLEET VEHICLE WITH MDS

Personnel using a marked vehicle with an MDS, will log on using a computer. When going off duty, personnel will use the computer to end their shift and log ending mileage. Officers using marked vehicles for going to court, but on their day off, may use call sign "L49," "L48," "L47," etc., in descending order.

### 706.4.2 MARKED FLEET VEHICLES AND UNMARKED POOL VEHICLES WITH NO MDS

Personnel should verbally log on with Dispatch. This will include:

(a) The vehicle number

(b) Beginning mileage

(c) Employee number

When going off duty, personnel shall give ending mileage to Dispatch.

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

706.4.3 UNMARKED POOL VEHICLE USE
Prior to using an unmarked pool vehicle, personnel should check the vehicle reservation calendar to confirm the vehicle has not been reserved by another employee.

Access the calendar by clicking on the "Pool Vehicles" on the Department's Intranet, and clicking on the desired vehicle.

706.4.4 EXTENDED USE OF UNMARKED POOL VEHICLES
All personnel using pool vehicles with intended use outside the City limits for meetings or training, should sign up for the vehicle on the Department Intranet.

(a) Access the calendar by clicking on the "Pool Vehicles" and selecting the desired vehicle. A calendar will appear and the employee will select the date(s) and time(s) the is needed.

(b) Personnel should input the beginning mileage prior to using the vehicle and upon completion, shall update the request entry with the ending mileage. Mileage may be entered by selecting the day on the calendar. A Memo form will appear and allow the employee to enter the information.

706.4.5 VOLUNTEERS USE OF DEPARTMENT VEHICLES
Prior to using any marked fleet vehicle or unmarked pool vehicle, volunteers should call Dispatch by telephone and give the following information:

(a) Name.

(b) Call sign (VIPS; "V41," "V42," etc. Explorers; "E41," "E42," etc).

Once the volunteer begins use of the vehicle, they should radio the beginning mileage to Dispatch. Upon completion, the ending mileage should be radioed to Dispatch.

## 706.5 KEYS AND SIGNING OUT
All sworn personnel approved to operate marked patrol vehicles shall be issued their own personal vehicle key as part of their initial equipment distribution upon hiring.

Personnel assigned a permanent vehicle, shall be issued keys for their respective vehicle.

The loss of any assigned key, shall be promptly reported in writing through the employee's chain of command.

Additionally, keys, located in the Patrol Equipment Room, have been made available for all marked vehicles. Personnel who do not a personal key will sign out the vehicle on White Board prior to use. The keys shall be returned to their hook when personnel are finished with the vehicle and the employee or volunteer shall erase their name from the board.

## 706.6 VEHICLE INSPECTIONS
Employees shall be responsible for inspecting the interior and exterior of any assigned vehicle before taking the vehicle into service and at the conclusion of their shift. Any previously unreported

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

damage, mechanical problems, unauthorized contents or other problems with the vehicle shall be promptly reported to a supervisor and documented as appropriate.

## 706.7 UNDERCOVER VEHICLES

Unmarked units, if not assigned to an individual or deemed a pool vehicle, shall not be used without first obtaining approval from the Investigations supervisor or any command officer.

## 706.8 TRAFFIC COLLISIONS

Any time a Department vehicle is involved in a traffic collision in the City of Brentwood, either singularly or with another vehicle, the CHP shall be requested to investigate the cause and responsibility for the collision.

If the collision occurs outside the City limit, the agency of authority will be requested to conduct the investigation.

The employee involved in the collision shall complete the City provided vehicle accident form.

### 706.8.1 COLLISION REVIEW BOARD

All collisions involving personnel from this Department shall be reviewed by the Collision Review Board. The Professional Standards Sergeant will convene the Collision Review Board as necessary, or as directed by the Chief of Police. The board may consist of the following members:

(a) Operations Division Commander

(b) Support Division Commander

(c) Traffic Unit Supervisor

(d) Professional Standards Unit Supervisor

(e) Any other member of the Department deemed necessary to provide information on a particular incident

The Board shall review pertinent information regarding the collision including the collision report, witness statements, and/or other material that may help determine whether the collision was "Preventable" or "Non-preventable." A recommended finding requires a majority vote of the board.

Once the Board makes a determination, the findings will be documented in a memo and forwarded to the Chief of Police. The Chief of Police will make a final disposition and decide if corrective or adverse action, is applicable. At the conclusion of the review and final disposition, all original copies will be forwarded to Professional Standards Bureau for retention.

## 706.9 DAMAGE, ABUSE, AND MISUSE

Any damage to a vehicle, not caused by a traffic collision, shall be immediately reported within the shift in which the damage was discovered. The documentation shall be in the form of an Equipment Deficiency Report along with a Memorandum describing the damage and how it occurred, and forwarded to the shift Sergeant.

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

An Administrative Investigation may be conducted to determine any vehicle abuse or misuse. If it is determined that misuse or abuse was a result of negligent conduct or operation, appropriate disciplinary action may result.

### 706.10 ATTIRE AND APPEARANCE

When operating any department vehicle while off-duty, members may dress in a manner appropriate for their intended activity. Whenever in view of or in contact with the public, attire and appearance, regardless of the activity, should be suitable to reflect positively upon the Department.

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

# Chapter 8 - Support Services

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

# Crime Analysis

## 800.1 PURPOSE AND SCOPE

Crime analysis should provide currently useful information to aid operational personnel in meeting their tactical crime control and prevention objectives by identifying and analyzing methods of operation of individual criminals, providing crime pattern recognition, and providing analysis of data from field interrogations and arrests. Crime analysis can be useful to the Department's long range planning efforts by providing estimates of future crime trends and assisting in the identification of enforcement priorities.

## 800.2 DATA SOURCES

Crime analysis data is extracted from many sources including, but not limited to:

- Crime reports
- Field Interview cards
- Parole and Probation records
- Computer Aided Dispatch data
- Statewide Integrated Traffic Reporting System (SWITRS)

## 800.3 CRIME ANALYSIS FACTORS

The following minimum criteria should be used in collecting data for Crime Analysis:

- Frequency by type of crime
- Geographic factors
- Temporal factors
- Victim and target descriptors
- Suspect descriptors
- Suspect vehicle descriptors
- Modus operandi factors
- Physical evidence information

## 800.4 CRIME ANALYSIS DISSEMINATION

For a crime analysis system to function effectively, information should be disseminated to the appropriate units or persons on a timely basis. Information that is relevant to the operational and tactical plans of specific line units should be sent directly to them. Information relevant to the development of the Department's strategic plans should be provided to the appropriate staff units. When information pertains to tactical and strategic plans, it should be provided to all affected units.

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

# Communication Operations

## 802.1 PURPOSE AND SCOPE

The basic function of the communications system is to satisfy the immediate information needs of the law enforcement agency in the course of its normal daily activities and during emergencies. The latter situation places the greatest demands upon the communications system and tests the capability of the system to fulfill its functions. Measures and standards of performance are necessary to assess the effectiveness with which any department, large or small, uses available information technology in fulfillment of its missions.

### 802.1.1 FCC COMPLIANCE

Brentwood Police Department radio operations shall be conducted in accordance with Federal Communications Commission (FCC) procedures and guidelines.

## 802.2 COMMUNICATION OPERATIONS

This department provides 24-hour telephone service to the public for information or assistance that may be needed in emergencies. The ability of citizens to telephone quickly and easily for emergency service is critical. This department provides access to the 911 system for a single emergency telephone number. This department has two-way radio capability providing continuous communication between Dispatch and officers.

### 802.2.1 COMMUNICATIONS LOG

It shall be the responsibility of Dispatch to record all relevant information on calls for criminal and non-criminal service or self-initiated activity. Employees shall attempt to elicit as much information as possible to enhance the safety of the officer and assist in anticipating conditions to be encountered at the scene. Desirable information would include, at a minimum, the following:

- Event number
- Date and time of request
- Name and address of complainant, if possible
- Type of incident reported
- Location of incident reported
- Identification of officer(s) assigned as primary and backup
- Time of dispatch
- Time of the officer's arrival
- Time of officer's return to service
- Disposition or status of reported incident

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

## 802.3 RADIO COMMUNICATIONS

Operations are more efficient and officer safety is enhanced when dispatchers, supervisors, and fellow officers know the status of officers, their locations and the nature of cases.

### 802.3.1 OFFICER IDENTIFICATION

Identification systems are based on factors such as beat assignment and officer identification numbers. Employees should use the entire call sign when initiating communication with the dispatcher. The use of the call sign allows for a brief pause so that the dispatcher can acknowledge the appropriate unit. Employees initiating communication with other agencies shall use their entire call sign. This requirement does not apply to continuing conversation between the mobile unit and dispatcher once the mobile unit has been properly identified.

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

# Property and Evidence

## 803.1 PURPOSE AND SCOPE

This policy provides for the proper collection, storage, and security of evidence and other property. Additionally, this policy provides for the protection of the chain of evidence and identifies those persons authorized to remove and/or destroy property.

## 803.2 PROPERTY HANDLING

Any employee who first comes into possession of any property shall retain such property in his/her possession until it is properly tagged and placed in the designated property locker or storage room along with the property form. Care shall be taken to maintain the chain of custody for all evidence.

Where ownership can be established as to found property with no apparent evidentiary value, such property may be released to the owner without the need for booking. The property form must be completed to document the release of property not booked and the owner shall sign the form acknowledging receipt of the items.

### 803.2.1 EXPLOSIVES

Officers who encounter a suspected explosive device shall promptly notify their immediate supervisor or the Watch Commander. The bomb squad will be called to handle explosive-related incidents and will be responsible for the handling, storage, sampling and disposal of all suspected explosives.

Explosives will not be retained in the police facility. Only fireworks that are considered stable and safe and road flares or similar signaling devices may be booked into property. All such items shall be stored in proper containers and in an area designated for the storage of flammable materials. The Property Officer is responsible for transporting to the Fire Department, on a regular basis, any fireworks or signaling devices that are not retained as evidence.

### 803.2.2 RELINQUISHED FIREARMS

Individuals who relinquish firearms pursuant to the provisions of Penal Code § 29850 shall be issued a receipt that describes the firearm, the serial number or other identification of the firearm at the time of relinquishment (Penal Code § 29810).

Relinquished firearms shall be retained for 30 days, after which time they may be destroyed, retained, sold or otherwise transferred, unless (Penal Code § 29810):

(a) A certificate is issued by a judge of a court of record or the District Attorney stating the firearms shall be retained; or

(b) The convicted person provides written notice of an intent to appeal the conviction that necessitated the relinquishment; or

(c) The Automated Firearms System indicates that the firearm was reported lost or stolen.

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

1. In such event, the firearm shall be restored to the lawful owner as soon as it is no longer needed as evidence, the lawful owner has identified the weapon and provided proof of ownership, and the Department has complied with the requirements of Penal Code § 33850 et seq.

The Property Officer shall ensure the Records Supervisor is notified of the relinquished firearm for purposes of updating the Automated Firearms System and the disposition of the firearm for purposes of notifying the California Department of Justice (DOJ) (See the Records Bureau Policy).

## 803.3 PROPERTY CONTROL

Each time the Property Officer receives property or releases property to another person, he/she shall enter this information using the bar code system. Officers desiring property for court shall contact the Property Officer at least one day prior to the court day.

### 803.3.1 RELEASE OF PROPERTY

All reasonable attempts shall be made to identify the rightful owner of found property or evidence not needed for an investigation.

Release of property shall be made upon receipt of an authorized release form, listing the name and address of the person to whom the property is to be released. The release authorization shall be signed by the authorizing supervisor or detective and must conform to the items listed on the property form or must specify the specific item(s) to be released. Release of all property shall be documented on the property form.

With the exception of firearms and other property specifically regulated by statute, found property and property held for safekeeping shall be held for a minimum of 90 days. During such period, property personnel shall attempt to contact the rightful owner by telephone and/or mail when sufficient identifying information is available. Property not held for any other purpose and not claimed within 90 days after notification (or receipt, if notification is not feasible) may be auctioned to the highest bidder at a properly published public auction. If such property is not sold at auction or otherwise lawfully claimed, it may thereafter be destroyed (Civil Code § 2080.6). The final disposition of all such property shall be fully documented in related reports.

A Property Officer shall release the property upon proper identification being presented by the owner for which an authorized release has been received. A signature of the person receiving the property shall be recorded on the original property form. After release of all property entered on the property control card, the card shall be forwarded to the Records Bureau for filing with the case. If some items of property have not been released, the property card will remain with the Property and Evidence Section. Upon release, the proper entry shall be documented in the Property Log.

Under no circumstances shall any firearm, magazine, or ammunition be returned to any individual unless and until such person presents valid identification and written notification from the California Department of Justice that conforms to the provisions of Penal Code § 33865.

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

The Property and Evidence Section Supervisor should also make reasonable efforts to determine whether the person is the subject of any court order preventing the person from possessing a firearm and, if so, the firearm should not be released to the person while the order is in effect.

The Department is not required to retain any firearm, magazine, or ammunition longer than 180 days after notice has been provided to the owner that such items are available for return. At the expiration of such period, the firearm, magazine, or ammunition may be processed for disposal in accordance with applicable law (Penal Code § 33875).

### 803.3.2 RELEASE OF FIREARM IN DOMESTIC VIOLENCE MATTERS

Within five days of the expiration of a restraining order issued in a domestic violence matter that required the relinquishment of a firearm, the Property Officer shall return the weapon to the owner if the requirements of Penal Code § 33850 and Penal Code § 33855 are met unless the firearm is determined to be stolen, evidence in a criminal investigation or the individual is otherwise prohibited from possessing a firearm (Family Code § 6389(g); Penal Code § 33855).

### 803.3.3 RELEASE OF FIREARMS AND WEAPONS IN MENTAL ILLNESS MATTERS

Firearms and other deadly weapons confiscated from an individual detained for an evaluation by a mental health professional or subject to the provisions of Welfare and Institutions Code § 8100 or Welfare and Institutions Code § 8103 shall be released or disposed of as follows:

(a) If a petition for a hearing regarding the return of a firearm or a weapon has been initiated pursuant to Welfare and Institutions Code § 8102(c), the firearm or weapon shall be released or disposed of as provided by an order of the court. If the court orders a firearm returned, the firearm shall not be returned unless and until the person presents valid identification and written notification from the California Department of Justice (DOJ) that conforms to the provisions of Penal Code § 33865.

(b) If no petition has been initiated pursuant to Welfare and Institutions Code § 8102(c) and the firearm or weapon is not retained as evidence, the Department shall make the firearm or weapon available for return. No firearm will be returned unless and until the person presents valid identification and written notification from the California DOJ that conforms to the provisions of Penal Code § 33865.

(c) Unless the person contacts the Department to facilitate the sale or transfer of the firearm to a licensed dealer pursuant to Penal Code § 33870, firearms not returned should be sold, transferred, destroyed, or retained as provided in Welfare and Institutions Code § 8102.

### 803.3.4 RELEASE OF FIREARMS IN GUN VIOLENCE RESTRAINING ORDER MATTERS

Firearms and ammunition that were taken into temporary custody or surrendered pursuant to a gun violence restraining order shall be returned to the restrained person upon the expiration of the order and in accordance with the requirements of Penal Code § 33850 et seq. (Penal Code § 18120).

If the restrained person who owns the firearms or ammunition does not wish to have the firearm or ammunition returned, he/she is entitled to sell or transfer title to a licensed dealer, provided that

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

the firearms or ammunition are legal to own or possess and the restrained person has right to title of the firearms or ammunition (Penal Code § 18120).

If a person other than the restrained person claims title to the firearms or ammunition surrendered pursuant to Penal Code § 18120 and the Brentwood Police Department determines him/her to be the lawful owner, the firearms or ammunition shall be returned in accordance with the requirements of Penal Code § 33850 et seq. (Penal Code § 18120).

Firearms and ammunition that are not claimed are subject to the requirements of Penal Code § 34000.

803.3.5 RELEASE OF FIREARMS, MAGAZINES, AND AMMUNITION

The Department shall not return any firearm, magazine, or ammunition taken into custody to any individual unless all requirements of Penal Code § 33855 are met.

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

# Records Bureau

## 805.1 PURPOSE AND SCOPE

This policy establishes the guidelines for the operational functions of the Brentwood Police Department Records Bureau. The policy addresses department file access and internal requests for case reports.

## 805.2 POLICY

It is the policy of the Brentwood Police Department to maintain department records securely, professionally, and efficiently.

## 805.3 DETERMINATION OF FACTUAL INNOCENCE

In any case where a person has been arrested by officers of the Brentwood Police Department and no accusatory pleading has been filed, the person arrested may petition the Department to destroy the related arrest records. Petitions should be forwarded to the Records Bureau Supervisor. The Records Bureau Supervisor should promptly contact the prosecuting attorney and request a written opinion as to whether the petitioner is factually innocent of the charges (Penal Code § 851.8). Factual innocence means the accused person did not commit the crime.

Upon receipt of a written opinion from the prosecuting attorney affirming factual innocence, the Records Bureau Supervisor should forward the petition to the Investigative Bureau Supervisor and the City Attorney for review. After such review and consultation with the City Attorney, the Investigative Bureau Supervisor and the Records Bureau Supervisor shall decide whether a finding of factual innocence is appropriate.

Upon determination that a finding of factual innocence is appropriate, the Records Bureau Supervisor shall ensure that the arrest record and petition are sealed for later destruction and the required notifications are made to the California DOJ and other law enforcement agencies (Penal Code § 851.8).

The Records Bureau Supervisor should respond to a petition with the Department's decision within 45 days of receipt. Responses should include only the decision of the Department, not an explanation of the analysis leading to the decision.

## 805.4 ARREST WITHOUT FILING OF ACCUSATORY PLEADING

The Operations Division Commander should ensure a process is in place for when an individual is arrested and released and no accusatory pleading is filed so that the following occurs (Penal Code § 849.5; Penal Code § 851.6):

(a) The individual is issued a certificate describing the action as a detention.

(b) All references to an arrest are deleted from the arrest records of the Department and the record reflects only a detention.

(c) The California DOJ is notified.

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

### 805.5 FILE ACCESS AND SECURITY

The security of files in the Records Bureau must be a high priority and shall be maintained as mandated by state or federal law. All case reports including but not limited to initial, supplemental, follow-up, evidence, and any other reports related to a police department case, including field interview (FI) cards, criminal history records, and publicly accessible logs, shall be maintained in a secure area within the Records Bureau, accessible only by authorized members of the Records Bureau. Access to case reports or files when Records Bureau staff is not available may be obtained through the Watch Commander.

The Records Bureau will also maintain a secure file for case reports deemed by the Chief of Police as sensitive or otherwise requiring extraordinary access restrictions.

### 805.6 CONFIDENTIALITY

Records Bureau staff has access to information that may be confidential or sensitive in nature. Records Bureau staff shall not access, view, or distribute, or allow anyone else to access, view, or distribute any record, file, or report, whether in hard copy or electronic file format, or any other confidential, protected, or sensitive information except in accordance with the Records Maintenance and Release and Protected Information policies and the Records Bureau procedure manual.

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

# Records Management Program

## 806.1 PURPOSE AND SCOPE

To set forth a Records Management Program that establishes a comprehensive record retention schedule and guidelines for sound records management practices (City Council/Administrative Policy #00-4 Resolution #83-19, amended by Resolution #96-208 and Resolution #2004-195.

The Records Management Program covers all Police Department records with the purpose of applying efficient and economical methods to the creation, utilization, maintenance, retention, preservation, and disposal of all records used in the internal operations of the Department. Nothing herein is intended to waive the exemption of those particular records excluded by means of the California Public Records Act as set forth in Section 6254 of the Government Code.

## 806.2 AUTHORITIES

### 806.2.1 STATE AND FEDERAL LAW

Numerous State and Federal codes and sections apply to different types of records. The principal California law applicable to City records is Government Code 34090 et seq., which requires records to be retained a minimum of two years and sets forth other requirements. Each record series is listed in the City of Brentwood's Record Retention Schedule has applicable laws cited in the "Citation or Code" column.

### 806.2.2 STATE-WIDE RETENTION GUIDELINES

California has adopted guidelines for retention periods of government records. Any deviations from these guidelines are noted in the "Description" section of the City of Brentwood's Records Retention Schedules.

### 806.2.3 PROFESSIONAL STANDARDS

Selected professions, such as Human Resources and Finance, have published standards and/or articles recommending retention periods for different types of records. Any deviations from these guidelines are noted in the "Description" section of the City of Brentwood's Records Retention Schedules.

### 806.2.4 GOVERNMENT CODE SECTION 34090

City records may be destroyed with approval of the legislative body by resolution and written consent of the City Attorney, except those records affecting title to real property or liens thereon; court records; records required to be kept by statute; records less than two years old; the minutes, ordinances, or resolutions of the legislative body or of the city board or commission.

### 806.2.5 GOVERNMENT CODE SECTION 34090.5

City documents may be destroyed with the approval of the legislative body or written consent of the City Attorney if they have been microfilmed or stored as a digital image in archival quality in a trusted system that does not permit additions, deletions, or changes to the original document.

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

The document shall be kept on a device used to reproduce such record as accurately and legibly as the original, and as accessible to the public as the original.

806.2.6 GOVERNMENT CODE SECTION 6200
Every officer having custody of any record, map, book, or paper filed in a public office, who is guilty of willfully destroying, altering, or removing the whole or in part of such item is punishable by imprisonment in accordance with State law.

## 806.3 DEFINITIONS

**Record Copy:** The original or a copy that substitutes for the original.

**Non-record Copy:** The original or a copy which may be preliminary drafts, notes or memorandum that are not retained by the Department in the ordinary course of business, pursuant to Government Code Section 6254.

**Archival Records:** Records with historical or research value.

**Active Records:** Records that are retained by the Department.

**Office of Record (OFR):** The department that keeps the original record. Usually it is the department that originates the record. The City Clerk's Office is the OFR for items that go to the City Council.

## 806.4 POLICY

The Records Retention Schedule adopted by the City Council shall be used to evaluate and identify retention periods and to schedule storage and destruction of records.

Records (as designated by the Chief of Police or his designee) shall be input into a document imaging system that meets the legal requirements of Government Code Section 34090 et seq. and other applicable laws, where they will be protected from unauthorized removal, perusal, or destruction. Laserfiche has been adopted to the City of Brentwood as its current document digital imaging system. The Police Department maintains a Laserfiche Digital Imaging Manual separate from this Policy.

Any original Department record not approved for destruction in the adopted City of Brentwood Records Retention Schedule must receive Council approval for destruction, as required by Government Code Section 34090 et seq. Non-record, duplicate or photocopies of documents may be destroyed at any time, unless the copy is the "record copy."

The Department shall destroy all records in accordance with this Policy and the City Council approved retention schedule.

## 806.5 RECORDS MANAGEMENT GUIDELINES

The Department shall maintain all records using sound records management practices. The filing, retention and storage of records shall be done in compliance with the Records Management

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

Program and the City Council adopted Records Retention Schedule to ensure easy access to public records.

The hard copy (paper) of a record that has been put into Laserfiche shall be retained in storage for one (1) year from the date of origin except those records that have a permanent retention schedule.

## 806.6 RECORDS RETENTION RESPONSIBILITIES

(a) The City Clerk shall administer the Records Retention Program.

(b) The Chief of Police or his/her designee shall appoint a Records Retention Coordinator and an alternate to work with the City Clerk to ensure compliance with the Records Retention Program.

(c) The Chief of Police and the City Attorney shall review any changes to the Records Retention Schedules prepared by the Department's Records Retention Coordinator and the City Clerk before presentation to the City Council for approval except those records otherwise designated by State and/or Federal law.

(d) Both the Chief of Police and the City Attorney shall approve the destruction of departmental records authorized by the Council adopted Records Retention Schedule when the Department is designated as the OFR.

(e) Only the Chief of Police's approval is required for the destruction of Departmental records when the Department is not designated as the OFR.

(f) The Department's Record Retention Coordinator shall conduct yearly (first quarter of each calendar year) review of all Department records/documents and prepare a list of obsolete records for destruction when the retention period has expired according to the City.

(g) Council approved records retention schedule.

(h) The Police Department's Records Retention Coordinator will conduct periodic audits to ensure compliance with the Records Retention Schedule, evaluate the program, and provide recommendations and revisions for review by the Chief of Police as stated above.

## 806.7 RECORDS DESTRUCTION

### 806.7.1 AUTHORITY

An essential part of the Police Department's Records Retention Program is the records destruction process. The adoption and annual update of the Records Retention Schedule by the City Council give departments the authority to destroy obsolete records in accordance with Policy and Procedure #00-04, Resolution 2004-195.

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

### 806.7.2 GOALS

The approved, systematic destruction of records is an important responsibility of the Department's Records Retention Coordinator. The Records Retention Coordinator shall oversee and guide all records destruction within the Department. The destruction of obsolete records results in:

(a) Freeing valuable office space.

(b) Reducing off-site storage.

(c) Improving filing and retrieval efficiency.

(d) Limiting the City's/Department's exposure to litigation. Once a claim or lawsuit has been filed, no record(s) related to the claim or lawsuit may be destroyed.

### 806.7.3 REFERRING TO RETENTION SCHEDULES

The Citywide and Departmental Retention Schedules clearly define retention periods. Obsolete records shall be disposed of after the record has met its retention period no matter what media is used to store the record, paper, computer disks, digital imaging (Laserfiche) etc. The destruction of obsolete records should be consistent.

### 806.7.4 PREPARING RECORDS FOR DESTRUCTION

(a) Compile a list of the records for destruction during the annual audit.

(b) Use the Retention Schedule to establish the OFR records, as opposed to records that are copies or drafts.

(c) Use the Retention Schedule to verify total retention periods and establish the destruction date. If there is no retention description for a particular record series on the Departmental Retention Schedule, check with the Citywide Retention Schedule. If the retention period is still undetermined, call the City Clerk's Records Retention Coordinator.

(d) Hold the records in storage until the Authority to Destroy Obsolete Records form can be completed.

(e) The Department will process and destroy stored records once the Chief of Police and City Attorney have approved and signed the Authority to Destroy Obsolete Records form.

### 806.7.5 DESTROYING RECORDS

The destruction should take place in the normal course of business, and a list of all records destroyed must be permanently retained. There are significant criminal and civil penalties for the improper destruction of public records. Do not retain obsolete records "just in case" they might be needed in the future.

The Department's preferred disposal method is shredding. Large volumes of confidential documents and documents containing personal information such as addresses, phone numbers, and social security numbers should be shredded or destroyed by an approved destruction service.

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

Completely delete electronic records stored in the Digital Imaging System (Laserfiche).

806.7.6 DISTRIBUTING THE COMPLETED DESTRUCTION FORM
The original request for Authority to Destroy Obsolete Records form will be kept permanently by the City Clerk's Office. The Department will retain a copy of the form.

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

# Restoration of Firearm Serial Numbers

## 807.1 PURPOSE AND SCOPE

The primary purpose for restoring firearm serial numbers is to determine the prior owners or origin of the item from which the number has been recovered. Thus, property can be returned to rightful owners or investigations can be initiated to curb illegal trade of contraband firearms. The purpose of this plan is to develop standards, methodologies, and safety protocols for the recovery of obliterated serial numbers from firearms and other objects using procedures that are accepted as industry standards in the forensic community. All personnel who are involved in the restoration of serial numbers will observe the following guidelines. This policy complies with Penal Code § 11108.9.

## 807.2 PROCEDURE

Any firearm coming into the possession of the Brentwood Police Department as evidence, found property, etc., where the serial numbers have been removed or obliterated will be processed in the following manner:

### 807.2.1 PRELIMINARY FIREARM EXAMINATION

(a) Always keep the muzzle pointed in a safe direction. Be sure the firearm is in an UNLOADED condition. This includes removal of the ammunition source (e.g., the detachable magazine, contents of the tabular magazine) as well as the chamber contents.

(b) If the firearm is corroded shut or in a condition that would preclude inspection of the chamber contents, TREAT THE FIREARM AS IF IT IS LOADED. Make immediate arrangements for a firearms examiner or other qualified examiner to render the firearm safe.

(c) Accurately record/document the condition of the gun when received. Note the positions of the various components such as the safeties, cylinder, magazine, slide, hammer, etc. Accurately record/document cylinder chamber and magazine contents. Package the ammunition separately.

(d) If the firearm is to be processed for fingerprints or trace evidence, process before the serial number restoration is attempted. First record/document important aspects such as halos on the revolver cylinder face or other relevant evidence that might be obscured by the fingerprinting chemicals.

### 807.2.2 PROPERTY BOOKING PROCEDURE

Any employee taking possession of a firearm with removed/obliterated serial numbers shall book the firearm into property following standard procedures. The employee booking the firearm shall indicate on the property form that serial numbers have been removed or obliterated.

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

807.2.3 OFFICER RESPONSIBILITY
The Property Clerk receiving a firearm when the serial numbers have been removed or obliterated shall arrange for the firearm to be transported to the crime lab for restoration and maintain the chain of evidence.

807.2.4 DOCUMENTATION
Case reports are prepared in order to document the chain of custody and the initial examination and handling of evidence from the time it is received/collected until it is released.

This report must include a record of the manner in which and/or from whom the firearm was received. This may appear on the request form or property form depending on the type of evidence.

807.2.5 FIREARM TRACE
After the serial number has been restored (or partially restored) by the criminalistics laboratory, the Property Officer will complete a Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) National Tracing Center (NTC) Obliterated Serial Number Trace Request Form (ATF 3312.1-OBL) and forward the form to the NTC in Falling Waters, West Virginia or enter the data into the ATF eTrace system.

**807.3 BULLET AND CASING IDENTIFICATION**
Exemplar bullets and cartridge cases from the firearm, depending upon acceptance criteria and protocol, may be submitted to the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) National Integrated Ballistic Information Network (NIBIN) which uses the Integrated Ballistic Identification System (IBIS) technology to search the national database and compare with ballistic evidence recovered from other crime scenes.

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

# Records Maintenance and Release

## 810.1 PURPOSE AND SCOPE

This policy provides guidance on the maintenance and release of department records. Protected information is separately covered in the Protected Information Policy.

## 810.2 POLICY

The Brentwood Police Department is committed to providing public access to records in a manner that is consistent with the California Public Records Act (Government Code § 6250 et seq.).

## 810.3 CUSTODIAN OF RECORDS RESPONSIBILITIES

The  Chief of Police shall designate a Custodian of Records. The responsibilities of the Custodian of Records include but are not limited to:

(a) Managing the records management system for the Department, including the retention, archiving, release, and destruction of department public records.

(b) Maintaining and updating the department records retention schedule including:

1. Identifying the minimum length of time the Department must keep records.
2. Identifying the department division responsible for the original record.

(c) Establishing rules regarding the inspection and copying of department public records as reasonably necessary for the protection of such records (Government Code § 6253).

(d) Identifying records or portions of records that are confidential under state or federal law and not open for inspection or copying.

(e) Establishing rules regarding the processing of subpoenas for the production of records.

(f) Ensuring a current schedule of fees for public records as allowed by law is available (Government Code § 6253).

(g) Determining how the department's website may be used to post public records in accordance with Government Code § 6253.

(h) Ensuring that all department current standards, policies, practices, operating procedures, and education and training materials are posted on the department website in accordance with Penal Code § 13650.

(i) Ensuring that public records posted on the Department website meet the requirements of Government Code § 6253.10 including but not limited to posting in an open format where a record may be retrieved, downloaded, indexed, and searched by a commonly used internet search application.

(j) Ensuring that a list and description, when applicable, of enterprise systems (as defined by Government Code § 6270.5) is publicly available upon request and posted in a prominent location on the Department’s website.

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

## 810.4 PROCESSING REQUESTS FOR PUBLIC RECORDS

Any department member who receives a request for any record shall route the request to the Custodian of Records or the authorized designee.

### 810.4.1 REQUESTS FOR RECORDS

Any member of the public, including the media and elected officials, may access unrestricted records of this department, during regular business hours by submitting a written and signed request that reasonably describes each record sought and paying any associated fees (Government Code § 6253).

The processing of requests for any record is subject to the following (Government Code § 6253):

(a) The Department is not required to create records that do not exist.

(b) Victims of an incident or their authorized representative shall not be required to show proof of legal presence in the United States to obtain department records or information. If identification is required, a current driver's license or identification card issued by any state in the United States, a current passport issued by the United States or a foreign government with which the United States has a diplomatic relationship or current Matricula Consular card is acceptable (Government Code § 6254.30).

(c) Either the requested record or the reason for non-disclosure will be provided promptly, but no later than 10 days from the date of request, unless unusual circumstances preclude doing so. If more time is needed, an extension of up to 14 additional days may be authorized by the Custodian of Records or the authorized designee. If an extension is authorized, the Department shall provide the requester written notice that includes the reason for the extension and the anticipated date of the response.

1. When the request does not reasonably describe the records sought, the Custodian of Records shall assist the requester in making the request focused and effective in a way to identify the records or information that would be responsive to the request including providing assistance for overcoming any practical basis for denying access to the records or information. The Custodian of Records shall also assist in describing the information technology and physical location in which the record exists (Government Code § 6253.1).

2. If the record requested is available on the department website, the requester may be directed to the location on the website where the record is posted. If the requester is unable to access or reproduce the record, a copy of the record shall be promptly provided.

(d) Upon request, a record shall be provided in an electronic format utilized by the Department. Records shall not be provided only in electronic format unless specifically requested (Government Code § 6253.9).

(e) When a record contains material with release restrictions and material that is not subject to release restrictions, the restricted material shall be redacted and the unrestricted material released.

1. A copy of the redacted release should be maintained in the case file for proof of what was actually released and as a place to document the reasons for

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

the redactions. If the record is audio or video, a copy of the redacted audio/video release should be maintained in the department-approved media storage system and a notation should be made in the case file to document the release and the reasons for the redacted portions.

(f) If a record request is denied in whole or part, the requester shall be provided a written response that includes the statutory exemption for withholding the record or facts that the public interest served by nondisclosure outweighs the interest served by disclosure (Government Code § 6255). The written response shall also include the names, titles or positions of each person responsible for the denial.

## 810.5 RELEASE RESTRICTIONS

Examples of release restrictions include:

(a) Personal identifying information, including an individual's photograph; Social Security and driver identification numbers; name, address, and telephone number; and medical or disability information that is contained in any driver license record, motor vehicle record, or any department record including traffic collision reports, are restricted except as authorized by the Department, and only when such use or disclosure is permitted or required by law to carry out a legitimate law enforcement purpose (18 USC § 2721; 18 USC § 2722).

(b) Social Security numbers (Government Code § 6254.29).

(c) Personnel records, medical records, and similar records which would involve an unwarranted invasion of personal privacy except as allowed by law (Government Code § 6254; Penal Code § 832.7; Penal Code § 832.8; Evidence Code § 1043 et seq.).

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

2. The identity of any officer subject to any criminal or administrative investigation shall not be released without the consent of the involved officer, prior approval of the Chief of Police, or as required by law.

(d) Victim information that may be protected by statutes, including victims of certain crimes who have requested that their identifying information be kept confidential, victims who are minors, and victims of certain offenses (e.g., sex crimes or human trafficking, Penal Code § 293). Addresses and telephone numbers of a victim or a witness to any arrested person or to any person who may be a defendant in a criminal action shall not be disclosed, unless it is required by law (Government Code § 6254; Penal Code § 841.5).

1. Victims of certain offenses (e.g., domestic violence, sexual assault, stalking, human trafficking, adult abuse) or their representatives shall be provided, upon request and without charge, one copy of all incident report face sheets, one copy of all incident reports, or both, pursuant to the requirements and time frames of Family Code § 6228.

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

2. Victims of sexual assault, upon written request, shall be provided a free copy of the initial crime report regardless of whether the report has been closed. Personal identifying information may be redacted (Penal Code § 680.2(b)).

(e) Video or audio recordings created during the commission or investigation of the crime of rape, incest, sexual assault, domestic violence, or child abuse that depicts the face, intimate body part, or voice of a victim of the incident except as provided by Government Code § 6254.4.5.

(f) Information involving confidential informants, intelligence information, information that would endanger the safety of any person involved, or information that would endanger the successful completion of the investigation or a related investigation. This includes analysis and conclusions of investigating officers (Evidence Code § 1041; Government Code § 6254).

1. Absent a statutory exemption to the contrary or other lawful reason to deem information from reports confidential, information from unrestricted agency reports shall be made public as outlined in Government Code § 6254(f).

(g) Local criminal history information including but not limited to arrest history and disposition, and fingerprints shall only be subject to release to those agencies and individuals set forth in Penal Code § 13300.

1. All requests from criminal defendants and their authorized representatives (including attorneys) shall be referred to the District Attorney, City Attorney, or the courts pursuant to Penal Code § 1054.5.

(h) Certain types of reports involving but not limited to child abuse and molestation (Penal Code § 11167.5), elder and dependent abuse (Welfare and Institutions Code § 15633), and juveniles (Welfare and Institutions Code § 827).

(i) Sealed autopsy and private medical information concerning a murdered child with the exceptions that allow dissemination of those reports to law enforcement agents, prosecutors, defendants, or civil litigants under state and federal discovery laws (Code of Civil Procedure §130).

(j) Information contained in applications for licenses to carry firearms or other files that indicates when or where the applicant is vulnerable or which contains medical or psychological information (Government Code § 6254).

(k) Traffic collision reports (and related supplemental reports) shall be considered confidential and subject to release only to the California Highway Patrol, Department of Motor Vehicles (DMV), other law enforcement agencies, and those individuals and their authorized representatives set forth in Vehicle Code § 20012.

(l) Any record created exclusively in anticipation of potential litigation involving this department (Government Code § 6254).

(m) Any memorandum from legal counsel until the pending litigation has been adjudicated or otherwise settled (Government Code § 6254.25).

(n) Records relating to the security of the department's electronic technology systems (Government Code § 6254.19).

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

(o) A record of a civilian complaint, or the investigations, findings, or dispositions of that complaint if the complaint is frivolous, as defined by Code of Civil Procedure § 128.5, or if the complaint is unfounded (Penal Code § 832.7 (b)(8)).

(p) Any other record not addressed in this policy shall not be subject to release where such record is exempt or prohibited from disclosure pursuant to state or federal law, including but not limited to provisions of the Evidence Code relating to privilege (Government Code § 6254).

(q) Information connected with juvenile court proceedings or the detention or custody of a juvenile. Federal officials may be required to obtain a court order to obtain certain juvenile information (Welfare and Institutions Code § 827.9; Welfare and Institutions Code § 831).

## 810.6 SUBPOENAS AND DISCOVERY REQUESTS

Any member who receives a subpoena duces tecum or discovery request for records should promptly contact a supervisor and the Custodian of Records for review and processing. While a subpoena duces tecum may ultimately be subject to compliance, it is not an order from the court that will automatically require the release of the requested information.

Generally, discovery requests and subpoenas from criminal defendants and their authorized representatives (including attorneys) should be referred to the District Attorney, City Attorney or the courts.

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

## 810.7 RELEASED RECORDS TO BE MARKED

Each page of any written record released pursuant to this policy should be stamped in a colored ink or otherwise marked to indicate the department name and to whom the record was released.

Each audio/video recording released should include the department name and to whom the record was released.

## 810.8 SEALED RECORD ORDERS

Sealed record orders received by the Department shall be reviewed for appropriate action by the Custodian of Records. The Custodian of Records shall seal such records as ordered by the court. Records may include but are not limited to a record of arrest, investigation, detention, or conviction. Once the record is sealed, members shall respond to any inquiry as though the record did not exist (Penal Code § 851.8; Welfare and Institutions Code § 781).

When an arrest record is sealed pursuant to Penal Code § 851.87, Penal Code § 851.90, Penal Code § 851.91, Penal Code § 1000.4, or Penal Code § 1001.9, the Records Supervisor shall ensure that the required notations on local summary criminal history information and police

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

investigative reports are made. Sealed records may be disclosed or used as authorized by Penal Code § 851.92.

## 810.9 SECURITY BREACHES

The Records Supervisor shall ensure notice is given anytime there is a reasonable belief an unauthorized person has acquired either unencrypted personal identifying information or encrypted personal information along with the encryption key or security credential stored in any Department information system (Civil Code § 1798.29).

Notice shall be given as soon as reasonably practicable to all individuals whose information may have been acquired. The notification may be delayed if the Department determines that notification will impede a criminal investigation or any measures necessary to determine the scope of the breach and restore the reasonable integrity of the data system.

For the purposes of this requirement, personal identifying information includes an individual's first name or first initial and last name in combination with any one or more of the following:

- Social Security number
- Driver license number, California identification card number, tax identification number, passport number, military identification number, or other unique identification number issued on a government document commonly used to verify the identity of a specific individual
- Account number or credit or debit card number, in combination with any required security code, access code or password that would permit access to an individual's financial account
- Medical information
- Health insurance information
- A username or email address, in combination with a password or security question and answer that permits access to an online account
- Information or data collected by Automated License Plate Reader (ALPR) technology
- Unique biometric data

### 810.9.1 FORM OF NOTICE

(a) The notice shall be written in plain language, be consistent with the format provided in Civil Code § 1798.29 and include, to the extent possible, the following:

1. The date of the notice.
2. Name and contact information for the Brentwood Police Department.
3. A list of the types of personal information that were or are reasonably believed to have been acquired.
4. The estimated date or date range within which the security breach occurred.

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

5. Whether the notification was delayed as a result of a law enforcement investigation.
6. A general description of the security breach.
7. The toll-free telephone numbers and addresses of the major credit reporting agencies, if the breach exposed a Social Security number or a driver license or California identification card number.

(b) The notice may also include information about what the Brentwood Police Department has done to protect individuals whose information has been breached and may include information on steps that the person whose information has been breached may take to protect him/herself (Civil Code § 1798.29).

(c) When a breach involves an online account, and only a username or email address in combination with either a password or security question and answer that would permit access to an online account, and no other personal information has been breached (Civil Code § 1798.29):

1. Notification may be provided electronically or in another form directing the person to promptly change either his/her password or security question and answer, as applicable, or to take other appropriate steps to protect the online account with the Department in addition to any other online accounts for which the person uses the same username or email address and password or security question and answer.
2. When the breach involves an email address that was furnished by the Brentwood Police Department, notification of the breach should not be sent to that email address but should instead be made by another appropriate medium as prescribed by Civil Code § 1798.29.

### 810.9.2 MANNER OF NOTICE

(a) Notice may be provided by one of the following methods (Civil Code § 1798.29):

1. Written notice.
2. Electronic notice if the notice provided is consistent with the provisions regarding electronic records and signatures set forth in 15 USC § 7001.
3. Substitute notice if the cost of providing notice would exceed $250,000, the number of individuals exceeds 500,000 or the Department does not have sufficient contact information. Substitute notice shall consist of all of the following:
   (a) Email notice when the Department has an email address for the subject person.
   (b) Conspicuous posting of the notice on the department's webpage for a minimum of 30 days.
4. Notification to major statewide media and the California Information Security Office within the California Department of Technology.

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

(b) If a single breach requires the Department to notify more than 500 California residents, the Department shall electronically submit a sample copy of the notification, excluding any personally identifiable information, to the Attorney General.

## 810.10 RELEASE OF AUDIO OR VIDEO RECORDINGS RELATED TO CRITICAL INCIDENTS

Video and audio recordings related to critical incidents shall be released upon a proper public record request and subject to delayed release, redaction, and other release restrictions as provided by law (Government Code § 6254(f)(4)).

For purposes of this section, a video or audio recording relates to a critical incident if it depicts an incident involving the discharge of a firearm at a person by an officer, or depicts an incident in which the use of force by an officer against a person resulted in death or in great bodily injury (as defined by Penal Code § 243(f)(4)) (Government Code § 6254(f)(4)).

The Custodian of Records should work as appropriate with the Chief of Police or the Professional Standards Unit supervisor in determining what recordings may qualify for disclosure when a request for a recording is received and if the requested recording is subject to delay from disclosure, redaction, or other release restrictions.

### 810.10.1 DELAY OF RELEASE

Disclosure of critical incident recordings during active criminal or administrative investigations may be delayed as follows if disclosure would substantially interfere with the investigation, such as by endangering the safety of a witness or a confidential source:

(a) Disclosure may be delayed up to 45 days from the date the Department knew or reasonably should have known about the incident.

(b) Delay of disclosure may continue after the initial 45 days and up to one year if the Department demonstrates that disclosure would substantially interfere with the investigation.

(c) Any delay of disclosure longer than one year must be supported by clear and convincing evidence that disclosure would substantially interfere with the investigation (Government Code § 6254(f)(4)).

### 810.10.2 NOTICE OF DELAY OF RELEASE

When there is justification to delay disclosure of a recording, the Custodian of Records shall provide written notice to the requester as follows (Government Code § 6254(f)(4)):

(a) During the initial 45 days, the Custodian of Records shall provide the requester with written notice of the specific basis for the determination that disclosure would substantially interfere with the investigation. The notice shall also include the estimated date for the disclosure.

(b) When delay is continued after the initial 45 days, the Custodian of Records shall promptly provide the requester with written notice of the specific basis for the determination that the interest in preventing interference with an active investigation outweighs the public interest in the disclosure, and the estimated date for the

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

disclosure. The Custodian of Records should work with the Chief of Police in reassessing the decision to continue withholding a recording and notify the requester every 30 days.

Recordings withheld shall be disclosed promptly when the specific basis for withholding the recording is resolved.

### 810.10.3 REDACTION

If the Custodian of Records, in consultation with the Chief of Police or authorized designee, determines that specific portions of the recording may violate the reasonable expectation of privacy of a person depicted in the recording, the Department should use redaction technology to redact portions of recordings made available for release. The redaction should not interfere with the viewer's ability to fully, completely, and accurately comprehend the events captured in the recording, and the recording should not otherwise be edited or altered (Government Code § 6254(f)(4)).

If any portions of a recording are withheld to protect the reasonable expectation of privacy of a person depicted in the recording, the Custodian of Records shall provide in writing to the requester the specific basis for the expectation of privacy and the public interest served (Government Code § 6254(f)(4)).

### 810.10.4 RECORDINGS WITHHELD FROM PUBLIC DISCLOSURE

If the reasonable expectation of privacy of a person depicted in the recording cannot adequately be protected through redaction, and that interest outweighs the public interest in disclosure, the Department may withhold the recording from the public, except that the recording, either redacted or unredacted, shall be disclosed promptly, upon request, to any of the following (Government Code § 6254(f)(4)):

(a) The person in the recording whose privacy is to be protected, or his/her authorized representative.

(b) If the person is a minor, the parent or legal guardian of the person whose privacy is to be protected.

(c) If the person whose privacy is to be protected is deceased, an heir, beneficiary, designated immediate family member, or authorized legal representative of the deceased person whose privacy is to be protected.

If the Department determines that this disclosure would substantially interfere with an active criminal or administrative investigation, the Custodian of Records shall provide the requester with written notice of the specific basis for the determination and the estimated date of disclosure (Government Code § 6254(f)(4)).

The Department may continue to delay release of the recording from the public for 45 days with extensions as provided in this policy (Government Code § 6254(f)(4)(A)).

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

# Protected Information

## 811.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidelines for the access, transmission, release and security of protected information by members of the Brentwood Police Department. This policy addresses the protected information that is used in the day-to-day operation of the Department and not the public records information covered in the Records Maintenance and Release Policy.

### 811.1.1 DEFINITIONS

Definitions related to this policy include:

**Protected information** - Any information or data that is collected, stored or accessed by members of the Brentwood Police Department and is subject to any access or release restrictions imposed by law, regulation, order or use agreement. This includes all information contained in federal, state or local law enforcement databases that is not accessible to the public.

## 811.2 POLICY

Members of the Brentwood Police Department will adhere to all applicable laws, orders, regulations, use agreements and training related to the access, use, dissemination and release of protected information.

## 811.3 RESPONSIBILITIES

The Chief of Police shall select a member of the Department to coordinate the use of protected information.

The responsibilities of this position include, but are not limited to:

(a) Ensuring member compliance with this policy and with requirements applicable to protected information, including requirements for the National Crime Information Center (NCIC) system, National Law Enforcement Telecommunications System (NLETS), Department of Motor Vehicle (DMV) records and California Law Enforcement Telecommunications System (CLETS).

(b) Developing, disseminating and maintaining procedures that adopt or comply with the U.S. Department of Justice's current Criminal Justice Information Services (CJIS) Security Policy.

(c) Developing, disseminating and maintaining any other procedures necessary to comply with any other requirements for the access, use, dissemination, release and security of protected information.

(d) Developing procedures to ensure training and certification requirements are met.

(e) Resolving specific questions that arise regarding authorized recipients of protected information.

(f) Ensuring security practices and procedures are in place to comply with requirements applicable to protected information.

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

## 811.4 ACCESS TO PROTECTED INFORMATION

Protected information shall not be accessed in violation of any law, order, regulation, user agreement, Brentwood Police Department policy or training. Only those members who have completed applicable training and met any applicable requirements, such as a background check, may access protected information, and only when the member has a legitimate work-related reason for such access.

Unauthorized access, including access for other than a legitimate work-related purpose, is prohibited and may subject a member to administrative action pursuant to the Personnel Complaints Policy and/or criminal prosecution.

### 811.4.1 PENALTIES FOR MISUSE OF RECORDS

It is a misdemeanor to furnish, buy, receive or possess Department of Justice criminal history information without authorization by law (Penal Code § 11143).

Authorized persons or agencies violating state regulations regarding the security of Criminal Offender Record Information (CORI) maintained by the California Department of Justice may lose direct access to CORI (11 CCR 702).

### 811.4.2 RELEASE OF CORI

Only the persons listed below are authorized to release CORI. Each authorized person releasing CORI is responsible to ensure that each request granted appears legitimate and that the requester is an authorized recipient with a right and need to know.

(a) Criminal Records Security Officer

(b) The Executive Assistant to the Chief of Police

(c) Full-time employees of the Records Unit

(d) Personnel specifically designated in writing by Division Commanders with the concurrence of the Criminal Records Security Officer

### 811.4.3 RELEASE OF CORI TO FIELD PERSONNEL

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

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

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

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

## 811.5 RELEASE OR DISSEMINATION OF PROTECTED INFORMATION

Protected information may be released only to authorized recipients who have both a right to know and a need to know.

A member who is asked to release protected information that should not be released should refer the requesting person to a supervisor or to the Records Supervisor for information regarding a formal request.

Unless otherwise ordered or when an investigation would be jeopardized, protected information maintained by the Department may generally be shared with authorized persons from other law enforcement agencies who are assisting in the investigation or conducting a related investigation. Any such information should be released through the Records Bureau to ensure proper documentation of the release (see the Records Maintenance and Release Policy).

Protected information, such as Criminal Justice Information (CJI), which includes Criminal History Record Information (CHRI), should generally not be transmitted by radio, cellular telephone or any other type of wireless transmission to members in the field or in vehicles through any computer or electronic device, except in cases where there is an immediate need for the information to further an investigation or where circumstances reasonably indicate that the immediate safety of officers, other department members or the public is at risk.

Nothing in this policy is intended to prohibit broadcasting warrant information.

### 811.5.1 REVIEW OF CRIMINAL OFFENDER RECORD

Individuals requesting to review their own California criminal history information shall be referred to the Department of Justice (Penal Code § 11121).

Individuals shall be allowed to review their arrest or conviction record on file with the Department after complying with all legal requirements regarding authority and procedures in Penal Code § 11120 through Penal Code § 11127 (Penal Code § 13321).

## 811.6 SECURITY OF PROTECTED INFORMATION

The Chief of Police will select a member of the Department to oversee the security of protected information.

The responsibilities of this position include, but are not limited to:

(a) Developing and maintaining security practices, procedures and training.

(b) Ensuring federal and state compliance with the CJIS Security Policy and the requirements of any state or local criminal history records systems.

(c) Establishing procedures to provide for the preparation, prevention, detection, analysis and containment of security incidents including computer attacks.

(d) Tracking, documenting and reporting all breach of security incidents to the Chief of Police and appropriate authorities.

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

### 811.6.1 MEMBER RESPONSIBILITIES

Members accessing or receiving protected information shall ensure the information is not accessed or received by persons who are not authorized to access or receive it. This includes leaving protected information, such as documents or computer databases, accessible to others when it is reasonably foreseeable that unauthorized access may occur (e.g., on an unattended table or desk; in or on an unattended vehicle; in an unlocked desk drawer or file cabinet; on an unattended computer terminal).

## 811.7 TRAINING

All members authorized to access or release protected information shall complete a training program that complies with any protected information system requirements and identifies authorized access and use of protected information, as well as its proper handling and dissemination.

### 811.7.1 COMPUTER TERMINAL SECURITY

Computer terminal equipment capable of providing access to automated criminal offender record information is located throughout the Police Department. No employee shall be authorized to operate computer terminal equipment with access to CORI until the operator has completed the appropriate training.

### 811.7.2 DESTRUCTION OF CORI

When any document providing CORI has served the purpose for which it was obtained, it shall be destroyed by shredding.

Each employee shall be responsible for destroying the CORI documents they receive.

### 811.7.3 CUSTODIAN OF CRIMINAL RECORDS

The Records Supervisor, unless otherwise directed by the Administration Division Commander, shall be the Department's official Custodian of Criminal Records. The Custodian of Criminal Records shall be responsible for the security, storage, dissemination and destruction of criminal records, and will serve as a primary contact for the California Department of Justice for any related issues. The Administration Division Commander may appoint other department employees to the role of Custodian of Criminal Records, who will share the same responsibilities regarding criminal records.

The Administration will ensure that he/she makes the appropriate applications and notifications to the California Department of Justice regarding the Department's Custodian of Criminal Record appointments, per the requirements of Penal Code § 11102.2.

This subsection is not intended to interfere with any other employee acting as a custodian of records for other statutory purposes but is narrowly tailored to address issues of criminal history records.

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

### 811.8 TRAINING PROGRAM

All personnel authorized to process or release CORI shall be required to complete a training program prescribed by the Criminal Record Security Officer. The Professional Standards Unit shall coordinate the course to provide training in the proper use, control, and dissemination of CORI.

### 811.9 PENALTIES FOR MISUSE OF RECORDS

Penal Code §§ 11140 and 11144 make it a misdemeanor to furnish, buy, receive, or possess Department of Justice rap sheets without authorization by a court, statute, or case law.

Title 11, California Administrative Code § 702 provides that authorized persons or agencies violating the Regulations Regarding the Security of Criminal Offender Record Information in California may lose direct access to CORI maintained by the California Department of Justice.

Divulging the content of any criminal record to anyone other than authorized personnel is a violation of Policy Manual § 340.3.7(a).

Employees who obtain, or attempt to obtain, information from the department files other than that to which they are entitled in accordance with their official duties is a violation of Policy Manual § 340.3.7(a).

### 811.10 APPLICANT PROCESS

All CORI applicant records sent to the Brentwood Police Department as a Clearinghouse Agency are to be forwarded to the Executive Assistant to the Chief of Police for processing. The Executive Assistant to the Chief of Police , prior to receiving CORI information, shall have been CORI cleared and have a signed Employee Statement form on file.

**City Personnel:** The Executive Assistant to the Chief of Police will verbally notify Human Resources of CORI results received by the Department on City employee applicants. The return will be logged and the hard copy of the CORI results immediately shredded. Verbal notification shall only be made to Human Resource personnel who have been cleared to receive CORI information and have a signed Employee Statement form on file.

**Non-sworn Police Personnel/Applicant:** The Executive Assistant to the Chief of Police will notify the Professional Standards Unit Sergeant in a memo, that the CORI record either contained or did not contain disqualifying applicant information. The memo will be retained in the applicant's personnel background file, and the original CORI document shredded.

**Sworn Police Officer/Applicant:** The Executive Assistant to the Chief of Police will forward CORI documents to the Professional Standards Unit Sergeant. the document will be placed in the applicant's personnel background file and will remain there until such time that this agency is no longer considering the applicant for employment or employment as a Brentwood police officer has terminated. In such cases, the CORI document shall be shredded and a "No Longer Interested" notice will sent to the Department of Justice.

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

### 811.11 CALIFORNIA RELIGIOUS FREEDOM ACT

Members shall not release personal information from any agency database for the purpose of investigation or enforcement of any program compiling data on individuals based on religious belief, practice, affiliation, national origin or ethnicity (Government Code § 8310.3).

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

# Computers and Digital Evidence

## 813.1 PURPOSE AND SCOPE

This policy establishes procedures for the seizure and storage of computers, personal communications devices (PCDs) digital cameras, digital recorders and other electronic devices that are capable of storing digital information; and for the preservation and storage of digital evidence. All evidence seized and/or processed pursuant to this policy shall be done so in compliance with clearly established Fourth Amendment and search and seizure provisions.

## 813.2 SEIZING COMPUTERS AND RELATED EVIDENCE

Computer equipment requires specialized training and handling to preserve its value as evidence. Officers should be aware of the potential to destroy information through careless or improper handling, and utilize the most knowledgeable available resources. When seizing a computer and accessories the following steps should be taken:

(a) Photograph each item, front and back, specifically including cable connections to other items. Look for a phone line or cable to a modem for Internet access.

(b) Do not overlook the possibility of the presence of physical evidence on and around the hardware relevant to the particular investigation such as fingerprints, biological or trace evidence, and/or documents.

(c) If the computer is off, do not turn it on.

(d) If the computer is on, do not shut it down normally and do not click on anything or examine any files.

1. Photograph the screen, if possible, and note any programs or windows that appear to be open and running.
2. Disconnect the power cable from the back of the computer box or if a portable notebook style, disconnect any power cable from the case and remove the battery).

(e) Label each item with case number, evidence sheet number, and item number.

(f) Handle and transport the computer and storage media (e.g., tape, discs, memory cards, flash memory, external drives) with care so that potential evidence is not lost.

(g) Lodge all computer items in the Property Room. Do not store computers where normal room temperature and humidity is not maintained.

(h) At minimum, officers should document the following in related reports:

1. Where the computer was located and whether or not it was in operation.
2. Who was using it at the time.
3. Who claimed ownership.

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

4. If it can be determined, how it was being used.
5. Open wi-fi versus secure wi-fi (password protected).

(i) In most cases when a computer is involved in criminal acts and is in the possession of the suspect, the computer itself and all storage devices (hard drives, tape drives, USB, compact discs, external hard drives and disk drives) should be seized along with all media. Accessories (printers, monitors, mouse, scanner, keyboard, cables, software and manuals) should not be seized unless as a precursor to forfeiture.

813.2.1 BUSINESS OR NETWORKED COMPUTERS

If the computer belongs to a business or is part of a network, it may not be feasible to seize the entire computer. Cases involving networks require specialized handling. Officers should contact a certified forensic computer examiner for instructions or a response to the scene. It may be possible to perform an on-site inspection, or to image the hard drive only of the involved computer. This should only be done by someone specifically trained in processing computers for evidence.

813.2.2 FORENSIC EXAMINATION OF COMPUTERS

If an examination of the contents of the computer's hard drive, or floppy disks, compact discs, or any other storage media is required, forward the following items to a computer forensic examiner:

(a) Copy of report(s) involving the computer, including the Evidence/Property sheet.

(b) Copy of a consent to search form signed by the computer owner or the person in possession of the computer, or a copy of a search warrant authorizing the search of the computer hard drive for evidence relating to investigation.

(c) A listing of the items to search for (e.g., photographs, financial records, e-mail, documents).

(d) An exact duplicate of the hard drive or disk will be made using a forensic computer and a forensic software program by someone trained in the examination of computer storage devices for evidence.

## 813.3 SEIZING DIGITAL STORAGE MEDIA

Digital storage media including hard drives, floppy discs, CD's, DVD's, tapes, memory cards, or flash memory devices should be seized and stored in a manner that will protect them from damage.

(a) If the media has a write-protection tab or switch, it should be activated.

(b) Do not review, access or open digital files prior to submission. If the information is needed for immediate investigation request the Property and Evidence Section to copy the contents to an appropriate form of storage media.

(c) Many kinds of storage media can be erased or damaged by magnetic fields. Keep all media away from magnetic devices, electric motors, radio transmitters or other sources of magnetic fields.

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

(d) Do not leave storage media where they would be subject to excessive heat such as in a parked vehicle on a hot day.

(e) Use plastic cases designed to protect the media, or other protective packaging, to prevent damage.

### 813.4 SEIZING PCDS

Personal communication devices such as cell phones, PDAs or other hand-held devices connected to any communication network must be handled with care to preserve evidence that may be on the device including messages, stored data and/or images.

(a) Officers should not attempt to access, review or search the contents of such devices prior to examination by a forensic expert. Unsent messages can be lost, data can be inadvertently deleted and incoming messages can override stored messages.

(b) Do not turn the device on or off. Attempt to put device in airplane mode, or remove battery and document your actions.

(c) When seizing the devices, also seize the charging units and keep them plugged in to the chargers until they can be examined. If the batteries go dead all the data may be lost.

(d) Document where the device was located and attempt to establish ownership.

### 813.5 DIGITAL EVIDENCE RECORDED BY OFFICERS

Officers handling and submitting recorded and digitally stored evidence from digital cameras, department issued smart phones, and audio or video recorders will comply with the Brentwood Police Department Property Manual.

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

# Jeanne Clery Campus Security Act

## 821.1 PURPOSE AND SCOPE

The purpose of this policy is to establish guidelines to ensure this department fulfills its obligation in complying with the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act (Clery Act) as well as applicable California Education Code requirements.

## 821.2 POLICY

The Brentwood Police Department encourages accurate and prompt reporting of all crimes and takes all such reports seriously (20 USC § 1092(f)(1)(C)(iii)). Reports will be accepted in any manner, including in person or in writing, at any Brentwood Police Department facility. Reports will be accepted anonymously, by phone or via email or on the institution's website.

It is the policy of the Brentwood Police Department to comply with the Clery Act. Compliance with the Clery Act requires a joint effort between the Brentwood Police Department and the administration of the institution.

Supervisors assigned areas of responsibility in the following policy sections are expected to be familiar with the subsections of 20 USC § 1092(f) and 34 CFR 668.46 that are relevant to their responsibilities.

## 821.3 POLICY, PROCEDURE AND PROGRAM DEVELOPMENT

The Chief of Police will:

(a) Ensure that the Brentwood Police Department establishes procedures for immediate emergency response and evacuation, including the use of electronic and cellular communication and testing of these procedures (20 USC § 1092(f)(1)(J)(i); 20 USC § 1092(f)(1)(J)(iii)).

(b) Enter into written agreements as appropriate with local law enforcement agencies to (Education Code § 67381.1):

1. Identify roles in the investigation of alleged criminal offenses on campus (20 USC § 1092(f)(1)(C)(ii)).

    (a) This includes identification of the responsibilities for sexual assault, hate crimes and Part 1 violent crime investigations (e.g., willful homicide, forcible rape, robbery or aggravated assault as defined in the FBI's Uniform Crime Reporting (UCR) Handbook), and establishing the specific geographical boundaries of each agency's responsibility, including maps as necessary (Education Code § 67381).

2. Assist in the monitoring and reporting of criminal activity at off-campus student organizations that are recognized by the institution and engaged in by students attending the institution, including student organizations with off-campus housing facilities (20 USC § 1092(f)(1)(G)).

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

3. Ensure coordination of emergency response and evacuation procedures, including procedures to immediately notify the campus community upon the confirmation of a significant emergency or dangerous situation (20 USC § 1092(f)(1)(J)).

4. Notify the Brentwood Police Department of criminal offenses reported to local law enforcement agencies to assist the institution in meeting its reporting requirements under the Clery Act (20 USC § 1092(f)(1)(F)).

5. Notify the Brentwood Police Department of criminal offenses reported to local law enforcement agencies to assist in making information available to the campus community in a timely manner and to aid in the prevention of similar crimes. Such disseminated information shall withhold the names of victims as confidential (20 USC § 1092(f)(3)).

(c) Appoint a designee to develop programs that are designed to inform students and employees about campus security procedures and practices, and to encourage students and employees to be responsible for their own security and the security of others (20 USC § 1092(f)(1)(D)).

(d) Appoint a designee to develop programs to inform students and employees about the prevention of crime (20 USC § 1092(f)(1)(E)).

(e) Appoint a designee to develop educational programs to promote the awareness of rape, acquaintance rape, domestic violence, dating violence, sexual assault and stalking, and what to do if an offense occurs, including but not limited to, who should be contacted, the importance of preserving evidence and to whom the alleged offense should be reported (20 USC § 1092(f)(8)(B)). The designee shall also develop written materials to be distributed to reporting persons that explains the rights and options provided for under 20 USC § 1092 (20 USC § 1092(f)(8)(C)).

(f) Appoint a designee to make the appropriate notifications to institution staff regarding missing person investigations in order to ensure that the institution complies with the requirements of 34 CFR 668.46(h).

821.3.1 ADDITIONAL REQUIREMENTS

The Chief of Police or the authorized designee will also (Education Code § 67386):

(a) Assist the institution with the development of policies and procedures relating to sexual assault, domestic violence, dating violence and stalking involving a student whether it occurred on- or off-campus including:

1. The differences between standards of proof and defenses in criminal investigations and administrative or disciplinary matters.

2. Victim-centered protocols including privacy protection, responses to reports, interviews, investigations, required notifications and participation by victim advocates and other supporting individuals.

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

(b) Assist, as appropriate, with trauma-informed training for campus personnel involved in investigating and adjudicating sexual assault, domestic violence, dating violence and stalking cases.

(c) Assist, as appropriate, in the development of the institution's comprehensive prevention and outreach programs addressing sexual violence, domestic violence, dating violence, and stalking.

(d) Ensure that any reported Part 1 violent crime, sexual assault or hate crime described in Penal Code § 422.55 (whether it occurred on- or off-campus), is reported as soon as practicable to any local law enforcement agency with investigation responsibilities pursuant to a written agreement with the Brentwood Police Department or the institution (Education Code § 67380).

1. The identification of the victim shall be withheld, unless the victim consents to being identified after being informed of the right to have his/her personally identifying information withheld. If the victim does not consent to being identified, then the alleged assailant shall not be identified unless the institution determines that the alleged assailant represents a serious or ongoing threat to the safety of the students, employees or the institution, and the immediate assistance of the Brentwood Police Department is necessary to contact or detain the assailant (Education Code § 67380).

2. If the institution discloses the identity of the alleged assailant to the Brentwood Police Department, the institution must immediately inform the victim of that disclosure (Education Code § 67380).

## 821.4 RECORDS COLLECTION AND RETENTION

The Records Supervisor is responsible for maintaining Brentwood Police Department statistics and making reasonable good-faith efforts to obtain statistics from other law enforcement agencies as necessary to allow the institution to comply with its reporting requirements under the Clery Act (20 USC § 1092(f)(1)(F)). The statistics shall be compiled as follows:

(a) Statistics concerning the occurrence of the following criminal offenses reported to this department or to local police agencies that occurred on campus, in or on non-campus buildings or property, and on public property including streets, sidewalks and parking facilities within the campus or immediately adjacent to and accessible from the campus (20 USC § 1092(f)(1)(F)(i); 34 CFR 668.46(c)):

1. Murder
2. Sex offenses, forcible or non-forcible
3. Robbery
4. Aggravated assault
5. Burglary
6. Motor vehicle theft
7. Manslaughter
8. Arson

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

9. Arrests or persons referred for campus disciplinary action for liquor law violations, drug-related violations and weapons possession
10. Dating violence, domestic violence and stalking

(b) Statistics concerning the crimes described in the section above, theft, simple assault, intimidation, destruction, damage or vandalism of property, and other crimes involving bodily injury to any person where the victim was intentionally selected because of his/her actual or perceived race, sex, religion, gender, gender identity, sexual orientation, ethnicity or disability. These statistics should be collected and reported according to the category of prejudice (20 USC § 1092(f)(1)(F)(ii); 34 CFR 668.46(c)).

1. The statistics shall be compiled using the definitions in the FBI's UCR system and modifications made pursuant to the Hate Crime Statistics Act (20 USC § 1092(f)(7); 34 CFR 668.46(c)(9)). For the offenses of domestic violence, dating violence and stalking, such statistics shall be compiled in accordance with the definitions used in the Violence Against Women Act (20 USC § 1092(f)(7); 34 USC § 12291; 34 CFR 668.46(a)). The statistics will be categorized separately as offenses that occur in the following places (20 USC § 1092(f)(12); 34 CFR 668.46(c)(5)):
   (a) On campus.
   (b) In or on a non-campus building or property.
   (c) On public property.
   (d) In dormitories or other on-campus, residential or student facilities.

(c) Statistics will be included by the calendar year in which the crime was reported to the Brentwood Police Department (34 CFR 668.46(c)(3)).

(d) Stalking offenses will include a statistic for each year in which the stalking conduct is reported and will be recorded as occurring either at the first location where the stalking occurred or the location where the victim became aware of the conduct (34 CFR 668.46(c)(6)).

(e) Statistics will include the three most recent calendar years (20 USC § 1092(f)(1)(F); 34 CFR 668.46(c)).

(f) The statistics shall not identify victims of crimes or persons accused of crimes (20 USC § 1092(f)(7)).

### 821.4.1 CRIME LOG

The Records Supervisor is responsible for ensuring a daily crime log is created and maintained as follows (20 USC § 1092(f)(4); 34 CFR 668.46(f)):

(a) The daily crime log will record all crimes reported to the Brentwood Police Department, including the nature, date, time and general location of each crime, and the disposition, if known.

(b) All log entries shall be made within two business days of the initial report being made to the Department.

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

(c) If new information about an entry becomes available, then the new information shall be recorded in the log not later than two business days after the information becomes available to the police department or security department.

(d) The daily crime log for the most recent 60-day period shall be open to the public for inspection at all times during normal business hours. Any portion of the log that is older than 60 days must be made available within two business days of a request for public inspection. Information in the log is not required to be disclosed when:

1. Disclosure of the information is prohibited by law.
2. Disclosure would jeopardize the confidentiality of the victim.
3. There is clear and convincing evidence that the release of such information would jeopardize an ongoing criminal investigation or the safety of an individual, may cause a suspect to flee or evade detection, or could result in the destruction of evidence. In any of these cases, the information may be withheld until that damage is no longer likely to occur from the release of such information.

821.4.2 COMPILING RECORDS FOR DISCLOSURE REQUIREMENTS

The Records Supervisor is also responsible for compiling the following to allow the institution to comply with its disclosure requirements under Education Code § 67380:

(a) All occurrences reported to the Brentwood Police Department and all arrests for crimes that are committed on campus that involve violence, hate violence, theft, destruction of property, illegal drugs, or alcohol intoxication.

(b) All occurrences of noncriminal acts of hate violence reported to the Brentwood Police Department for which a written report is prepared.

## 821.5 INFORMATION DISSEMINATION

It is the responsibility of the Administration Division Commander to ensure that the required Clery Act disclosures are properly forwarded to campus administration and community members in accordance with institution procedures. This includes:

(a) Procedures for providing emergency notification of crimes or other incidents and evacuations that might represent an imminent threat to the safety of students or employees (20 USC § 1092(f)(3); 34 CFR 668.46(e); 34 CFR 668.46 (g)).

(b) Procedures for notifying the campus community about crimes considered to be a threat to other students and employees in order to aid in the prevention of similar crimes. Such disseminated information shall withhold the names of victims as confidential (20 USC § 1092(f)(3)).

(c) Information necessary for the institution to prepare its annual security report (20 USC § 1092(f)(1); 34 CFR 668.46(b)). This report will include, but is not limited to:

1. Crime statistics and the policies for preparing the crime statistics.

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

2. Crime and emergency reporting procedures, including the responses to such reports.
3. Policies concerning security of and access to campus facilities.
4. Crime, dating violence, domestic violence, sexual assault and stalking awareness and prevention programs, including
   (a) Procedures victims should follow.
   (b) Procedures for protecting the confidentiality of victims and other necessary parties.
5. Enforcement policies related to alcohol and illegal drugs.
6. Locations where the campus community can obtain information about registered sex offenders.
7. Emergency response and evacuation procedures.
8. Missing student notification procedures.
9. Information addressing the jurisdiction and authority of campus security including any working relationships and agreements between campus security personnel and both state and local law enforcement agencies.

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

# Chapter 9 - Custody

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

# Temporary Custody of Adults

## 900.1 PURPOSE AND SCOPE

This policy provides guidelines to address the health and safety of adults taken into temporary custody by members of the Brentwood Police Department for processing prior to being released or transferred to a housing or other type of facility.

Temporary custody of juveniles is addressed in the Temporary Custody of Juveniles Policy. Juveniles will not be permitted where adults in custody are being held.

Custodial searches are addressed in the Custodial Searches Policy.

### 900.1.1 DEFINITIONS

Definitions related to this policy include:

**Holding cell/cell** - Any locked enclosure for the custody of an adult or any other enclosure that prevents the occupants from being directly visually monitored at all times by a member of the Department.

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

**Temporary custody** - The time period an adult is in custody at the Brentwood Police Department prior to being released or transported to a housing or other type of facility.

## 900.2 POLICY

The Brentwood Police Department is committed to releasing adults from temporary custody as soon as reasonably practicable, and to keeping adults safe while in temporary custody at the Department. Adults should be in temporary custody only for as long as reasonably necessary for investigation, processing, transfer or release.

## 900.3 GENERAL CRITERIA AND SUPERVISION

No adult should be in temporary custody for longer than six hours.

### 900.3.1 SUPERVISION IN TEMPORARY CUSTODY

An authorized department member capable of supervising shall be present at all times when an individual is held in temporary custody. The member responsible for supervising should not have other duties that could unreasonably conflict with his/her supervision. Any individual in custody must be able to summon the supervising member if needed. If the person in custody is deaf or hard of hearing or cannot speak, accommodations shall be made to provide this ability (15 CCR 1027).

At least one female department member should be present when a female adult is in temporary custody. In the event that none is readily available, the female in custody should be transported to another facility or released pursuant to another lawful process (15 CCR 1027).

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

Absent exigent circumstances, such as a medical emergency or a violent subject, members should not enter the cell of a person of the opposite sex unless a member of the same sex as the person in custody is present (Penal Code § 4021).

No individual in custody shall be permitted to supervise, control or exert any authority over other individuals in custody.

900.3.2 STAFFING PLAN

The Chief of Police or the authorized designee shall ensure a staffing plan is prepared and maintained, indicating assigned personnel and their duties. The plan should ensure that at least one member who meets the training standards established by the Corrections Standards Authority (CSA) for general fire- and life-safety and is trained in fire- and life-safety procedures relating specifically to the facility is on-duty at all times (15 CCR 1028).

The staffing plan shall be available for biennial review by CSA staff. The review and recommendations of the CSA biennial review shall be forwarded to the City, as required by 15 CCR 1027.

900.3.3 ENTRY RESTRICTIONS

Entry into any location where a person is held in custody should be restricted to:

(a) Authorized members entering for official business purposes.

(b) Emergency medical personnel when necessary.

(c) Any other person authorized by the Watch Commander.

When practicable, more than one authorized member should be present for entry into a location where a person is held in custody for security purposes and to witness interactions.

## 900.4 PERSONAL PROPERTY

The personal property of an individual in temporary custody should be removed, inventoried and processed as provided in the Custodial Searches Policy, unless the individual requests a different disposition. For example, an individual may request property (i.e., cash, car or house keys, medications) be released to another person. A request for the release of property to another person must be made in writing. Release of the property requires the recipient’s signature on the appropriate form.

Upon release of an individual from temporary custody, his/her items of personal property shall be compared with the inventory, and he/she shall sign a receipt for the property's return. If the individual is transferred to another facility or court, the member transporting the individual is required to obtain the receiving person’s signature as notice of receipt. The Department shall maintain a copy of the property receipt.

The Watch Commander shall be notified whenever an individual alleges that there is a shortage or discrepancy regarding his/her property. The Watch Commander shall attempt to prove or disprove the claim.

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

## 900.5 HOLDING CELLS

A thorough inspection of a cell shall be conducted before placing an individual into the cell to ensure there are no weapons or contraband and that the cell is clean and sanitary. An inspection also should be conducted when he/she is released. Any damage noted to the cell should be photographed and documented.

The following requirements shall apply:

(a) The individual shall be searched (see the Custodial Searches Policy), and anything that could create a security or suicide risk, such as contraband, hazardous items, belts, shoes or shoelaces and jackets, shall be removed.

(b) The individual shall constantly be monitored by an audio/video system during the entire custody.

(c) The individual shall have constant auditory access to department members.

(d) The individual's initial placement into and removal from a locked enclosure shall be logged.

(e) Safety checks by department members shall occur no less than every 15 minutes.

1. Safety checks should be at varying times.
2. All safety checks shall be logged.
3. The safety check should involve questioning the individual as to his/her well-being.
4. Individuals who are sleeping or apparently sleeping should be awakened.
5. Requests or concerns of the individual should be logged.

## 900.6 SUICIDE ATTEMPT, DEATH OR SERIOUS INJURY

The Operations Division Commander will ensure procedures are in place to address any suicide attempt, death or serious injury of any individual in temporary custody at the Brentwood Police Department. The procedures should include the following:

(a) Immediate request for emergency medical assistance if appropriate.

(b) Immediate notification of the Watch Commander, Chief of Police and Investigation Division Commander.

(c) Notification of the spouse, next of kin or other appropriate person.

(d) Notification of the appropriate prosecutor.

(e) Notification of the City Attorney.

(f) Notification of the Coroner.

(g) Evidence preservation.

(h) In-custody death reviews (15 CCR 1046).

(i) Notification to the Attorney General within 10 days of any death in custody including any reasonably known facts concerning the death (Government Code § 12525).

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

## 900.7 RELEASE AND/OR TRANSFER

When an individual is released or transferred from custody, the member releasing the individual should ensure the following:

(a) All proper reports, forms and logs have been completed prior to release.

(b) A check has been made to ensure that the individual is not reported as missing and does not have outstanding warrants.

(c) It has been confirmed that the correct individual is being released or transported.

(d) All property, except evidence, contraband or dangerous weapons, has been returned to, or sent with, the individual.

(e) All pertinent documentation accompanies the individual being transported to another facility (e.g., copies of booking forms, medical records, an itemized list of his/her property, warrant copies).

(f) The individual is not permitted in any nonpublic areas of the Brentwood Police Department unless escorted by a member of the Department.

(g) Any known threat or danger the individual may pose (e.g., escape risk, suicide potential, medical condition) is documented, and the documentation transported with the individual if he/she is being sent to another facility.

1. The department member transporting the individual shall ensure such risks are communicated to intake personnel at the other facility.

(h) Generally, persons of the opposite sex, or adults and juveniles, should not be transported in the same vehicle unless they are physically separated by a solid barrier. If segregating individuals is not practicable, officers should be alert to inappropriate physical or verbal contact and take appropriate action as necessary.

(i) Transfers between facilities or other entities, such as a hospital, should be accomplished with a custodial escort of the same sex as the person being transferred to assist with his/her personal needs as reasonable.

## 900.8 ASSIGNED ADMINISTRATOR

The Operations Division Commander will ensure any reasonably necessary supplemental procedures are in place to address the following issues (15 CCR 1029):

(a) General security

(b) Key control

(c) Sanitation and maintenance

(d) Emergency medical treatment (15 CCR 1200)

(e) Escapes

(f) Evacuation plans

(g) Fire- and life-safety, including a fire suppression pre-plan as required by 15 CCR 1032

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

(h) Disaster plans

(i) Building and safety code compliance

(j) Civil and other disturbances including hostage situations

(k) Periodic testing of emergency equipment

(l) Emergency suspension of Title 15 regulations and notice to the Board of State and Community Corrections as required in 15 CCR 1012

(m) Inspections and operations reviews

Annual review and evaluation of security measures including internal and external security measures, sanitation, safety and maintenance (15 CCR 1280).

These supplemental procedures shall be reviewed and updated no less than every two years and shall be available to all members (15 CCR 1029).

## 900.9 TRAINING

Department members should be trained and familiar with this policy and any supplemental procedures.

Department members responsible for supervising adults in temporary custody shall complete the Corrections Officer Core Course or eight hours of specialized training within six months of assignment. Such training shall include, but not be limited to, the following:

(a) Applicable minimum jail standards

(b) Jail operations liability

(c) Inmate segregation

(d) Emergency procedures and planning

(e) Suicide prevention

Eight hours of refresher training shall be completed once every two years (15 CCR 1024).

The Training Manager shall maintain records of all such training in the member's training file.

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

# Custodial Searches

## 902.1 PURPOSE AND SCOPE

This policy provides guidance regarding searches of individuals in custody. Such searches are necessary to eliminate the introduction of contraband, intoxicants or weapons into the Brentwood Police Department facility. Such items can pose a serious risk to the safety and security of department members, individuals in custody, contractors and the public.

Nothing in this policy is intended to prohibit the otherwise lawful collection of evidence from an individual in custody.

### 902.1.1 DEFINITIONS

Definitions related to this policy include:

**Custody search** - An in-custody search of an individual and of his/her property, shoes and clothing, including pockets, cuffs and folds on the clothing, to remove all weapons, dangerous items and contraband.

**Physical body cavity search** - A search that includes a visual inspection and may include a physical intrusion into a body cavity. Body cavity means the stomach or rectal cavity of an individual, and the vagina of a female person.

**Strip search** - A search that requires an individual to remove or rearrange some or all of his/her clothing to permit a visual inspection of the underclothing, breasts, buttocks, anus or outer genitalia. This includes monitoring an individual who is changing clothes, where his/her underclothing, buttocks, genitalia or female breasts are visible.

## 902.2 STRIP SEARCHES

No individual in temporary custody at any Brentwood Police Department facility shall be subjected to a strip search unless there is reasonable suspicion based upon specific and articulable facts to believe the individual has a health condition requiring immediate medical attention or is concealing a weapon or contraband. Factors to be considered in determining reasonable suspicion include, but are not limited to:

(a) The detection of an object during a custody search that may be a weapon or contraband and cannot be safely retrieved without a strip search.

(b) Circumstances of a current arrest that specifically indicate the individual may be concealing a weapon or contraband.

1. A felony arrest charge or being under the influence of a controlled substance should not suffice as reasonable suspicion absent other facts.

(c) Custody history (e.g., past possession of contraband while in custody, assaults on department members, escape attempts).

(d) The individual’s actions or demeanor.

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

(e) Criminal history (i.e., level of experience in a custody setting).

No transgender or intersex individual shall be searched or examined for the sole purpose of determining the individual's genital status. If the individual's genital status is unknown, it may be determined during conversations with the person, by reviewing medical records, or as a result of a broader medical examination conducted in private by a medical practitioner (28 CFR 115.115).

902.2.1 STRIP SEARCH PROCEDURES

Strip searches at Brentwood Police Department facilities shall be conducted as follows (28 CFR 115.115; Penal Code § 4030):

(a) Written authorization from the Watch Commander shall be obtained prior to the strip search.

(b) All members involved with the strip search shall be of the same sex as the individual being searched, unless the search is conducted by a medical practitioner.

(c) All strip searches shall be conducted in a professional manner under sanitary conditions and in a secure area of privacy so that it cannot be observed by those not participating in the search. The search shall not be reproduced through a visual or sound recording.

(d) Whenever possible, a second member of the same sex should also be present during the search, for security and as a witness to the finding of evidence.

(e) Members conducting a strip search shall not touch the breasts, buttocks or genitalia of the individual being searched.

(f) The primary member conducting the search shall prepare a written report to include:

1. The facts that led to the decision to perform a strip search.
2. The reasons less intrusive methods of searching were not used or were insufficient.
3. The written authorization for the search, obtained from the Watch Commander.
4. The name of the individual who was searched.
5. The name and sex of the members who conducted the search.
6. The name, sex and role of any person present during the search.
7. The time and date of the search.
8. The place at which the search was conducted.
9. A list of the items, if any, that were recovered.
10. The facts upon which the member based his/her belief that the individual was concealing a weapon or contraband.

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

(g) No member should view an individual's private underclothing, buttocks, genitalia or female breasts while that individual is showering, performing bodily functions or changing clothes, unless he/she otherwise qualifies for a strip search. However, if serious hygiene or health issues make it reasonably necessary to assist the individual with a shower or a change of clothes, a supervisor should be contacted to ensure reasonable steps are taken to obtain the individual's consent and/or otherwise protect his/her privacy and dignity.

(h) If the individual has been arrested for a misdemeanor or infraction offense, the written authorization from the Watch Commander shall include specific and articulable facts and circumstances upon which the reasonable suspicion determination for the search was made.

(i) A copy of the written authorization shall be retained and made available upon request to the individual or the individual's authorized representative. A record of the time, date, place of the search, the name and sex of the person conducting the search, and a statement of the results of the search shall also be retained and made available upon request to the individual or the individual’s authorized representative.

902.2.2 SPECIAL CIRCUMSTANCE FIELD STRIP SEARCHES

A strip search may be conducted in the field only with Watch Commander authorization and only in exceptional circumstances, such as when:

(a) There is probable cause to believe that the individual is concealing a weapon or other dangerous item that cannot be recovered by a more limited search.

(b) There is probable cause to believe that the individual is concealing controlled substances or evidence that cannot be recovered by a more limited search, and there is no reasonable alternative to ensure the individual cannot destroy or ingest the substance during transportation.

These special-circumstance field strip searches shall only be authorized and conducted under the same restrictions as the strip search procedures in this policy, except that the Watch Commander authorization does not need to be in writing.

### 902.3 PHYSICAL BODY CAVITY SEARCH

Physical body cavity searches shall be subject to the following (Penal Code § 4030):

(a) No individual shall be subjected to a physical body cavity search without written approval of the Watch Commander and only upon a search warrant. A copy of any search warrant and the results of the physical body cavity search shall be included with the related reports and made available, upon request, to the individual or authorized representative (except for those portions of the warrant ordered sealed by a court).

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

(b) Only a physician, nurse practitioner, registered nurse, licensed vocational nurse or Emergency Medical Technician Level II licensed to practice in California may conduct a physical body cavity search.

(c) Except for the physician or licensed medical personnel conducting the search, persons present must be of the same sex as the individual being searched. Only the necessary department members needed to maintain the safety and security of the medical personnel shall be present.

(d) Privacy requirements, including restricted touching of body parts and sanitary condition requirements, are the same as required for a strip search.

(e) All such searches shall be documented, including:

1. The facts that led to the decision to perform a physical body cavity search of the individual.
2. The reasons less intrusive methods of searching were not used or were insufficient.
3. The Watch Commander's approval.
4. A copy of the search warrant.
5. The time, date and location of the search.
6. The medical personnel present.
7. The names, sex and roles of any department members present.
8. Any contraband or weapons discovered by the search.

(f) Copies of the written authorization and search warrant shall be retained and shall be provided to the individual who was searched or other authorized representative upon request. A record of the time, date, place of the search, the name and sex of the person conducting the search and a statement of the results of the search shall also be retained and made available upon request to the individual or the individual's authorized representative.

## 902.4 TRAINING

The Training Manager shall ensure members have training that includes (28 CFR 115.115):

(a) Conducting searches of cross-gender individuals.

(b) Conducting searches of transgender and intersex individuals.

(c) Conducting searches in a professional and respectful manner, and in the least intrusive manner possible, consistent with security needs.

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

### 902.5 BODY SCANNER SEARCH

If a body scanner is available, a body scan search should be performed on all inmates/arrestees upon entering the secure booking area of the facility. Members (Penal Code § 4030):

(a) Within sight of the visual display of a body scanner that is depicting the body during a scan shall be of the same sex as the person being scanned, except for physicians or licensed medical personnel.

(b) Should ask female inmates if they are pregnant prior to a body scan and should not knowingly use a body scanner on a woman who is pregnant.

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

# Prison Rape Elimination

## 904.1 PURPOSE AND SCOPE

This policy provides guidance for complying with the Prison Rape Elimination Act of 2003 (PREA) and the implementing regulation that establishes standards (PREA Rule) to prevent, detect, and respond to sexual abuse, harassment, and retaliation against detainees or prisoners in the Brentwood Police Department Temporary Holding Facilities (28 CFR 115.111; 15 CCR 1029).

### 904.1.1 DEFINITIONS

Definitions related to this policy include:

**Intersex** - A person whose sexual or reproductive anatomy or chromosomal pattern does not seem to fit typical definitions of male or female. Intersex medical conditions are sometimes referred to as disorders of sex development (28 CFR 115.5).

**Sexual abuse** - Any of the following acts, if the detainee does not consent, is coerced into such act by overt or implied threats of violence or is unable to consent or refuse (28 CFR 115.6; 15 CCR 1006):

- Contact between the penis and the vulva or the penis and the anus, including penetration, however slight
- Contact between the mouth and the penis, vulva, or anus
- Penetration of the anal or genital opening of another person, however slight, by a hand, finger, object, or other instrument
- Any other intentional touching, either directly or through the clothing, of the genitalia, anus, groin, breast, inner thigh, or the buttocks of another person, excluding contact incidental to a physical altercation

Sexual abuse also includes abuse by a staff member, contractor, or volunteer as follows, with or without consent of the detainee, prisoner, or resident:

- Contact between the penis and the vulva or the penis and the anus, including penetration, however slight
- Contact between the mouth and the penis, vulva, or anus
- Contact between the mouth and any body part where the staff member, contractor, or volunteer has the intent to abuse, arouse, or gratify sexual desire
- Penetration of the anal or genital opening, however slight, by a hand, finger, object, or other instrument, that is unrelated to official duties, or where the staff member, contractor, or volunteer has the intent to abuse, arouse, or gratify sexual desire
- Any other intentional contact, either directly or through the clothing, of or with the genitalia, anus, groin, breast, inner thigh, or the buttocks, that is unrelated to official duties, or where the staff member, contractor, or volunteer has the intent to abuse, arouse, or gratify sexual desire

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

- Any attempt, threat, or request by a staff member, contractor, or volunteer to engage in the activities described above
- Any display by a staff member, contractor, or volunteer of his/her uncovered genitalia, buttocks, or breast in the presence of a detainee, prisoner, or resident
- Voyeurism by a staff member, contractor, or volunteer

**Sexual harassment** - Repeated and unwelcome sexual advances; requests for sexual favors; verbal comments, gestures, or actions of a derogatory or offensive sexual nature by one detainee, prisoner, or resident that are directed toward another; repeated verbal comments or gestures of a sexual nature to a detainee, prisoner, or resident by a staff member, contractor, or volunteer, including demeaning references to gender, sexually suggestive or derogatory comments about body or clothing, or obscene language or gestures (28 CFR 115.6; 15 CCR 1006).

**Transgender** - A person whose gender identity (i.e., internal sense of feeling male or female) is different from the person's assigned sex at birth (28 CFR 115.5).

## 904.2 POLICY

The Brentwood Police Department has zero tolerance toward all forms of sexual abuse and sexual harassment (28 CFR 115.111). The Department will not tolerate retaliation against any person who reports sexual abuse or sexual harassment or who cooperates with a sexual abuse or sexual harassment investigation.

The Brentwood Police Department will take immediate action to protect detainees and prisoners who are reasonably believed to be subject to a substantial risk of imminent sexual abuse (28 CFR 115.162; 15 CCR 1029).

## 904.3 PREA COORDINATOR

The Chief of Police shall appoint an upper-level manager with sufficient time and authority to develop, implement, and oversee department efforts to comply with PREA standards in the Brentwood Police Department Temporary Holding Facilities (28 CFR 115.111). The PREA Coordinator's responsibilities shall include:

(a) Developing and maintaining procedures to comply with the PREA Rule.

(b) Ensuring that any contract for the confinement of detainees or prisoners includes the requirement to adopt and comply with applicable PREA standards and the PREA Rule, including the obligation to provide incident-based and aggregated data, as required in 28 CFR 115.187 (28 CFR 115.112).

(c) Developing a staffing plan to provide adequate levels of staffing and video monitoring, where applicable, in order to protect detainees and prisoners from sexual abuse (28 CFR 115.113; 15 CCR 1029). This includes documenting deviations and the reasons for deviations from the staffing plan, as well as reviewing the staffing plan a minimum of once per year.

(d) Developing methods for staff to privately report sexual abuse and sexual harassment of detainees and prisoners (28 CFR 115.151).

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

(e) Developing a written plan to coordinate response among staff first responders, medical and mental health practitioners, investigators, and department leadership to an incident of sexual abuse (28 CFR 115.165).

(f) Ensuring a protocol is developed for investigating allegations of sexual abuse in the Temporary Holding Facility. The protocol shall include (28 CFR 115.121; 28 CFR 115.122):

1. Evidence collection practices that maximize the potential for obtaining usable physical evidence based on the most recent edition of the U.S. Department of Justice's (DOJ) Office on Violence Against Women publication, "A National Protocol for Sexual Assault Medical Forensic Examinations, Adults/ Adolescents" or a similarly comprehensive and authoritative protocol.

2. A process to ensure a criminal or administrative investigation is completed on all allegations of sexual abuse or sexual harassment.

3. A process to document all referrals to other law enforcement agencies.

4. Access to forensic medical examinations, without financial cost, for all victims of sexual abuse where appropriate. Such examinations shall be performed by Sexual Assault Forensic Examiners (SAFEs) or Sexual Assault Nurse Examiners (SANEs) where possible. If SAFEs or SANEs cannot be made available, the examination can be performed by other qualified medical practitioners. The efforts to provide SAFEs or SANEs shall be documented.

5. In accordance with security needs, provisions to permit, to the extent available, detainee and prisoner access to victim advocacy services if the detainee or prisoner is transported for a forensic examination to an outside hospital that offers such services.

(g) Ensuring that detainees and prisoners with limited English proficiency and disabilities have an equal opportunity to understand and benefit from efforts to prevent, detect, and respond to sexual abuse and sexual harassment. This includes, as appropriate, access to interpreters and written materials in formats or through methods that provide effective communication to those with disabilities (e.g., limited reading skills, intellectual, hearing, or vision disabilities) (28 CFR 115.116).

1. The agency shall not rely on other detainees or prisoners for assistance except in limited circumstances where an extended delay in obtaining an interpreter could compromise the detainee's or prisoner's safety, the performance of first-response duties under this policy, or the investigation of a prisoner's allegations of sexual abuse, harassment, or retaliation.

(h) Publishing on the department's website:

1. Information on how to report sexual abuse and sexual harassment on behalf of a detainee or prisoner (28 CFR 115.154).

2. A protocol describing the responsibilities of the Department and any other investigating agency that will be responsible for conducting sexual abuse or sexual harassment investigations (28 CFR 115.122).

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

(i) Establishing a process that includes the use of a standardized form and set of definitions to ensure accurate, uniform data is collected for every allegation of sexual abuse at facilities under this agency's direct control (28 CFR 115.187; 34 USC § 30303; 15 CCR 1041).

1. The data collected shall include, at a minimum, the data necessary to answer all questions from the most recent version of the Survey of Sexual Violence, conducted by DOJ, or any subsequent form developed by DOJ and designated for lockups.

2. The data shall be aggregated at least annually.

(j) Ensuring audits are conducted pursuant to 28 CFR 115.401 through 28 CFR 115.405 for all Temporary Holding Facilities used to house detainees or prisoners overnight (28 CFR 115.193).

(k) Ensuring contractors or others who work in the Temporary Holding Facility are informed of the agency's zero-tolerance policy regarding sexual abuse and sexual harassment (28 CFR 115.132).

(l) Ensuring that information for uninvolved inmates, family, community members, and other interested third parties to report sexual abuse or sexual harassment is publicly posted at the facility (15 CCR 1029).

## 904.4 REPORTING SEXUAL ABUSE, HARASSMENT, AND RETALIATION

Detainees or prisoners may make reports to any staff member verbally, in writing, privately, or anonymously of any of the following (28 CFR 115.151; 15 CCR 1029):

- Sexual abuse
- Sexual harassment
- Retaliation by other detainees or prisoners or staff for reporting sexual abuse or sexual harassment
- Staff neglect or violation of responsibilities that may have contributed to sexual abuse or sexual harassment

During intake the Department shall notify all detainees and prisoners of the zero-tolerance policy regarding sexual abuse and sexual harassment, and of at least one way to report abuse or harassment to a public or private entity that is not part of the Department and that is able to receive and immediately forward detainee or prisoner reports of sexual abuse and sexual harassment to agency officials. This allows the detainee or prisoner to remain anonymous (28 CFR 115.132; 28 CFR 115.151).

### 904.4.1 MEMBER RESPONSIBILITIES

Department members shall accept reports from detainees, prisoners and third parties and shall promptly document all reports (28 CFR 115.151; 15 CCR 1029).

All members shall report immediately to the Watch Commander any knowledge, suspicion, or information regarding:

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

(a) An incident of sexual abuse or sexual harassment that occurs in the Temporary Holding Facility.

(b) Retaliation against detainees or the member who reports any such incident.

(c) Any neglect or violation of responsibilities on the part of any department member that may have contributed to an incident or retaliation (28 CFR 115.161).

No member shall reveal any information related to a sexual abuse report to anyone other than to the extent necessary to make treatment and investigation decisions.

904.4.2 WATCH COMMANDER RESPONSIBILITIES

The Watch Commander shall report to the department's designated investigators all allegations of sexual abuse, harassment, retaliation, neglect or violations leading to sexual abuse, harassment or retaliation. This includes third-party and anonymous reports (28 CFR 115.161).

If the alleged victim is under the age of 18 or considered a vulnerable adult, the Watch Commander shall also report the allegation as required under mandatory reporting laws and department policy.

Upon receiving an allegation that a detainee or prisoner was sexually abused while confined at another facility, the Watch Commander shall notify the head of the facility or the appropriate office of the agency where the alleged abuse occurred. The notification shall be made as soon as possible but no later than 72 hours after receiving the allegation. The Watch Commander shall document such notification (28 CFR 115.163).

If an alleged detainee or prisoner victim is transferred from the Temporary Holding Facility to a jail, prison or medical facility, the Department shall, as permitted by law, inform the receiving facility of the incident and the prisoner's potential need for medical or social services, unless the prisoner requests otherwise (28 CFR 115.165).

## 904.5 INVESTIGATIONS

The Department shall promptly, thoroughly and objectively investigate all allegations, including third-party and anonymous reports, of sexual abuse or sexual harassment. Only investigators who have received department-approved special training shall conduct sexual abuse investigations (28 CFR 115.171).

904.5.1 FIRST RESPONDERS

The first officer to respond to a report of sexual abuse or sexual assault shall (28 CFR 115.164):

(a) Separate the parties.

(b) Establish a crime scene to preserve and protect any evidence. Identify and secure witnesses until steps can be taken to collect any evidence.

(c) If the abuse occurred within a time period that still allows for the collection of physical evidence, request that the alleged victim not take any actions that could destroy physical evidence, including, as appropriate, washing, brushing teeth, changing clothes, urinating, defecating, smoking, drinking or eating.

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

(d) If the abuse occurred within a time period that still allows for the collection of physical evidence, ensure that the alleged abuser does not take any actions that could destroy physical evidence, including, as appropriate, washing, brushing teeth, changing clothes, urinating, defecating, smoking, drinking or eating.

If the first responder is not an officer the responder shall request that the alleged victim not take any actions that could destroy physical evidence and should then notify a law enforcement staff member (28 CFR 115.164).

### 904.5.2 INVESTIGATOR RESPONSIBILITIES

Investigators shall (28 CFR 115.171):

(a) Gather and preserve direct and circumstantial evidence, including any available physical and biological evidence and any available electronic monitoring data.

(b) Interview alleged victims, suspects and witnesses.

(c) Review any prior complaints and reports of sexual abuse involving the suspect.

(d) Conduct compelled interviews only after consulting with prosecutors as to whether compelled interviews may be an obstacle for subsequent criminal prosecution.

(e) Assess the credibility of the alleged victim, suspect or witness on an individual basis and not by the person's status as a detainee or a member of the Brentwood Police Department.

(f) Document in written reports a description of physical, testimonial, documentary and other evidence, the reasoning behind any credibility assessments, and investigative facts and findings.

(g) Refer allegations of conduct that may be criminal to the District Attorney for possible prosecution, including any time there is probable cause to believe a detainee or prisoner sexually abused another detainee or prisoner in the Temporary Holding Facility (28 CFR 115.178).

(h) Cooperate with outside investigators and remain informed about the progress of any outside investigation.

### 904.5.3 ADMINISTRATIVE INVESTIGATIONS

Administrative investigations shall include an effort to determine whether staff actions or failures to act contributed to the abuse. The departure of the alleged abuser or victim from the employment or control of this department shall not be used as a basis for terminating an investigation (28 CFR 115.171).

### 904.5.4 SEXUAL ASSAULT AND SEXUAL ABUSE VICTIMS

No detainee or prisoner who alleges sexual abuse shall be required to submit to a polygraph examination or other truth-telling device as a condition for proceeding with the investigation of such an allegation (28 CFR 115.171(e)).

Detainee or prisoner victims of sexual abuse shall receive timely, unimpeded access to emergency medical treatment. Treatment services shall be provided to the victim without financial cost and

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

regardless of whether the victim names the abuser or cooperates with any investigation arising out of the incident (28 CFR 115.182).

904.5.5 CONCLUSIONS AND FINDINGS

All completed investigations shall be forwarded to the Chief of Police, or if the allegations may reasonably involve the Chief of Police, to the City Manager. The Chief of Police or City Manager shall review the investigation and determine whether any allegations of sexual abuse or sexual harassment have been substantiated by a preponderance of the evidence (28 CFR 115.172).

All personnel shall be subject to disciplinary sanctions up to and including termination for violating this policy. Termination shall be the presumptive disciplinary sanction for department members who have engaged in sexual abuse. All discipline shall be commensurate with the nature and circumstances of the acts committed, the member's disciplinary history and the sanctions imposed for comparable offenses by other members with similar histories (28 CFR 115.176).

All terminations for violations of this policy, or resignations by members who would have been terminated if not for their resignation, shall be criminally investigated unless the activity was clearly not criminal and reported to any relevant licensing body (28 CFR 115.176).

Any contractor or volunteer who engages in sexual abuse shall be prohibited from contact with detainees or prisoners and reported to any relevant licensing bodies (28 CFR 115.177). The Chief of Police shall take appropriate remedial measures and consider whether to prohibit further contact with detainees or prisoners by a contractor or volunteer.

## 904.6 RETALIATION PROHIBITED

All detainees, prisoners and members who report sexual abuse or sexual harassment or who cooperate with sexual abuse or sexual harassment investigations shall be protected from retaliation (28 CFR 115.167). If any other individual who cooperates with an investigation expresses a fear of retaliation, appropriate measures shall be taken to protect that individual.

The Watch Commander or the authorized designee shall employ multiple protection measures, such as housing changes or transfers for detainee or prisoner victims or abusers, removal of alleged abusers from contact with victims, and emotional support services for detainees, prisoners or members who fear retaliation for reporting sexual abuse or sexual harassment or for cooperating with investigations.

The Watch Commander or the authorized designee shall identify a staff member to monitor the conduct and treatment of detainees, prisoners or members who have reported sexual abuse and of detainees or prisoners who were reported to have suffered sexual abuse. The staff member shall act promptly to remedy any such retaliation. In the case of detainees or prisoners, such monitoring shall also include periodic status checks.

## 904.7 REVIEWS AND AUDITS

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

### 904.7.1 INCIDENT REVIEWS

An incident review shall be conducted at the conclusion of every sexual abuse investigation, unless the allegation has been determined to be unfounded. The review should occur within 30 days of the conclusion of the investigation. The review team shall include upper-level management officials and seek input from line supervisors and investigators (28 CFR 115.186).

The review shall (28 CFR 115.186):

(a) Consider whether the allegation or investigation indicates a need to change policy or practice to better prevent, detect or respond to sexual abuse.

(b) Consider whether the incident or allegation was motivated by race; ethnicity; gender identity; lesbian, gay, bisexual, transgender or intersex identification, status or perceived status; gang affiliation; or was motivated or otherwise caused by other group dynamics at the facility.

(c) Examine the area in the facility where the incident allegedly occurred to assess whether physical barriers in the area may enable abuse.

(d) Assess the adequacy of staffing levels in that area during different shifts.

(e) Assess whether monitoring technology should be deployed or augmented to supplement supervision by staff.

The review team shall prepare a report of its findings, including any determinations made pursuant to this section and any recommendations for improvement. The report shall be submitted to the Chief of Police and the PREA Coordinator. The Chief of Police or the authorized designee shall implement the recommendations for improvement or shall document the reasons for not doing so (28 CFR 115.186).

### 904.7.2 DATA REVIEWS

The facility shall conduct an annual review of collected and aggregated incident-based sexual abuse data. The review should include, as needed, data from incident-based documents, including reports, investigation files and sexual abuse incident reviews (28 CFR 115.187).

The purpose of these reviews is to assess and improve the effectiveness of sexual abuse prevention, detection and response policies, practices and training. An annual report shall be prepared that includes (28 CFR 115.188):

(a) Identification of any potential problem areas.

(b) Identification of any corrective actions taken.

(c) Recommendations for any additional corrective actions.

(d) A comparison of the current year's data and corrective actions with those from prior years.

(e) An assessment of the Department's progress in addressing sexual abuse.

The report shall be approved by the Chief of Police and made readily available to the public through the department website or, if it does not have one, through other means. Material may be

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

redacted from the reports when publication would present a clear and specific threat to the safety and security of the Temporary Holding Facility. However, the nature of the redacted material shall be indicated.

All aggregated sexual abuse data from Brentwood Police Department facilities and private facilities with which it contracts shall be made readily available to the public at least annually through the department website or, if it does not have one, through other means. Before making aggregated sexual abuse data publicly available, all personal identifiers shall be removed (28 CFR 115.189).

### 904.8 RECORDS

The Department shall retain all written reports from administrative and criminal investigations pursuant to this policy for as long as the alleged abuser is held or employed by the Department, plus five years (28 CFR 115.171).

All other data collected pursuant to this policy shall be securely retained for at least 10 years after the date of the initial collection unless federal, state or local law requires otherwise (28 CFR 115.189).

### 904.9 TRAINING

All employees, volunteers and contractors who may have contact with detainees or prisoners shall receive department-approved training on the prevention and detection of sexual abuse and sexual harassment within this facility. The Training Manager shall be responsible for developing and administering this training as appropriate, covering at a minimum (28 CFR 115.131):

- The Department's zero-tolerance policy and the right of detainees and prisoners to be free from sexual abuse and sexual harassment, and from retaliation for reporting sexual abuse or harassment.
- The dynamics of sexual abuse and harassment in confinement settings, including which detainees and prisoners are most vulnerable.
- The right of detainees, prisoners and staff members to be free from sexual abuse and sexual harassment, and from retaliation for reporting sexual abuse or harassment.
- Detecting and responding to signs of threatened and actual abuse.
- Communicating effectively and professionally with all detainees and prisoners.
- Compliance with relevant laws related to mandatory reporting of sexual abuse to outside authorities.

Investigators assigned to sexual abuse investigations shall also receive training in conducting such investigations in confinement settings. Training should include (28 CFR 115.134):

- Techniques for interviewing sexual abuse victims.
- Proper use of *Miranda* and *Garrity* warnings.
- Sexual abuse evidence collection in confinement settings.

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

- Criteria and evidence required to substantiate a case for administrative action or prosecution referral.

The Training Manager shall maintain documentation that employees, volunteers, contractors and investigators have completed required training and that they understand the training. This understanding shall be documented through individual signature or electronic verification.

All current employees and volunteers who may have contact with detainees or prisoners shall be trained within one year of the effective date of the PREA standards. The agency shall provide annual refresher information to all such employees and volunteers to ensure that they understand the current sexual abuse and sexual harassment policies and procedures.

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

# Chapter 10 - Personnel

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

# Recruitment and Selection

## 1000.1 PURPOSE AND SCOPE

This policy provides a framework for employee recruiting efforts and identifying job-related standards for the selection process. This policy supplements the rules that govern employment practices for the Brentwood Police Department and that are promulgated and maintained by the Department of Human Resources.

## 1000.2 POLICY

In accordance with applicable federal, state, and local law, the Brentwood Police Department provides equal opportunities for applicants and employees regardless of actual or perceived race, ethnicity, national origin, religion, sex, sexual orientation, gender identity or expression, age, disability, pregnancy, genetic information, veteran status, marital status, and any other classification or status protected by law. The Department does not show partiality or grant any special status to any applicant, employee, or group of employees unless otherwise required by law.

The Department will recruit and hire only those individuals who demonstrate a commitment to service and who possess the traits and characteristics that reflect personal integrity and high ethical standards.

## 1000.3 RECRUITMENT

The Administration Division Commander should employ a comprehensive recruitment and selection strategy to recruit and select employees from a qualified and diverse pool of candidates.

The strategy should include:

(a) Identification of racially and culturally diverse target markets.

(b) Use of marketing strategies to target diverse applicant pools.

(c) Expanded use of technology and maintenance of a strong internet presence. This may include an interactive department website and the use of department-managed social networking sites, if resources permit.

(d) Expanded outreach through partnerships with media, community groups, citizen academies, local colleges, universities, and the military.

(e) Employee referral and recruitment incentive programs.

(f) Consideration of shared or collaborative regional testing processes.

The Administration Division Commander shall avoid advertising, recruiting and screening practices that tend to stereotype, focus on homogeneous applicant pools or screen applicants in a discriminatory manner.

The Department should strive to facilitate and expedite the screening and testing process, and should periodically inform each candidate of his/her status in the recruiting process.

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

## 1000.4 SELECTION PROCESS

The Department shall actively strive to identify a diverse group of candidates who have in some manner distinguished themselves as being outstanding prospects. Minimally, the Department should employ a comprehensive screening, background investigation, and selection process that assesses cognitive and physical abilities and includes review and verification of the following:

(a) A comprehensive application for employment (including previous employment, references, current and prior addresses, education, military record)

(b) Driving record

(c) Reference checks

(d) Employment eligibility, including U.S. Citizenship and Immigration Services (USCIS) Employment Eligibility Verification Form I-9 and acceptable identity and employment authorization documents consistent with Labor Code § 1019.1. This required documentation should not be requested until a candidate is hired. This does not prohibit obtaining documents required for other purposes.

(e) Information obtained from public internet sites

(f) Financial history consistent with the Fair Credit Reporting Act (FCRA) (15 USC § 1681 et seq.)

(g) Local, state, and federal criminal history record checks

(h) Lie detector test (when legally permissible) (Labor Code § 432.2)

(i) Medical and psychological examination (may only be given after a conditional offer of employment)

(j) Review board or selection committee assessment

### 1000.4.1 VETERAN'S PREFERENCE

Qualifying veterans of the United States Armed Forces who receive a passing score on an entrance examination shall be ranked in the top rank of any resulting eligibility list. The veteran's preference shall also apply to a widow or widower of a veteran or a spouse of a 100 percent disabled veteran (Government Code § 18973.1).

## 1000.5 BACKGROUND INVESTIGATION

Every candidate shall undergo a thorough background investigation to verify his/her personal integrity and high ethical standards, and to identify any past behavior that may be indicative of the candidate's unsuitability to perform duties relevant to the operation of the Brentwood Police Department (11 CCR 1953).

The narrative report and any other relevant background information shall be shared with the psychological evaluator. Information shall also be shared with others involved in the hiring process if it is relevant to their respective evaluations (11 CCR 1953).

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

### 1000.5.1 NOTICES

Background investigators shall ensure that investigations are conducted and notices provided in accordance with the requirements of the FCRA and the California Investigative Consumer Reporting Agencies Act (15 USC § 1681d; Civil Code § 1786.16).

### 1000.5.2 STATE NOTICES

If information disclosed in a candidate's criminal offender record information (CORI) is the basis for an adverse employment decision, a copy of the CORI shall be provided to the applicant (Penal Code § 11105).

### 1000.5.3 REVIEW OF SOCIAL MEDIA SITES

Due to the potential for accessing unsubstantiated, private, or protected information, the Administration Division Commander shall not require candidates to provide passwords, account information, or access to password-protected social media accounts (Labor Code § 980).

The Administration Division Commander should consider utilizing the services of an appropriately trained and experienced third party to conduct open source, internet-based searches, and/or review information from social media sites to ensure that:

(a) The legal rights of candidates are protected.

(b) Material and information to be considered are verified, accurate, and validated.

(c) The Department fully complies with applicable privacy protections and local, state, and federal law.

Regardless of whether a third party is used, the Administration Division Commander should ensure that potentially impermissible information is not available to any person involved in the candidate selection process.

### 1000.5.4 DOCUMENTING AND REPORTING

The background investigator shall summarize the results of the background investigation in a narrative report that includes sufficient information to allow the reviewing authority to decide whether to extend a conditional offer of employment. The report shall not include any information that is prohibited from use, including that from social media sites, in making employment decisions. The report and all supporting documentation shall be included in the candidate's background investigation file (11 CCR 1953).

### 1000.5.5 RECORDS RETENTION

The background report and all supporting documentation shall be maintained for a minimum of two years and in accordance with the established records retention schedule (Government Code § 12946; 11 CCR 1953).

### 1000.5.6 BACKGROUND INVESTIGATION UPDATE

A background investigation update may, at the discretion of the Chief of Police, be conducted in lieu of a complete new background investigation on a peace officer candidate who is reappointed

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

within 180 days of voluntary separation from the Brentwood Police Department, or who is an interim police chief meeting the requirements contained in 11 CCR 1953(f).

## 1000.6 DISQUALIFICATION GUIDELINES

As a general rule, performance indicators and candidate information and records shall be evaluated by considering the candidate as a whole, and taking into consideration the following:

- Age at the time the behavior occurred
- Passage of time
- Patterns of past behavior
- Severity of behavior
- Probable consequences if past behavior is repeated or made public
- Likelihood of recurrence
- Relevance of past behavior to public safety employment
- Aggravating and mitigating factors
- Other relevant considerations

A candidate's qualifications will be assessed on a case-by-case basis, using a totality-of-the-circumstances framework.

## 1000.7 EMPLOYMENT STANDARDS

All candidates shall meet the minimum standards required by state law (Government Code § 1029; Government Code § 1031; 11 CCR 1950 et seq.). Candidates will be evaluated based on merit, ability, competence, and experience, in accordance with the high standards of integrity and ethics valued by the Department and the community. The California Commission on Peace Officer Standards and Training (POST) developed a Job Dimensions list, which is used as a professional standard in background investigations.

Validated, job-related, and nondiscriminatory employment standards shall be established for each job classification and shall minimally identify the training, abilities, knowledge, and skills required to perform the position's essential duties in a satisfactory manner. Each standard should include performance indicators for candidate evaluation. The Department of Human Resources should maintain validated standards for all positions.

### 1000.7.1 STANDARDS FOR OFFICERS

Candidates shall meet the minimum standards established by POST (Government Code § 1029; Government Code § 1031; 11 CCR 1950 et seq.):

(a) Free of any felony convictions

(b) Citizen of the United States, or permanent resident alien eligible for and has applied for citizenship

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

(c) At least 18 years of age

(d) Fingerprinted for local, state and national fingerprint check

(e) Good moral character as determined by a thorough background investigation (11 CCR 1953)

(f) High school graduate, passed the GED or other high school equivalency test or obtained a two-year, four-year or advanced degree from an accredited or approved institution

(g) Free from any physical, emotional, or mental condition which might adversely affect the exercise of police powers (11 CCR 1954; 11 CCR 1955)

(h) Candidates must also satisfy the POST selection requirements, including (11 CCR 1950 et seq.):

1. Reading and writing ability assessment (11 CCR 1951)
2. Oral interview to determine suitability for law enforcement service (11 CCR 1952)

In addition to the above minimum POST required standards, candidates may be subjected to additional standards established by the Department (Penal Code § 13510(d)).

1000.7.2 STANDARDS FOR DISPATCHER

Candidates shall satisfy the POST selection requirements, including (11 CCR 1956):

(a) A verbal, reasoning, memory, and perceptual abilities assessment (11 CCR 1957)

(b) An oral communication assessment (11 CCR 1958)

(c) A medical evaluation (11 CCR 1960)

## 1000.8 PROBATIONARY PERIODS

The Administration Division Commander should coordinate with the Brentwood Department of Human Resources to identify positions subject to probationary periods and procedures for:

(a) Appraising performance during probation.

(b) Assessing the level of performance required to complete probation.

(c) Extending probation.

(d) Documenting successful or unsuccessful completion of probation.

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

# Evaluation of Employees

## 1002.1 PURPOSE AND SCOPE

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

## 1002.2 POLICY

The Brentwood Police Department utilizes a performance evaluation report 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 Department evaluates employees in a non-discriminatory manner based upon job-related factors specific to the employee's position, without regard to sex, race, color, national origin, religion, age, disability or other protected classes.

## 1002.3 FULL TIME PROBATIONARY PERSONNEL

Civilian personnel are on probation for 12 months before being eligible for certification as permanent employees. An evaluation may be completed monthly for all full-time civilian personnel during the probationary period.

Sworn personnel are on probation for 18 months before being eligible for certification as permanent employees. Probationary officers may be evaluated daily, weekly and monthly during the probationary period.

## 1002.4 FULL-TIME PERMANENT STATUS PERSONNEL

Permanent employees are subject to three types of performance evaluations:

**Regular** - A performance evaluation shall be completed annually on or about the anniversary of the employee's anniversary date. Periodic performance notations may be made, as determined by the employee's supervisor, in a progress file secured in the supervisor's office. Notations shall not be entered or retained in the employee's Division File without the employee having first been given an opportunity to read and initial the notation. Information contained in the employee's progress file may be included in the employee's annual performance evaluation. Information contained in the employee's Division File may be retained for up to two years.

**Transfer** - If an employee is transferred from one assignment to another and less than six months remain until the employee's annual evaluation is due, then an evaluation shall be completed by the immediate supervisor before the transfer is made. If at the time of transfer, there is less than three months remaining until the employee's annual evaluation, then no additional evaluation will be required on the employee's anniversary date.

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

**Special** - A special evaluation may be completed any time the rater and the rater's supervisor feel one is necessary due to employee performance that is deemed less than standard. Generally, the special evaluation will be the tool used to demonstrate those areas of performance deemed less than standard when follow-up action is planned (action plan, remedial training, retraining, etc.). The evaluation form and the attached documentation shall be submitted as one package. This system of evaluation is most common in a Performance Improvement Plan (PIP).

1002.4.1 RATING CRITERIA

Raters who are required to evaluate their personnel will complete the approved employee performance evaluation form.

In addition to completing the employee performance evaluation form, the evaluator is encouraged to attach a narrative report that comments on the employee's strengths, weaknesses, and suggestions for improvement, if any. Any rating of any job dimension marked below standard/ unsatisfactory or exceeds/outstanding standards, shall be substantiated in the rater's narrative report.

## 1002.5 EVALUATION PROCEDURE AND INTERVIEW

When the supervisor has completed the written preliminary evaluation, he/she shall sign and date it, then submit it to the appropriate division Lieutenant for review. The purpose of reviewing the written materials is to ensure fairness, impartiality, uniformity, and consistency. The written report is then forwarded to the Chief of Police through the chain of command for review and additional comments, if any. The Chief of Police will then return the evaluation to the evaluating supervisor.

The evaluating supervisor shall arrange for a private discussion of the evaluation with the employee. If the employee has valid and reasonable protests of any ratings, they should be changed accordingly.

The supervisor and employee will sign and date the evaluation. Permanent employees may seek an interview with superiors within their chain of command, up to and including the Chief of Police, to contest the performance evaluation by submitting a memo of request. Permanent employees may, within five days of performance review, submit a written response for attachment to the evaluation.

## 1002.6 EVALUATION REVIEW

After the supervisor finishes the discussion with the employee, the signed performance evaluation is forwarded back to the division Lieutenant. The Lieutenant shall review the evaluation for any changes made to the original submittal. The Lieutenant shall evaluate the supervisor on the quality of ratings given.

The division Lieutenant will meet with the employee and/or the evaluator to discuss the performance evaluation. The division Lieutenant will provide the employee a copy of the signed performance evaluation.

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

### 1002.7 EVALUATION DISTRIBUTION

The original performance evaluation shall be maintained in the employee's personnel file.

### 1002.8 EVALUATION FORMS

Although the process of performance evaluation remains generally the same, the forms used may be different depending on the classification of employees. The rating criteria used for officers below the rank of Lieutenant are described in Policy Manual section 1002.5.1. Other Department personnel, until notified of any changes, will still receive a performance rating based on the City of Brentwood standard employee evaluation form.

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

# Special Assignments and Promotions

## 1003.1 PURPOSE AND SCOPE

The purpose of this policy is to establish guidelines for promotions and for making special assignments within the Brentwood Police Department.

## 1003.2 POLICY

The Brentwood Police Department determines assignments and promotions in a non-discriminatory manner based upon job-related factors and candidate skills and qualifications. Assignments and promotions are made by the Chief of Police.

## 1003.3 PROMOTIONAL SPECIFICATIONS

Job classification descriptions and specifications are on file with the City of Brentwood Human Resources Division and can be viewed on the City's Internet Website.

### 1003.3.1 SELECTION PROCESS

The selection process is conducted in order to promote the most desirable qualified candidate for the position. The selection process may include, but is not limited to:

(a) Qualification screening

(b) Project assignment

(c) Written and/or oral exercises, interviews, and presentations

(d) Peer review

(e) Performance review

(f) Chief's interview

### 1003.3.2 EDUCATION REQUIREMENT

Promotional opportunities on this Department have allowed for educational "equivalency" units to substitute for the requirement of a college degree. The attainment of a college degree is a recognized qualification attribute in the selection of personnel to occupy supervisor, mid-management, and management level positions. The possession of a college degree from an accredited college or university will be the primary standard for promotion as follows:

(a) Sergeant:

1. Effective August 1, 2005: AA or AS degree (or higher) from an accredited college. The requirement of an AA or AS degree is waived if the candidate has successfully achieved the equivalent academic completion of the freshman and sophomore years at a four-year accredited college.

(b) Lieutenant or above:

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

1. Effective August 1, 2005: AA or AS degree (or higher) from an accredited college. The requirement of an AA or AS degree is waived if the candidate has successfully achieved the equivalent academic completion of the freshman and sophomore years at a four-year accredited college.
2. Effective August 1, 2007: BA or BS degree, or higher.

## 1003.4 SPECIAL ASSIGNMENT POSITIONS

The following positions are considered special assignments and not promotions:

(a) Special Weapons and Tactics Team member

(b) Investigator

(c) Motorcycle officer

(d) Bicycle Patrol officer

(e) Canine handler

(f) Collision investigator

(g) Field Training Officer

(h) Community Relations/Training Officer

(i) School Resource and/or Drug Abuse Resistance Education (D.A.R.E.) officer

(j) Court Officer

### 1003.4.1 GENERAL REQUIREMENTS

The following requirements should be considered when selecting a candidate for a special assignment:

(a) Three years of relevant experience

(b) Off probation

(c) Possession of or ability to obtain any certification required by POST or law

(d) Exceptional skills, experience, or abilities related to the special assignment

### 1003.4.2 EVALUATION CRITERIA

The following criteria will be used in evaluating candidates for a special assignment:

(a) Presents a professional, neat appearance.

(b) Maintains a physical condition that aids in his/her performance.

(c) Expressed an interest in the assignment.

(d) Demonstrates the following traits:

1. Emotional stability and maturity
2. Stress tolerance
3. Sound judgment and decision-making

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

4. Personal integrity and ethical conduct
5. Leadership skills
6. Initiative
7. Adaptability and flexibility
8. Ability to conform to department goals and objectives in a positive manner

1003.4.3 SELECTION PROCESS

The selection process for special assignments will include an administrative evaluation as determined by the Chief of Police to include:

(a) Supervisor recommendations - Each supervisor who has supervised or otherwise been involved with the candidate will submit a recommendation.

1. The supervisor recommendations will be submitted to the Division Commander for whom the candidate will work.

(b) Division Commander interview - The Division Commander will schedule interviews with each candidate.

1. Based on supervisor recommendations and those of the Division Commander after the interview, the Division Commander will submit his/her recommendations to the Chief of Police.

(c) Assignment by the Chief of Police.

The selection process for all special assignment positions may be waived for temporary assignments, emergency situations, training, and at the discretion of the Chief of Police.

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

# Grievance Procedure

## 1005.1 PURPOSE AND SCOPE

It is the policy of this department that all grievances be handled quickly and fairly without discrimination against employees who file a grievance whether or not there is a basis for the grievance. Our Department's philosophy is to promote a free verbal communication between employees and supervisors.

### 1005.1.1 GRIEVANCE DEFINED

A grievance is any difference of opinion concerning terms or conditions of employment or the dispute involving the interpretation or application of any of the following documents by the person(s) affected:

- The employee bargaining agreement (Memorandum of Understanding)
- This Policy Manual
- City rules and regulations covering personnel practices or working conditions

Grievances may be brought by an individual affected employee or by a group representative.

Specifically outside the category of grievance are complaints related to allegations of discrimination or harassment subject to the Discriminatory Harassment Policy. Also outside the category of grievances are personnel complaints regarding any allegation of misconduct or improper job performance against any department employee that, if true, would constitute a violation of department policy, federal, state, or local law as set forth in the Personnel Complaint Policy.

## 1005.2 PROCEDURE

Except as otherwise required under a collective bargaining agreement, if an employee believes that he or she has a grievance as defined above, then that employee shall observe the following procedure:

(a) Attempt to resolve the issue through informal discussion with immediate supervisor.

(b) If after a reasonable amount of time, generally seven days, the grievance cannot be settled by the immediate supervisor, the employee may request an interview with the Division Commander of the affected division or bureau.

(c) If a successful resolution is not found with the Division Commander, the employee may request a meeting with the Chief of Police.

(d) If the employee and the Chief of Police are unable to arrive at a mutual solution, then the employee shall proceed as follows:

1. Submit in writing a written statement of the grievance and deliver one copy to the Chief of Police and another copy to the immediate supervisor and include the following information:

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

(a) The basis for the grievance (i.e., what are the facts of the case?).

(b) Allegation of the specific wrongful act and the harm done.

(c) The specific policies, rules or regulations that were violated.

(d) What remedy or goal is being sought by this grievance.

(e) The employee shall receive a copy of the acknowledgment signed by the supervisor including the date and time of receipt.

(f) The Chief of Police will receive the grievance in writing. The Chief of Police and the City Manager will review and analyze the facts or allegations and respond to the employee within 14 calendar days. The response will be in writing, and will affirm or deny the allegations. The response shall include any remedies if appropriate. The decision of the City Manager is considered final.

## 1005.3 EMPLOYEE REPRESENTATION

Employees are entitled to have representation during the grievance process. The representative may be selected by the employee from the appropriate employee bargaining group.

### 1005.3.1 LEVEL I - INFORMAL RESOLUTION

Any Association member who believes he/she has a grievance shall present the grievance orally to his/her immediate supervisor within ten (10) days after the grievant knew, or reasonably should have known, of the circumstances which form the basis for the grievance. Failure to do so will render the grievance null and void. The immediate supervisor shall hold discussions and attempt to resolve the matter within ten (10) days after the presentation of the grievance. It is intent of this informal meeting that at least one personal conference be held between the aggrieved employee and the immediate supervisor.

### 1005.3.2 LEVEL II - FORMAL WRITTEN GRIEVANCE

(a) If the grievance is not settled during the informal conference and the grievant wishes to press the matter, the grievant shall present the grievance in writing on the appropriate form to the Supervising Lieutenant with ten (10) days after the oral decision of the immediate supervisor. The written information shall include:

1. A description of the specific grounds of the grievance, including names, dates, and places necessary for a complete understanding of the grievance;

2. A listing of the provisions of this agreement of City Rules, ordinances, policies and/or procedures which are alleged to have been violated;

3. A listing of the reasons why the immediate supervisor's proposed resolution of the problem is unacceptable; and

4. A listing of specific actions requested of the City, which will remedy the grievance.

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

(b) The Supervising Lieutenant shall communicate his or her decision to the grievant in writing within ten (10) days after receiving the grievance. If the Supervising Lieutenant does not respond within the time limits, the grievant may appeal to the next level.

(c) Within the above time limits either party, may request a personal conference.

1005.3.3 LEVEL III - APPEAL TO THE CHIEF OF POLICE

(a) If the grievant is not satisfied with the decision at Level II and the grievant wishes to press the matter, the grievant shall present the grievance and all supporting documents to the Chief of Police within ten (10) days after the written decision of the Supervising Lieutenant. The grievant shall include a clear, concise written statement of the reasons why the decision at Level II is unsatisfactory.

(b) The Chief of Police shall communicate his or her decision to the grievant in writing within ten (10) days after receiving the grievance. If the Chief of Police does not respond within the time limits, the grievant may appeal to the next level.

(c) Within the above time limits either party may request a personal conference.

1005.3.4 LEVEL IV - APPEAL OFFICER

(a) If the grievant is not satisfied with the decision at Level III, the grievant may within ten (10) days of the receipt of the decision at Level III, request an appeal. The request for appeal shall be to the City Manager in writing and shall include a clear, concise statement of the reasons for the appeal.

(b) Within (5) days of the receipt of the written request for appeal, the City Manager shall appoint an Appeals Officer of his or her choice to review the decision at Level III.

(c) Within 10 days of his or her appointment, the Appeals Officer shall meet with the grievant and his or her representative, if any, and representatives(s) of the City to review the grievance.

(d) The Appeals Officer shall communicate his or her decision to the grievant and the City Manager with ten (10) days. If the Appeals Officer does not respond within the time limits provided, the grievant may appeal to the next level.

1005.3.5 LEVEL V - ADVISORY ARBITRATION

(a) If the grievant is not satisfied with the decision at Level IV, the grievant may within ten (10) days of the receipt of the decision submit a request in writing to the P.O.A. for arbitration of the dispute. Within twenty (20) days of the grievant's receipt of the decision at Level IV, the P.O.A. shall inform the City, of its intent as to whether or not the grievance will be arbitrated.

(b) If a grievance will proceed to arbitration, the City shall obtain from the American Arbitration Association a list of seven potential arbitrators. The parties, using the

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

alternate strike method, shall strike the names from the list until one name remains, which shall be the arbitrator to hear the grievance. The party first to strike shall be determined by coin toss.

(c) The arbitrator agreed upon by the P.O.A. and the City to hear the merits of any grievance shall determine any issues raised regarding the arbitrary of a grievance.

(d) The arbitrator shall as soon as possible, hear evidence and render a decision on the issue or issues submitted to him. If the parties cannot agree upon a submission agreement, the arbitrator shall determine the issues by referring to the written grievance and answers thereto at each step.

(e) The City and P.O.A. agree that the jurisdiction and authority of the arbitrator so selected and the opinions the arbitrator expresses will be confined exclusively to the interpretation of the express provision or provisions of this Agreement at issue between the parties. The arbitrator shall have no authority to add to, subtract from, alter, amend, or modify any provisions of this Memorandum or with written ordinances, resolutions, rules, regulations and procedures of the City, nor shall he/she impose any limitations or obligations not specifically provided for under the terms of the Memorandum. The arbitrator shall be without power or authority to make any decision that requires the City of management to do an act prohibited by law.

(f) After a hearing and after both parties have had an opportunity to make written arguments, the arbitrator shall submit in writing to all parties his/her findings and recommendations.

(g) The arbitrator's findings and recommendations shall be advisory only.

1. Within five (5) days of the receipt of the arbitrator's determination, the City Manager shall render a final decision on the grievance.

(h) The fees and expenses of the arbitrator shall be shared equally by the City and P.O.A. Either party may request a certified court reporter to record the entire arbitration hearing at the requesting party's expense; however, the parties may mutually agree to share equally the costs of such court reporter.

All other expenses shall be borne by the party incurring them, and neither party shall be responsible for the expense of witnesses call by the other.

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

# Reporting of Employee Convictions

## 1009.1 PURPOSE AND SCOPE

Convictions of certain offenses may restrict or prohibit an employee's ability to properly perform official duties. Therefore, all employees shall be required to promptly notify the Department of any past and current criminal convictions.

## 1009.2 DOMESTIC VIOLENCE CONVICTIONS, OUTSTANDING WARRANTS AND RESTRAINING ORDERS

California and federal law prohibit individuals convicted of, or having an outstanding warrant for, certain offenses and individuals subject to certain court orders from lawfully possessing a firearm. Such convictions and court orders often involve allegations of the use or attempted use of force or threatened use of a weapon on any individual in a domestic relationship (e.g., spouse, cohabitant, parent, child) (18 USC § 922; Penal Code § 29805).

All members are responsible for ensuring that they have not been disqualified from possessing a firearm by any such conviction or court order and shall promptly report any such conviction or court order to a supervisor, as provided in this policy.

## 1009.3 OTHER CRIMINAL CONVICTIONS AND COURT ORDERS

Government Code § 1029 prohibits any person convicted of a felony from being a peace officer in the State of California. This prohibition applies regardless of whether the guilt was established by way of a verdict, guilty or nolo contendre plea.

Convictions of certain violations of the Vehicle Code and other provisions of law may also place restrictions on an employee's ability to fully perform the duties of the job.

Outstanding warrants as provided in Penal Code § 29805 also place restrictions on a member's ability to possess a firearm.

Moreover, while legal restrictions may or may not be imposed by statute or by the courts upon conviction of any criminal offense, criminal conduct by members of this department may be inherently in conflict with law enforcement duties and the public trust.

## 1009.4 REPORTING PROCEDURE

All members of this department and all retired officers with an identification card issued by the Department shall promptly notify their immediate supervisor (or the Chief of Police in the case of retired officers) in writing of any past or current criminal arrest, outstanding warrant or conviction regardless of whether or not the matter is currently on appeal and regardless of the penalty or sentence, if any.

All members and all retired officers with an identification card issued by the Department shall further promptly notify their immediate supervisor (or the Chief of Police in the case of retired

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

officers) in writing if the member or retiree becomes the subject of a domestic violence restraining order or similar court order or becomes the subject of an outstanding warrant.

Any member whose criminal conviction unduly restricts or prohibits that member from fully and properly performing his/her duties may be disciplined including, but not limited to, being placed on administrative leave, reassignment and/or termination. Any effort to remove such disqualification or restriction shall remain entirely the responsibility of the member on his/her own time and expense.

Any member failing to provide prompt written notice pursuant to this policy shall be subject to discipline.

## 1009.5 PROCEDURE FOR RELIEF

Pursuant to Penal Code § 29855, a peace officer may petition the court for permission to carry a firearm following a conviction under state law. Federal law, however, does not provide for any such similar judicial relief and the granting of a state court petition under Penal Code § 29855 will not relieve one of the restrictions imposed by federal law. Therefore, relief for any employee falling under the restrictions imposed by federal law may only be obtained by expungement of the conviction. Each employee shall seek relief from firearm restrictions on their own time and through their own resources.

Pursuant to Family Code § 6389(h), an individual may petition the court for an exemption to any restraining order, which would thereafter permit the individual to carry a firearm as a part of their employment. Relief from any domestic violence or other restriction shall also be pursued through the employee's own resources and on the employee's own time.

Pending satisfactory proof of relief from any legal restriction imposed on an employee's duties, the employee may be placed on administrative leave, reassigned or disciplined. The Department may, but is not required to return an employee to any assignment, reinstate any employee or reverse any pending or imposed discipline upon presentation of satisfactory proof of relief from any legal restriction set forth in this policy.

### 1009.5.1 NOTIFICATION REQUIREMENTS

The Administration Supervisor shall submit within 30 days of final disposition a notice to the Commission on Peace Officer Standards and Training (POST) of a felony conviction or Government Code § 1029 reason that disqualifies any current peace officer employed by this department or any former peace officer if this department was responsible for the investigation (11 CCR 1003).

The Administration Supervisor shall submit within 30 days a notice to POST of any appointment, termination, reinstatement, name change, or status change regarding any peace officer, reserve peace officer, public safety dispatcher, and records supervisor employed by this department (11 CCR 1003).

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

# Drug- and Alcohol-Free Workplace

## 1011.1 PURPOSE AND SCOPE

The purpose of this policy is to establish clear and uniform guidelines regarding drugs and alcohol in the workplace.

## 1011.2 POLICY

It is the policy of this department to provide a drug- and alcohol-free workplace for all members.

## 1011.3 GENERAL GUIDELINES

Alcohol and drug use in the workplace or on department time can endanger the health and safety of department members and the public. Such use shall not be tolerated (41 USC § 8103).

Members who have consumed an amount of an alcoholic beverage or taken any medication, or combination thereof, that would tend to adversely affect their mental or physical abilities shall not report for duty. Affected members shall notify the Watch Commander or appropriate supervisor as soon as the member is aware that he/she will not be able to report to work. If the member is unable to make the notification, every effort should be made to have a representative contact the supervisor in a timely manner. If the member is adversely affected while on-duty, he/she shall be immediately removed and released from work (see Work Restrictions in this policy).

### 1011.3.1 USE OF MEDICATIONS

Members should avoid taking any medications that will impair their ability to safely and completely perform their duties. Any member who is medically required or has a need to take any such medication shall report that need to his/her immediate supervisor prior to commencing any on-duty status.

No member shall be permitted to work or drive a vehicle owned or leased by the Department while taking any medication that has the potential to impair his/her abilities, without a written release from his/her physician.

### 1011.3.2 USE OF MARIJUANA

Possession of marijuana, including medical marijuana, or being under the influence of marijuana on- or off-duty is prohibited and may lead to disciplinary action.

## 1011.4 MEMBER RESPONSIBILITIES

Members shall report for work in an appropriate mental and physical condition. Members are prohibited from purchasing, manufacturing, distributing, dispensing, possessing or using controlled substances or alcohol on department premises or on department time (41 USC § 8103). The lawful possession or use of prescribed medications or over-the-counter remedies is excluded from this prohibition.

Members who are authorized to consume alcohol as part of a special assignment shall not do so to the extent of impairing on-duty performance.

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

Members shall notify a supervisor immediately if they observe behavior or other evidence that they believe demonstrates that a fellow member poses a risk to the health and safety of the member or others due to drug or alcohol use.

Members are required to notify their immediate supervisors of any criminal drug statute conviction for a violation occurring in the workplace no later than five days after such conviction (41 USC § 8103).

## 1011.5 EMPLOYEE ASSISTANCE PROGRAM

There may be available a voluntary employee assistance program to assist those who wish to seek help for alcohol and drug problems (41 USC § 8103). Insurance coverage that provides treatment for drug and alcohol abuse also may be available. Employees should contact the Department of Human Resources, their insurance providers or the employee assistance program for additional information. It is the responsibility of each employee to seek assistance before alcohol or drug problems lead to performance problems.

## 1011.6 WORK RESTRICTIONS

If a member informs a supervisor that he/she has consumed any alcohol, drug or medication that could interfere with a safe and efficient job performance, the member may be required to obtain clearance from his/her physician before continuing to work.

If the supervisor reasonably believes, based on objective facts, that a member is impaired by the consumption of alcohol or other drugs, the supervisor shall prevent the member from continuing work and shall ensure that he/she is safely transported away from the Department.

## 1011.7 REQUESTING SCREENING TESTS

The supervisor may request an employee to submit to a screening test under the following circumstances:

(a) The supervisor reasonably believes, based upon objective facts, that the employee is under the influence of alcohol or drugs that are impairing his/her ability to perform duties safely and efficiently.

(b) The employee discharges a firearm, other than by accident, in the performance of his/her duties.

(c) During the performance of his/her duties, the employee drives a motor vehicle and becomes involved in an incident that results in bodily injury to him/herself or another person, or substantial damage to property.

### 1011.7.1 SUPERVISOR RESPONSIBILITY

The supervisor shall prepare a written record documenting the specific facts that led to the decision to request the test, and shall inform the employee in writing of the following:

(a) The test will be given to detect either alcohol or drugs, or both.

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

(b) The result of the test is not admissible in any criminal proceeding against the employee.

(c) The employee may refuse the test, but refusal may result in dismissal or other disciplinary action.

1011.7.2 SCREENING TEST REFUSAL
An employee may be subject to disciplinary action if he/she:

(a) Fails or refuses to submit to a screening test as requested.

(b) After taking a screening test that indicates the presence of a controlled substance, fails to provide proof, within 72 hours after being requested, that he/she took the controlled substance as directed, pursuant to a current and lawful prescription issued in his/her name.

(c) Violates any provisions of this policy.

## 1011.8 COMPLIANCE WITH THE DRUG-FREE WORKPLACE ACT

No later than 30 days following notice of any drug statute conviction for a violation occurring in the workplace involving a member, the Department will take appropriate disciplinary action, up to and including dismissal, and/or requiring the member to satisfactorily participate in a drug abuse assistance or rehabilitation program (41 USC § 8104).

## 1011.9 CONFIDENTIALITY

The Department recognizes the confidentiality and privacy due to its members. Disclosure of any information relating to substance abuse treatment, except on a need-to-know basis, shall only be with the express written consent of the member involved or pursuant to lawful process.

The written results of any screening tests and all documents generated by the employee assistance program are considered confidential medical records and shall be maintained separately from the employee's other personnel files.

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

# Sick Leave

## 1013.1 PURPOSE AND SCOPE

This policy provides general guidance regarding the use and processing of sick leave. The accrual and terms of use of sick leave for eligible employees are detailed in the City personnel manual or applicable collective bargaining agreement.

This policy is not intended to cover all types of sick or other leaves. For example, employees may be entitled to additional paid or unpaid leave for certain family and medical reasons as provided for in the Family and Medical Leave Act (FMLA) (29 USC § 2601 et seq.) and the California Family Rights Act, and leave related to domestic violence, sexual assault, stalking or for organ or bone marrow donor procedures (29 CFR 825; Government Code § 12945.2; Labor Code § 230.1; Labor Code § 1510).

## 1013.2 POLICY

It is the policy of the Brentwood Police Department to provide eligible employees with a sick leave benefit.

## 1013.3 USE OF SICK LEAVE

Sick leave is intended to be used for qualified absences. Sick leave is not considered vacation. Abuse of sick leave may result in discipline, denial of sick leave benefits, or both.

Employees on sick leave shall not engage in other employment or self-employment or participate in any sport, hobby, recreational activity or other activity that may impede recovery from the injury or illness (see Outside Employment Policy).

Qualified appointments should be scheduled during a member's non-working hours when it is reasonable to do so.

### 1013.3.1 NOTIFICATION

All members should notify the Watch Commander or appropriate supervisor as soon as they are aware that they will not be able to report to work and no less than one hour before the start of their scheduled shifts. If, due to an emergency, a member is unable to contact the supervisor, every effort should be made to have a representative for the member contact the supervisor (Labor Code § 246 ).

When the necessity to be absent from work is foreseeable, such as planned medical appointments or treatments, the member shall, whenever possible and practicable, provide the Department with no less than 30 days' notice of the impending absence (Labor Code § 246).

Upon return to work, members are responsible for ensuring their time off was appropriately accounted for, and for completing and submitting the required documentation describing the type of time off used and the specific amount of time taken.

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

### 1013.4 EXTENDED ABSENCE

Members absent from duty for more than three consecutive days may be required to furnish a statement from a health care provider supporting the need to be absent and/or the ability to return to work. Members on an extended absence shall, if possible, contact their supervisor at specified intervals to provide an update on their absence and expected date of return.

Nothing in this section precludes a supervisor from requiring, with cause, a health care provider's statement for an absence of three or fewer days after the first three days of paid sick leave are used in a 12-month period.

### 1013.5 SUPERVISOR RESPONSIBILITIES

The responsibilities of supervisors include, but are not limited to:

(a) Monitoring and regularly reviewing the attendance of those under their command to ensure that the use of sick leave and absences is consistent with this policy.

(b) Attempting to determine whether an absence of four or more days may qualify as family medical leave and consulting with legal counsel or the Department of Human Resources as appropriate.

(c) Addressing absences and sick leave use in the member's performance evaluation when excessive or unusual use has:

  1. Negatively affected the member's performance or ability to complete assigned duties.

  2. Negatively affected department operations.

(d) When appropriate, counseling members regarding excessive absences and/or inappropriate use of sick leave.

(e) Referring eligible members to an available employee assistance program when appropriate.

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

# Communicable Diseases

## 1015.1 PURPOSE AND SCOPE

This policy provides general guidelines to assist in minimizing the risk of department members contracting and/or spreading communicable diseases.

### 1015.1.1 DEFINITIONS

Definitions related to this policy include:

**Communicable disease** - A human disease caused by microorganisms that are present in and transmissible through human blood, bodily fluid, tissue, or by breathing or coughing. These diseases commonly include, but are not limited to, hepatitis B virus (HBV), HIV and tuberculosis.

**Exposure** - When an eye, mouth, mucous membrane or non-intact skin comes into contact with blood or other potentially infectious materials, or when these substances are injected or infused under the skin; when an individual is exposed to a person who has a disease that can be passed through the air by talking, sneezing or coughing (e.g., tuberculosis), or the individual is in an area that was occupied by such a person. Exposure only includes those instances that occur due to a member's position at the Brentwood Police Department. (See the exposure control plan for further details to assist in identifying whether an exposure has occurred.)

## 1015.2 POLICY

The Brentwood Police Department is committed to providing a safe work environment for its members. Members should be aware that they are ultimately responsible for their own health and safety.

## 1015.3 EXPOSURE CONTROL OFFICER

The Chief of Police will assign a person as the Exposure Control Officer (ECO). The ECO shall develop an exposure control plan that includes:

(a) Exposure-prevention and decontamination procedures.

(b) Procedures for when and how to obtain medical attention in the event of an exposure or suspected exposure.

(c) The provision that department members will have no-cost access to the appropriate personal protective equipment (PPE) (e.g., gloves, face masks, eye protection, pocket masks) for each member's position and risk of exposure.

(d) Evaluation of persons in custody for any exposure risk and measures to separate them (15 CCR 1051; 15 CCR 1207).

(e) Compliance with all relevant laws or regulations related to communicable diseases, including:

1. Responding to requests and notifications regarding exposures covered under the Ryan White law (42 USC § 300ff-133; 42 USC § 300ff-136).

2. Bloodborne pathogen mandates including (8 CCR 5193):

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

(a) Sharps injury log.

(b) Needleless systems and sharps injury protection.

3. Airborne transmissible disease mandates including (8 CCR 5199):

(a) Engineering and work practice controls related to airborne transmissible diseases.

(b) Distribution of appropriate personal protective equipment to minimize exposure to airborne disease.

4. Promptly notifying the county health officer regarding member exposures (Penal Code § 7510).

5. Establishing procedures to ensure that members request exposure notification from health facilities when transporting a person that may have a communicable disease and that the member is notified of any exposure as required by Health and Safety Code § 1797.188.

6. Informing members of the provisions of Health and Safety Code § 1797.188 (exposure to communicable diseases and notification).

(f) Provisions for acting as the designated officer liaison with health care facilities regarding communicable disease or condition exposure notification. The designated officer should coordinate with other department members to fulfill the role when not available. The designated officer shall ensure that the name, title and telephone number of the designated officer is posted on the Department website (Health and Safety Code § 1797.188).

The ECO should also act as the liaison with the Division of Occupational Safety and Health (Cal/OSHA) and may request voluntary compliance inspections. The ECO shall annually review and update the exposure control plan and review implementation of the plan (8 CCR 5193).

## 1015.4 EXPOSURE PREVENTION AND MITIGATION

### 1015.4.1 GENERAL PRECAUTIONS

All members are expected to use good judgment and follow training and procedures related to mitigating the risks associated with communicable disease. This includes, but is not limited to (8 CCR 5193):

(a) Stocking disposable gloves, antiseptic hand cleanser, CPR masks or other specialized equipment in the work area or department vehicles, as applicable.

(b) Wearing department-approved disposable gloves when contact with blood, other potentially infectious materials, mucous membranes and non-intact skin can be reasonably anticipated.

(c) Washing hands immediately or as soon as feasible after removal of gloves or other PPE.

(d) Treating all human blood and bodily fluids/tissue as if it is known to be infectious for a communicable disease.

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

(e) Using an appropriate barrier device when providing CPR.

(f) Using a face mask or shield if it is reasonable to anticipate an exposure to an airborne transmissible disease.

(g) Decontaminating non-disposable equipment (e.g., flashlight, control devices, clothing and portable radio) as soon as possible if the equipment is a potential source of exposure.

1. Clothing that has been contaminated by blood or other potentially infectious materials shall be removed immediately or as soon as feasible and stored/decontaminated appropriately.

(h) Handling all sharps and items that cut or puncture (e.g., needles, broken glass, razors, knives) cautiously and using puncture-resistant containers for their storage and/or transportation.

(i) Avoiding eating, drinking, smoking, applying cosmetics or lip balm, or handling contact lenses where there is a reasonable likelihood of exposure.

(j) Disposing of biohazardous waste appropriately or labeling biohazardous material properly when it is stored.

1015.4.2 IMMUNIZATIONS

Members who could be exposed to HBV due to their positions may receive the HBV vaccine and any routine booster at no cost (8 CCR 5193).

## 1015.5 POST EXPOSURE

1015.5.1 INITIAL POST-EXPOSURE STEPS

Members who experience an exposure or suspected exposure shall:

(a) Begin decontamination procedures immediately (e.g., wash hands and any other skin with soap and water, flush mucous membranes with water).

(b) Obtain medical attention as appropriate.

(c) Notify a supervisor as soon as practicable.

1015.5.2 REPORTING REQUIREMENTS

The supervisor on-duty shall investigate every exposure or suspected exposure that occurs as soon as possible following the incident. The supervisor shall ensure the following information is documented (8 CCR 5193):

(a) Name and Social Security number of the member exposed

(b) Date and time of the incident

(c) Location of the incident

(d) Potentially infectious materials involved and the source of exposure (e.g., identification of the person who may have been the source)

(e) Work being done during exposure

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

(f) How the incident occurred or was caused

(g) PPE in use at the time of the incident

(h) Actions taken post-event (e.g., clean-up, notifications)

The supervisor shall advise the member that disclosing the identity and/or infectious status of a source to the public or to anyone who is not involved in the follow-up process is prohibited. The supervisor should complete the incident documentation in conjunction with other reporting requirements that may apply (see the Occupational Disease and Work-Related Injury Reporting Policy).

### 1015.5.3 MEDICAL CONSULTATION, EVALUATION AND TREATMENT

Department members shall have the opportunity to have a confidential medical evaluation immediately after an exposure and follow-up evaluations as necessary (8 CCR 5193).

The ECO should request a written opinion/evaluation from the treating medical professional that contains only the following information:

(a) Whether the member has been informed of the results of the evaluation.

(b) Whether the member has been notified of any medical conditions resulting from exposure to blood or other potentially infectious materials which require further evaluation or treatment.

No other information should be requested or accepted by the ECO.

### 1015.5.4 COUNSELING

The Department shall provide the member, and his/her family if necessary, the opportunity for counseling and consultation regarding the exposure (8 CCR 5193).

### 1015.5.5 SOURCE TESTING

Testing a person for communicable diseases when that person was the source of an exposure should be done when it is desired by the exposed member or when it is otherwise appropriate (8 CCR 5193). Source testing is the responsibility of the ECO. If the ECO is unavailable to seek timely testing of the source, it is the responsibility of the exposed member's supervisor to ensure testing is sought.

Source testing may be achieved by:

(a) Obtaining consent from the individual.

(b) Complying with the statutory scheme of Health and Safety Code § 121060. This includes seeking consent from the person who was the source of the exposure and seeking a court order if consent is not given.

(c) Testing the exposed member for evidence of a communicable disease and seeking consent from the source individual to either access existing blood samples for testing or for the source to submit to testing (Health and Safety Code § 120262).

(d) Taking reasonable steps to immediately contact the County Health Officer and provide preliminary information regarding the circumstances of the exposure and the status

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

of the involved individuals to determine whether the County Health Officer will order testing (Penal Code § 7510).

(e) Under certain circumstances, a court may issue a search warrant for the purpose of HIV testing a person when the exposed member qualifies as a crime victim (Penal Code § 1524.1).

Since there is the potential for overlap between the different manners in which source testing may occur, the ECO is responsible for coordinating the testing to prevent unnecessary or duplicate testing.

The ECO should seek the consent of the individual for testing and consult the City Attorney to discuss other options when no statute exists for compelling the source of an exposure to undergo testing if he/she refuses.

### 1015.6 CONFIDENTIALITY OF REPORTS

Medical information shall remain in confidential files and shall not be disclosed to anyone without the member's written consent (except as required by law). Test results from persons who may have been the source of an exposure are to be kept confidential as well.

### 1015.7 TRAINING

All members shall participate in training regarding communicable diseases commensurate with the requirements of their position. The training (8 CCR 5193):

(a) Shall be provided at the time of initial assignment to tasks where an occupational exposure may take place and at least annually after the initial training.

(b) Shall be provided whenever the member is assigned new tasks or procedures affecting his/her potential exposure to communicable disease.

(c) Should provide guidance on what constitutes an exposure, what steps can be taken to avoid an exposure and what steps should be taken if a suspected exposure occurs.

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

# Smoking and Tobacco Use

## 1017.1 PURPOSE AND SCOPE

This policy establishes limitations on smoking and the use of tobacco products by members and others while on-duty or while in Brentwood Police Department facilities or vehicles.

For the purposes of this policy, smoking and tobacco use includes, but is not limited to, any tobacco product, such as cigarettes, cigars, pipe tobacco, snuff, tobacco pouches and chewing tobacco, as well as any device intended to simulate smoking, such as an electronic cigarette or personal vaporizer.

## 1017.2 POLICY

The Brentwood Police Department recognizes that tobacco use is a health risk and can be offensive to others.

Smoking and tobacco use also presents an unprofessional image for the Department and its members. Therefore smoking and tobacco use is prohibited by members and visitors in all department facilities, buildings and vehicles, and as is further outlined in this policy (Government Code § 7597; Labor Code § 6404.5).

## 1017.3 SMOKING AND TOBACCO USE

Smoking and tobacco use by members is prohibited anytime members are in public view representing the Brentwood Police Department.

It shall be the responsibility of each member to ensure that no person under his/her supervision smokes or uses any tobacco product inside City facilities and vehicles.

## 1017.4 ADDITIONAL PROHIBITIONS

No person shall use tobacco products within 20 feet of a main entrance, exit or operable window of any public building (including any department facility), or buildings on the campuses of the University of California, California State University and California community colleges, whether present for training, enforcement or any other purpose (Government Code § 7596 et seq.).

### 1017.4.1 NOTICE

The Chief of Police or the authorized designee should ensure that proper signage is posted at each entrance to the Department facility (Labor Code § 6404.5).

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

# Personnel Complaints

## 1019.1 PURPOSE AND SCOPE

This policy provides guidelines for the reporting, investigation and disposition of complaints regarding the conduct of members of the Brentwood Police Department. This policy shall not apply to any questioning, counseling, instruction, informal verbal admonishment or other routine or unplanned contact of a member in the normal course of duty, by a supervisor or any other member, nor shall this policy apply to a criminal investigation.

## 1019.2 POLICY

The Brentwood Police Department takes seriously all complaints regarding the service provided by the Department and the conduct of its members.

The Department will accept and address all complaints of misconduct in accordance with this policy and applicable federal, state and local law, municipal and county rules and the requirements of any collective bargaining agreements.

It is also the policy of this department to ensure that the community can report misconduct without concern for reprisal or retaliation.

### 1019.2.1 COMPLAINT CLASSIFICATIONS

(a) The Professional Standards Unit, in conjunction with the Chief of Police, shall review all new complaints and classify them for the purposes of investigation:

1. Supervisory Inquiry

These are complaints that, even if events occurred exactly as described, signify a training gap or minor performance issue instead of misconduct on the part of the involved employee that would not result in any action more significant than a verbal admonishment or counseling. The complaint will be assigned to the appropriate supervisor for investigation and follow up. The follow up will include reviewing the circumstances with the complainant and the involved officer(s), providing corrective counseling to the involved officer(s) if necessary, providing additional information to the complainant regarding police policy and procedures, and to ensure that additional training is provided if a training gap was indentified during the investigation.

The supervisor will then document all of the follow up steps taken during the investigation, to include whether or not the complainant was satisfied with the department's efforts to resolve the complaint. All documentation will be forwarded to the Professional Standards Unit.

The Professional Standards Unit will forward the completed investigation to the involved employee's Captain and the Chief of Police. The Chief of Police will determine if the complaint can be closed, or if further investigation and follow up is necessary.

All Supervisory Inquiries will be assigned a supervisory inquiry number and maintained in the Professional Standards Unit.

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

A closing letter will be sent to the complainant outlining the resolution of the complaint.

2. Internal Affairs Investigation

These investigations are more complex and involve more serious allegations, including all use of force allegations. Internal affairs investigations will be assigned an internal affairs number and maintained in the Professional Standards Unit.

All internal affairs investigations will normally be conducted by the Professional Standards Unit. The Chief of Police, or his or her designee, has the discretion to assign an internal affairs investigation to someone outside of the Professional Standards Unit depending on the circumstances of the complaint.

Once the investigation is concluded, the case will be forwarded to the involved employee's Captain for review. The case will then be reviewed by the Chief of Police, who will determine if the investigation is complete or needs more follow up. If complete, the Chief of Police will determine the proper disposition based on the evidence in the case.

A closing letter will be sent to the complainant informing him or her of the final disposition of the case.

1019.2.2 FACTUAL DISPUTES

(a) A dispute regarding the factual support for an arrest, citation, or the appropriateness of an established department policy or procedure will not ordinarily be considered a public complaint. Further, it will not be subject to the public complaint reporting requirements of this section. However, people with inquiries of this nature should be given an explanation of the department policy, procedure, or issues involved. If further explanation appears necessary, the person should be referred to a supervisor or the department unit generally responsible for the subject matter of the inquiry. Employees are encouraged to document constructive public inquiries and suggestions and forward them through their chain of command.

## 1019.3 PERSONNEL COMPLAINTS

Personnel complaints include any allegation of misconduct or improper job performance that, if true, would constitute a violation of department policy or of federal, state or local law, policy or rule. Personnel complaints may be generated internally or by the public.

Inquiries about conduct or performance that, if true, would not violate department policy or federal, state or local law, policy or rule may be handled informally by a supervisor and shall not be considered a personnel complaint. Such inquiries generally include clarification regarding policy, procedures or the response to specific incidents by the Department.

1019.3.1 SOURCES OF COMPLAINTS

The following applies to the source of complaints:

(a) Individuals from the public may make complaints in any form, including in writing, by email, in person or by telephone.

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

(b) Any department member becoming aware of alleged misconduct shall immediately notify a supervisor.

(c) Supervisors shall initiate a complaint based upon observed misconduct or receipt from any source alleging misconduct that, if true, could result in disciplinary action.

(d) Anonymous and third-party complaints should be accepted and investigated to the extent that sufficient information is provided.

(e) Tort claims and lawsuits may generate a personnel complaint.

## 1019.4 AVAILABILITY AND ACCEPTANCE OF COMPLAINTS

### 1019.4.1 COMPLAINT FORMS

Personnel complaint forms will be maintained in a clearly visible location in the public area of the police facility and be accessible through the department website. Forms may also be available at other City facilities.

Personnel complaint forms in languages other than English may also be provided, as determined necessary or practicable.

### 1019.4.2 ACCEPTANCE

All complaints will be courteously accepted by any department member and promptly given to the appropriate supervisor. Although written complaints are preferred, a complaint may also be filed orally, either in person or by telephone. Such complaints will be directed to a supervisor. If a supervisor is not immediately available to take an oral complaint, the receiving member shall obtain contact information sufficient for the supervisor to contact the complainant. The supervisor, upon contact with the complainant, shall complete and submit a complaint form as appropriate.

Although not required, complainants should be encouraged to file complaints in person so that proper identification, signatures, photographs or physical evidence may be obtained as necessary.

A complainant shall be provided with a copy of his/her statement at the time it is filed with the Department (Penal Code § 832.7).

### 1019.4.3 AVAILABILITY OF WRITTEN PROCEDURES

The Department shall make available to the public a written description of the investigation procedures for complaints (Penal Code § 832.5).

## 1019.5 DOCUMENTATION

Supervisors shall ensure that all complaints are documented on a department memorandum or a complaint form. The supervisor shall ensure that the nature of the complaint is defined as clearly as possible.

## 1019.6 ADMINISTRATIVE INVESTIGATIONS

Allegations of misconduct will be administratively investigated as follows.

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

### 1019.6.1 SUPERVISOR RESPONSIBILITIES

A supervisor who becomes aware of alleged misconduct shall take reasonable steps to prevent aggravation of the situation.

The responsibilities of supervisors include, but are not limited to:

(a) Ensuring that upon receiving or initiating any complaint, a complaint form is completed.
  1. All documented complaints shall be forwarded to the Professional Standards Unit.
  2. In circumstances where the integrity of the investigation could be jeopardized by reducing the complaint to writing or where the confidentiality of a complainant is at issue, a supervisor shall orally report the matter to the member's Division Commander or the Chief of Police, who will initiate appropriate action.

(b) Responding to all complaints in a courteous and professional manner.

(c) Ensuring that upon receipt of a complaint involving allegations of a potentially serious nature, the Watch Commander and Chief of Police are notified via the chain of command as soon as practicable.

(d) Promptly contacting the Department of Human Resources and the Watch Commander for direction regarding their roles in addressing a complaint that relates to sexual, racial, ethnic or other forms of prohibited harassment or discrimination.

(e) Investigating a complaint as follows:
  1. Making reasonable efforts to obtain names, addresses and telephone numbers of witnesses.
  2. When appropriate, ensuring immediate medical attention is provided and photographs of alleged injuries and accessible uninjured areas are taken.

(f) Ensuring that the procedural rights of the accused member are followed (Government Code § 3303 et seq.).

(g) Ensuring interviews of the complainant are generally conducted during reasonable hours.

### 1019.6.2 ADMINISTRATIVE INVESTIGATION PROCEDURES

Whether conducted by a supervisor or a member of the Professional Standards Unit, the following applies to members covered by the Public Safety Officers Procedural Bill of Rights Act (POBR) (Government Code § 3303):

(a) Interviews of an accused member shall be conducted during reasonable hours and preferably when the member is on-duty. If the member is off-duty, he/she shall be compensated.

(b) Unless waived by the member, interviews of an accused member shall be at the Brentwood Police Department or other reasonable and appropriate place.

(c) No more than two interviewers should ask questions of an accused member.

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

(d) Prior to any interview, a member shall be informed of the nature of the investigation, the name, rank and command of the officer in charge of the investigation, the interviewing officers and all other persons to be present during the interview.

(e) All interviews shall be for a reasonable period and the member's personal needs should be accommodated.

(f) No member should be subjected to offensive or threatening language, nor shall any promises, rewards or other inducements be used to obtain answers.

(g) Any member refusing to answer questions directly related to the investigation may be ordered to answer questions administratively and may be subject to discipline for failing to do so.

1. A member should be given an order to answer questions in an administrative investigation that might incriminate the member in a criminal matter only after the member has been given a *Lybarger* advisement. Administrative investigators should consider the impact that compelling a statement from the member may have on any related criminal investigation and should take reasonable steps to avoid creating any foreseeable conflicts between the two related investigations. This may include conferring with the person in charge of the criminal investigation (e.g., discussion of processes, timing, implications).

2. No information or evidence administratively coerced from a member may be provided to anyone involved in conducting the criminal investigation or to any prosecutor.

(h) The interviewer should record all interviews of members and witnesses. The member may also record the interview. If the member has been previously interviewed, a copy of that recorded interview shall be provided to the member prior to any subsequent interview.

(i) All members subjected to interviews that could result in discipline have the right to have an uninvolved representative present during the interview. However, in order to maintain the integrity of each individual’s statement, involved members shall not consult or meet with a representative or attorney collectively or in groups prior to being interviewed.

(j) All members shall provide complete and truthful responses to questions posed during interviews.

(k) No member may be requested or compelled to submit to a polygraph examination, nor shall any refusal to submit to such examination be mentioned in any investigation (Government Code § 3307).

No investigation shall be undertaken against any officer solely because the officer has been placed on a prosecutor’s *Brady* list or the name of the officer may otherwise be subject to disclosure pursuant to *Brady v. Maryland*. However, an investigation may be based on the underlying acts or omissions for which the officer has been placed on a *Brady* list or may otherwise be subject to disclosure pursuant to *Brady v. Maryland* (Government Code § 3305.5).

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

### 1019.6.3 ADMINISTRATIVE INVESTIGATION FORMAT

Investigations of personnel complaints shall be thorough, complete and essentially follow this format:

**Introduction** - Include the identity of the members, the identity of the assigned investigators, the initial date and source of the complaint.

**Synopsis** - Provide a brief summary of the facts giving rise to the investigation.

**Summary** - List the allegations separately, including applicable policy sections, with a brief summary of the evidence relevant to each allegation. A separate recommended finding should be provided for each allegation.

**Evidence** - Each allegation should be set forth with the details of the evidence applicable to each allegation provided, including comprehensive summaries of member and witness statements. Other evidence related to each allegation should also be detailed in this section.

**Conclusion** - A recommendation regarding further action or disposition should be provided.

**Exhibits** - A separate list of exhibits (e.g., recordings, photos, documents) should be attached to the report.

### 1019.6.4 DISPOSITIONS

Each personnel complaint shall be classified with one of the following dispositions:

**Unfounded** - When the investigation discloses that the alleged acts did not occur or did not involve department members. Complaints that are determined to be frivolous will fall within the classification of unfounded (Penal Code § 832.8).

**Exonerated** - When the investigation discloses that the alleged act occurred but that the act was justified, lawful and/or proper.

**Not sustained** - When the investigation discloses that there is insufficient evidence to sustain the complaint or fully exonerate the member.

**Sustained** - A final determination by an investigating agency, commission, board, hearing officer, or arbitrator, as applicable, following an investigation and opportunity for an administrative appeal pursuant to Government Code § 3304 and Government Code § 3304.5 that the actions of an officer were found to violate law or department policy (Penal Code § 832.8).

If an investigation discloses misconduct or improper job performance that was not alleged in the original complaint, the investigator shall take appropriate action with regard to any additional allegations.

### 1019.6.5 COMPLETION OF INVESTIGATIONS

Every investigator or supervisor assigned to investigate a personnel complaint or other alleged misconduct shall proceed with due diligence in an effort to complete the investigation within one year from the date of discovery by an individual authorized to initiate an investigation (Government Code § 3304).

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

In the event that an investigation cannot be completed within one year of discovery, the assigned investigator or supervisor shall ensure that an extension or delay is warranted within the exceptions set forth in Government Code § 3304(d) or Government Code § 3508.1.

1019.6.6 NOTICE TO COMPLAINANT OF INVESTIGATION STATUS
The member conducting the investigation should provide the complainant with periodic updates on the status of the investigation, as appropriate.

## 1019.7 ADMINISTRATIVE SEARCHES

Assigned lockers, storage spaces and other areas, including desks, offices and vehicles, may be searched as part of an administrative investigation upon a reasonable suspicion of misconduct.

Such areas may also be searched any time by a supervisor for non-investigative purposes, such as obtaining a needed report, radio or other document or equipment.

Lockers and storage spaces may only be administratively searched in the member's presence, with the member’s consent, with a valid search warrant or where the member has been given reasonable notice that the search will take place (Government Code § 3309).

1019.7.1 DISCLOSURE OF FINANCIAL INFORMATION
An employee may be compelled to disclose personal financial information under the following circumstances (Government Code § 3308):

(a) Pursuant to a state law or proper legal process

(b) Information exists that tends to indicate a conflict of interest with official duties

(c) If the employee is assigned to or being considered for a special assignment with a potential for bribes or other improper inducements

## 1019.8 ADMINISTRATIVE LEAVE

When a complaint of misconduct is of a serious nature, or when circumstances indicate that allowing the accused to continue to work would adversely affect the mission of the Department, the Chief of Police or the authorized designee may temporarily assign an accused employee to administrative leave. Any employee placed on administrative leave:

(a) May be required to relinquish any department badge, identification, assigned weapons and any other department equipment.

(b) Shall be required to continue to comply with all policies and lawful orders of a supervisor.

(c) May be temporarily reassigned to a different shift, generally a normal business-hours shift, during the investigation. The employee may be required to remain available for contact at all times during such shift, and will report as ordered.

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

## 1019.9 CRIMINAL INVESTIGATION

Where a member is accused of potential criminal conduct, a separate supervisor or investigator shall be assigned to investigate the criminal allegations apart from any administrative investigation. Any separate administrative investigation may parallel a criminal investigation.

The Chief of Police shall be notified as soon as practicable when a member is accused of criminal conduct. The Chief of Police may request a criminal investigation by an outside law enforcement agency.

A member accused of criminal conduct shall be advised of his/her constitutional rights (Government Code § 3303(h)). The member should not be administratively ordered to provide any information in the criminal investigation.

The Brentwood Police Department may release information concerning the arrest or detention of any member, including an officer, that has not led to a conviction. No disciplinary action should be taken until an independent administrative investigation is conducted.

## 1019.10 POST-ADMINISTRATIVE INVESTIGATION PROCEDURES

Upon completion of a formal investigation, an investigation report should be forwarded to the Chief of Police through the chain of command. Each level of command should review the report and include his/her comments in writing before forwarding the report. The Chief of Police may accept or modify any classification or recommendation for disciplinary action.

### 1019.10.1 DIVISION COMMANDER RESPONSIBILITIES

Upon receipt of any completed personnel investigation, the Division Commander of the involved member shall review the entire investigative file, the member's personnel file and any other relevant materials.

The Division Commander may make recommendations regarding the disposition of any allegations and the amount of discipline, if any, to be imposed.

Prior to forwarding recommendations to the Chief of Police, the Division Commander may return the entire investigation to the assigned investigator or supervisor for further investigation or action.

When forwarding any written recommendation to the Chief of Police, the Division Commander shall include all relevant materials supporting the recommendation. Actual copies of a member's existing personnel file need not be provided and may be incorporated by reference.

### 1019.10.2 CHIEF OF POLICE RESPONSIBILITIES

Upon receipt of any written recommendation for disciplinary action, the Chief of Police shall review the recommendation and all accompanying materials. The Chief of Police may modify any recommendation and/or may return the file to the Division Commander for further investigation or action.

Once the Chief of Police is satisfied that no further investigation or action is required by staff, the Chief of Police shall determine the amount of discipline, if any, that should be imposed. In the

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

event disciplinary action is proposed, the Chief of Police shall provide the member with a pre-disciplinary procedural due process hearing (*Skelly*) by providing written notice of the charges, proposed action and reasons for the proposed action. Written notice shall be provided within one year from the date of discovery of the misconduct (Government Code § 3304(d)). The Chief of Police shall also provide the member with:

(a) Access to all of the materials considered by the Chief of Police in recommending the proposed discipline.

(b) An opportunity to respond orally or in writing to the Chief of Police within five days of receiving the notice.

1. Upon a showing of good cause by the member, the Chief of Police may grant a reasonable extension of time for the member to respond.

2. If the member elects to respond orally, the presentation may be recorded by the Department. Upon request, the member shall be provided with a copy of the recording.

Once the member has completed his/her response or if the member has elected to waive any such response, the Chief of Police shall consider all information received in regard to the recommended discipline. The Chief of Police shall render a timely written decision to the member and specify the grounds and reasons for discipline and the effective date of the discipline. Once the Chief of Police has issued a written decision, the discipline shall become effective.

1019.10.3 NOTICE OF FINAL DISPOSITION TO THE COMPLAINANT

The Chief of Police or the authorized designee shall ensure that the complainant is notified of the disposition (i.e., sustained, not sustained, exonerated, unfounded) of the complaint (Penal Code § 832.7(f)).

1019.10.4 NOTICE REQUIREMENTS

The disposition of any civilian's complaint shall be released to the complaining party within 30 days of the final disposition. This release shall not include what discipline, if any, was imposed (Penal Code § 832.7(f)).

## 1019.11 PRE-DISCIPLINE EMPLOYEE RESPONSE

The pre-discipline process is intended to provide the accused employee with an opportunity to present a written or oral response to the Chief of Police after having had an opportunity to review the supporting materials and prior to imposition of any recommended discipline. The employee shall consider the following:

(a) The response is not intended to be an adversarial or formal hearing.

(b) Although the employee may be represented by an uninvolved representative or legal counsel, the response is not designed to accommodate the presentation of testimony or witnesses.

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

(c) The employee may suggest that further investigation could be conducted or the employee may offer any additional information or mitigating factors for the Chief of Police to consider.

(d) In the event that the Chief of Police elects to cause further investigation to be conducted, the employee shall be provided with the results prior to the imposition of any discipline.

(e) The employee may thereafter have the opportunity to further respond orally or in writing to the Chief of Police on the limited issues of information raised in any subsequent materials.

### 1019.12 RESIGNATIONS/RETIREMENTS PRIOR TO DISCIPLINE

In the event that a member tenders a written resignation or notice of retirement prior to the imposition of discipline, it shall be noted in the file. The tender of a resignation or retirement by itself shall not serve as grounds for the termination of any pending investigation or discipline.

### 1019.13 POST-DISCIPLINE APPEAL RIGHTS

Non-probationary employees have the right to appeal a suspension without pay, punitive transfer, demotion, reduction in pay or step, or termination from employment. The employee has the right to appeal using the procedures established by any collective bargaining agreement, Memorandum of Understanding and/or personnel rules.

In the event of punitive action against an employee covered by the POBR, the appeal process shall be in compliance with Government Code § 3304 and Government Code § 3304.5.

During any administrative appeal, evidence that an officer has been placed on a *Brady* list or is otherwise subject to *Brady* restrictions may not be introduced unless the underlying allegations of misconduct have been independently established. Thereafter, such *Brady* evidence shall be limited to determining the appropriateness of the penalty (Government Code § 3305.5).

### 1019.14 PROBATIONARY EMPLOYEES AND OTHER MEMBERS

At-will and probationary employees and those members other than non-probationary employees may be released from employment for non-disciplinary reasons (e.g., failure to meet standards) without adherence to the procedures set forth in this policy or any right to appeal. However, any probationary officer subjected to an investigation into allegations of misconduct shall be entitled to those procedural rights, as applicable, set forth in the POBR (Government Code § 3303; Government Code § 3304).

At-will, probationary employees and those other than non-probationary employees subjected to discipline or termination as a result of allegations of misconduct shall not be deemed to have acquired a property interest in their position, but shall be given the opportunity to appear before the Chief of Police or authorized designee for a non-evidentiary hearing for the sole purpose of attempting to clear their name or liberty interest. There shall be no further opportunity for appeal beyond the liberty interest hearing and the decision of the Chief of Police shall be final.

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

### 1019.15 RETENTION OF PERSONNEL INVESTIGATION FILES

All personnel complaints shall be maintained in accordance with the established records retention schedule and as described in the Personnel Records Policy.

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

# Seat Belts

## 1021.1 PURPOSE AND SCOPE

This policy establishes guidelines for the use of seat belts and child restraints. This policy will apply to all members operating or riding in department vehicles (Vehicle Code § 27315.5).

### 1021.1.1 DEFINITIONS

Definitions related to this policy include:

**Child restraint system** - An infant or child passenger restraint system that meets Federal Motor Vehicle Safety Standards (FMVSS) and Regulations set forth in 49 CFR 571.213.

## 1021.2 WEARING OF SAFETY RESTRAINTS

All members shall wear properly adjusted safety restraints when operating or riding in a seat equipped with restraints, in any vehicle owned, leased or rented by this department while on- or off-duty, or in any privately owned vehicle while on-duty. The member driving such a vehicle shall ensure that all other occupants, including non-members, are also properly restrained.

Exceptions to the requirement to wear safety restraints may be made only in exceptional situations where, due to unusual circumstances, wearing a seat belt would endanger the member or the public. Members must be prepared to justify any deviation from this requirement.

## 1021.3 TRANSPORTING SUSPECTS, PRISONERS OR ARRESTEES

Suspects, prisoners and arrestees should be in a seated position and secured in the rear seat of any department vehicle with a prisoner restraint system or, when a prisoner restraint system is not available, by seat belts provided by the vehicle manufacturer. The prisoner restraint system is not intended to be a substitute for handcuffs or other appendage restraints.

Prisoners in leg restraints shall be transported in accordance with the Handcuffing and Restraints Policy.

## 1021.4 INOPERABLE SEAT BELTS

Department vehicles shall not be operated when the seat belt in the driver's position is inoperable. Persons shall not be transported in a seat in which the seat belt is inoperable.

Department vehicle seat belts shall not be modified, removed, deactivated or altered in any way, except by the vehicle maintenance and repair staff, who shall do so only with the express authorization of the Chief of Police.

Members who discover an inoperable restraint system shall report the defect to the appropriate supervisor. Prompt action will be taken to replace or repair the system.

## 1021.5 POLICY

It is the policy of the Brentwood Police Department that members use safety and child restraint systems to reduce the possibility of death or injury in a motor vehicle collision.

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

### 1021.6 TRANSPORTING CHILDREN

Children under the age of 8 shall be transported in compliance with California's child restraint system requirements (Vehicle Code § 27360; Vehicle Code § 27363).

Rear seat passengers in a cage-equipped vehicle may have reduced clearance, which requires careful seating and positioning of seat belts. Due to this reduced clearance, and if permitted by law, children and any child restraint system may be secured in the front seat of such vehicles provided this positioning meets federal safety standards and the vehicle and child restraint system manufacturer's design and use recommendations. In the event that a child is transported in the front seat of a vehicle, the seat should be pushed back as far as possible and the passenger-side airbag should be deactivated. If this is not possible, members should arrange alternate transportation when feasible. A child shall not be transported in a rear-facing child restraint system in the front seat in a vehicle that is equipped with an active frontal passenger airbag (Vehicle Code § 27363).

### 1021.7 VEHICLES MANUFACTURED WITHOUT SEAT BELTS

Vehicles manufactured and certified for use without seat belts or other restraint systems are subject to the manufacturer's operator requirements for safe use.

### 1021.8 VEHICLE AIRBAGS

In all vehicles equipped with airbag restraint systems, the system will not be tampered with or deactivated, except when transporting children as written elsewhere in this policy. All equipment installed in vehicles equipped with airbags will be installed as per the vehicle manufacturer specifications to avoid the danger of interfering with the effective deployment of the airbag device.

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

# Body Armor

## 1023.1 PURPOSE AND SCOPE

The purpose of this policy is to provide law enforcement officers with guidelines for the proper use of body armor.

## 1023.2 POLICY

It is the policy of the Brentwood Police Department to maximize officer safety through the use of body armor in combination with prescribed safety procedures. While body armor provides a significant level of protection, it is not a substitute for the observance of officer safety procedures.

## 1023.3 ISSUANCE OF BODY ARMOR

The Administration supervisor shall ensure that body armor is issued to all officers when the officer begins service at the Brentwood Police Department and that, when issued, the body armor meets or exceeds the standards of the National Institute of Justice.

The Administration supervisor shall establish a body armor replacement schedule and ensure that replacement body armor is issued pursuant to the schedule or whenever the body armor becomes worn or damaged to the point that its effectiveness or functionality has been compromised.

### 1023.3.1 USE OF SOFT BODY ARMOR

Generally, the use of body armor is required subject to the following:

(a) Officers shall only wear agency-approved body armor.

(b) Officers shall wear body armor anytime they are in a situation where they could reasonably be expected to take enforcement action.

(c) Officers may be excused from wearing body armor when they are functioning primarily in an administrative or support capacity and could not reasonably be expected to take enforcement action.

(d) Body armor shall be worn when an officer is working in uniform or taking part in Department range training.

(e) An officer may be excused from wearing body armor when he/she is involved in undercover or plainclothes work that his/her supervisor determines could be compromised by wearing body armor, or when a supervisor determines that other circumstances make it inappropriate to mandate wearing body armor.

### 1023.3.2 INSPECTIONS OF BODY ARMOR

Supervisors should ensure that body armor is worn and maintained in accordance with this policy through routine observation and periodic documented inspections. Annual inspections of body armor should be conducted by an authorized designee for fit, cleanliness, and signs of damage, abuse and wear.

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

1023.3.3 CARE AND MAINTENANCE OF SOFT BODY ARMOR

Soft body armor should never be stored for any period of time in an area where environmental conditions (e.g., temperature, light, humidity) are not reasonably controlled (e.g., normal ambient room temperature/humidity conditions), such as in automobiles or automobile trunks.

Soft body armor should be cared for and cleaned pursuant to the manufacturer's care instructions provided with the soft body armor. The instructions can be found on labels located on the external surface of each ballistic panel. The carrier should also have a label that contains care instructions. Failure to follow these instructions may damage the ballistic performance capabilities of the armor. If care instructions for the soft body armor cannot be located, contact the manufacturer to request care instructions.

Soft body armor should not be exposed to any cleaning agents or methods not specifically recommended by the manufacturer, as noted on the armor panel label.

Soft body armor should be replaced in accordance with the manufacturer's recommended replacement schedule.

## 1023.4 RANGE PROGRAM SUPERVISOR RESPONSIBILITIES

The Rangemaster should:

(a) Monitor technological advances in the body armor industry for any appropriate changes to Department approved body armor.

(b) Assess weapons and ammunition currently in use and the suitability of approved body armor to protect against those threats.

(c) Provide training that educates officers about the safety benefits of wearing body armor.

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

# Personnel Records

## 1025.1 PURPOSE AND SCOPE

This policy governs maintenance and access to personnel records. Personnel records include any file maintained under an individual member's name.

## 1025.2 POLICY

It is the policy of this department to maintain personnel records and preserve the confidentiality of personnel records pursuant to the Constitution and the laws of California (Penal Code § 832.7).

## 1025.3 DEPARTMENT FILE

The department file shall be maintained as a record of a person’s employment/appointment with this department. The department file should contain, at a minimum:

(a) Personal data, including photographs, marital status, names of family members, educational and employment history, or similar information. A photograph of the member should be permanently retained.

(b) Election of employee benefits.

(c) Personnel action reports reflecting assignments, promotions, and other changes in employment/appointment status. These should be permanently retained.

(d) Original performance evaluations. These should be permanently maintained.

(e) Discipline records, including copies of sustained personnel complaints.

1. Disciplinary action resulting from sustained internally initiated complaints or observation of misconduct shall be maintained pursuant to the established records retention schedule and at least two years (Government Code § 26202; Government Code § 34090).

2. Disciplinary action resulting from a sustained civilian's complaint shall be maintained pursuant to the established records retention schedule and at least five years (Penal Code § 832.5).

(f) Adverse comments such as supervisor notes or memos may be retained in the department file after the member has had the opportunity to read and initial the comment (Government Code § 3305).

1. Once a member has had an opportunity to read and initial any adverse comment, the member shall be given the opportunity to respond in writing to the adverse comment within 30 days (Government Code § 3306).

2. Any member response shall be attached to and retained with the original adverse comment (Government Code § 3306).

3. If a member refuses to initial or sign an adverse comment, at least one supervisor should note the date and time of such refusal on the original comment and the member should sign or initial the noted refusal. Such a refusal, however, shall

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

not be deemed insubordination, nor shall it prohibit the entry of the adverse comment into the member's file (Government Code § 3305).

(g) Commendations and awards.

(h) Any other information, the disclosure of which would constitute an unwarranted invasion of personal privacy.

### 1025.4 DIVISION FILE

Division files may be separately maintained internally by a member's supervisor for the purpose of completing timely performance evaluations. The Division file may contain supervisor comments, notes, notices to correct and other materials that are intended to serve as a foundation for the completion of timely performance evaluations.

All materials intended for this interim file shall be provided to the employee prior to being placed in the file in accordance with Government Code § 3305 and Government Code § 3306.

### 1025.5 TRAINING FILE

An individual training file shall be maintained by the Training Manager for each member. Training files will contain records of all training; original or photocopies of available certificates, transcripts, diplomas and other documentation; and education and firearms qualifications. Training records may also be created and stored remotely, either manually or automatically (e.g., Daily Training Bulletin (DTB) records).

(a) The involved member is responsible for providing the Training Manager or immediate supervisor with evidence of completed training/education in a timely manner.

(b) The Training Manager or supervisor shall ensure that copies of such training records are placed in the member’s training file.

### 1025.6 INTERNAL AFFAIRS FILE

Internal affairs files shall be maintained under the exclusive control of the Professional Standards Unit in conjunction with the office of the Chief of Police. Access to these files may only be approved by the Chief of Police or the Professional Standards Unit supervisor.

These files shall contain the complete investigation of all formal complaints of member misconduct, regardless of disposition (Penal Code § 832.12). Investigations of complaints that result in the following findings shall not be placed in the member's file but will be maintained in the internal affairs file:

(a) Not sustained

(b) Unfounded

(c) Exonerated

Investigation files arising out of civilian’s complaints shall be maintained pursuant to the established records retention schedule and for a period of at least five years. Investigations that

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

resulted in other than a sustained finding may not be used by the Department to adversely affect an employee's career (Penal Code § 832.5).

Investigation files arising out of internally generated complaints shall be maintained pursuant to the established records retention schedule and for at least two years (Government Code § 26202; Government Code § 34090).

## 1025.7 MEDICAL FILE

A medical file shall be maintained separately from all other personnel records and shall contain all documents relating to the member's medical condition and history, including but not limited to:

(a) Materials relating to a medical leave of absence, including leave under the Family and Medical Leave Act (FMLA).

(b) Documents relating to workers' compensation claims or the receipt of short- or long-term disability benefits.

(c) Fitness-for-duty examinations, psychological and physical examinations, follow-up inquiries and related documents.

(d) Medical release forms, doctor's slips and attendance records that reveal a member's medical condition.

(e) Any other documents or materials that reveal the member's medical history or medical condition, including past, present or future anticipated mental, psychological or physical limitations.

## 1025.8 SECURITY

Personnel records should be maintained in a secured location and locked either in a cabinet or access-controlled room. Personnel records maintained in an electronic format should have adequate password protection.

Personnel records are subject to disclosure only as provided in this policy, the Records Maintenance and Release Policy or according to applicable discovery procedures.

Nothing in this policy is intended to preclude review of personnel records by the City Manager, City Attorney or other attorneys or representatives of the City in connection with official business.

### 1025.8.1 REQUESTS FOR DISCLOSURE

Any member receiving a request for a personnel record shall promptly notify the Custodian of Records or other person charged with the maintenance of such records.

Upon receipt of any such request, the responsible person shall notify the affected member as soon as practicable that such a request has been made (Evidence Code § 1043).

The responsible person shall further ensure that an appropriate response to the request is made in a timely manner, consistent with applicable law. In many cases, this may require assistance of available legal counsel.

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

All requests for disclosure that result in access to a member's personnel records shall be logged in the corresponding file.

1025.8.2 RELEASE OF PERSONNEL INFORMATION
Personnel records shall not be disclosed except as allowed by law (Penal Code § 832.7; Evidence Code § 1043) (See also Records Maintenance and Release Policy).

Any person who maliciously, and with the intent to obstruct justice or the due administration of the laws, publishes, disseminates, or otherwise discloses the residence address or telephone number of any member of this department may be guilty of a misdemeanor (Penal Code § 146e).

The Department may release any factual information concerning a disciplinary investigation if the member who is the subject of the investigation (or the member's representative) publicly makes a statement that is published in the media and that the member (or representative) knows to be false. The disclosure of such information, if any, shall be limited to facts that refute any such false statement (Penal Code § 832.7).

**1025.9 RELEASE OF PERSONNEL RECORDS AND RECORDS RELATED TO CERTAIN INCIDENTS, COMPLAINTS, AND INVESTIGATIONS OF OFFICERS**
Personnel records and records related to certain incidents, complaints, and investigations of officers shall be released pursuant to a proper request under the Public Records Act and subject to redaction and delayed release as provided by law.

The Custodian of Records should work as appropriate with the Chief of Police or the Professional Standards Unit supervisor in determining what records may qualify for disclosure when a request for records is received and if the requested record is subject to redaction or delay from disclosure.

For purposes of this section, a record includes (Penal Code § 832.7(b)(2)):

- All investigation reports.
- Photographic, audio, and video evidence.
- Transcripts or recordings of interviews.
- Autopsy reports.
- All materials compiled and presented for review to the District Attorney or to any person or body charged with determining whether to file criminal charges against an officer in connection with an incident, or whether the officer's action was consistent with law and department policy for purposes of discipline or administrative action, or what discipline to impose or corrective action to take.
- Documents setting forth findings or recommending findings.
- Copies of disciplinary records relating to the incident, including any letters of intent to impose discipline, any documents reflecting modifications of discipline due to the *Skelly* or grievance process, and letters indicating final imposition of discipline or other documentation reflecting implementation of corrective action.

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

Unless a record or information is confidential or qualifies for delayed disclosure as provided by Penal Code § 832.7(b)(7) or other law, the following records shall be made available for public inspection upon request (Penal Code § 832.7):

(a) Records relating to the report, investigation, or findings of:

1. The discharge of a firearm at another person by an officer.
2. The use of force against a person resulting in death or in great bodily injury (as defined by Penal Code § 243(f)(4)) by an officer.

(b) Records relating to an incident where a sustained finding (see the Personnel Complaints Policy) was made by the department or oversight agency regarding:

1. An officer engaged in sexual assault of a member of the public (as defined by Penal Code § 832.7(b)).
2. Dishonesty of an officer relating to the reporting, investigation, or prosecution of a crime, or directly relating to the reporting of, or investigation of misconduct by, another officer, including but not limited to any sustained finding of perjury, false statements, filing false reports, destruction, falsifying, or concealing of evidence.

A record from a separate and prior investigation or assessment of a separate incident shall not be released unless it is independently subject to disclosure (Penal Code § 832.7(b)(3)).

When an investigation involves multiple officers, the Department shall not release information about allegations of misconduct or the analysis or disposition of an investigation of an officer unless it relates to a sustained finding of a qualified allegation as provided by Penal Code § 832.7(b)(4) against the officer. However, factual information about the action of the officer during an incident or the statements of an officer shall be released if the statements are relevant to a sustained finding of the qualified allegation against another officer that is subject to release (Penal Code § 832.7(b)(4)).

### 1025.9.1 REDACTION

The Custodian of Records, in consultation with the Chief of Police or authorized designee, shall redact the following portions of records made available for release (Penal Code § 832.7(b)(5)):

(a) Personal data or information (e.g., home address, telephone number, identities of family members) other than the names and work-related information of officers

(b) Information that would compromise the anonymity of complainants and witnesses

(c) Confidential medical, financial, or other information where disclosure is prohibited by federal law or would cause an unwarranted invasion of personal privacy that clearly outweighs the strong public interest in records about misconduct and serious use of force

(d) Where there is a specific, articulable, and particularized reason to believe that disclosure of the record would pose a significant danger to the physical safety of the officer or another person

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

Additionally, a record may be redacted, including redacting personal identifying information, where, on the facts of the particular case, the public interest served by not disclosing the information clearly outweighs the public interest served by disclosing it (Penal Code § 832.7(b)(6)).

### 1025.9.2 DELAY OF RELEASE

Unless otherwise directed by the Chief of Police, the Custodian of Records should consult with a supervisor familiar with the underlying investigation to determine whether to delay disclosure of records relating to the discharge of a firearm or use of force resulting in death or in great bodily injury due to any of the following conditions (Penal Code § 832.7):

(a) Active criminal investigations

1. Disclosure may be delayed 60 days from the date the use of force occurred or until the District Attorney determines whether to file criminal charges, whichever occurs sooner.
2. After the initial 60 days, delay of disclosure may be continued if the disclosure could reasonably be expected to interfere with a criminal enforcement proceeding against an officer or against someone other than an officer who used the force.

(b) Filed criminal charges

1. When charges are filed related to an incident where force was used, disclosure may be delayed until a verdict on those charges is returned at trial or, if a plea of guilty or no contest is entered, the time to withdraw the plea has passed.

(c) Administrative investigations

1. Disclosure may be delayed until whichever occurs later:
   (a) There is a determination from the investigation whether the use of force violated law or department policy, but no longer than 180 days after the date of the department's discovery of the use of force or allegation of use of force
   (b) Thirty days after the close of any criminal investigation related to the officer's use of force

### 1025.9.3 NOTICE OF DELAY OF RECORDS

When there is justification for delay of disclosure of records relating to the discharge of a firearm or use of force resulting in death or in great bodily injury during an active criminal investigation, the Custodian of Records shall provide written notice of the reason for any delay to a requester as follows (Penal Code § 832.7):

(a) Provide the specific basis for the determination that the interest in delaying disclosure clearly outweighs the public interest in disclosure. The notice shall also include the estimated date for the disclosure of the withheld information.

(b) When delay is continued beyond the initial 60 days because of criminal enforcement proceedings against anyone, at 180-day intervals provide the specific basis that

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

disclosure could reasonably be expected to interfere with a criminal enforcement proceeding and the estimated date for disclosure.

1. Information withheld shall be disclosed when the specific basis for withholding the information is resolved, the investigation or proceeding is no longer active, or no later than 18 months after the date of the incident, whichever occurs sooner, unless:

    (a) When the criminal proceeding is against someone other than an officer and there are extraordinary circumstances to warrant a continued delay due to the ongoing criminal investigation or proceeding, then the Department must show by clear and convincing evidence that the interest in preventing prejudice to the active and ongoing criminal investigation or proceeding outweighs the public interest for prompt disclosure of records about use of serious force by officers.

In cases where an action to compel disclosure is brought pursuant to Government Code § 6258, the Department may justify delay by filing an application to seal the basis for withholding if disclosure of the written basis itself would impact a privilege or compromise a pending investigation (Penal Code § 832.7(b)(7)).

### 1025.10 MEMBER ACCESS TO HIS/HER OWN PERSONNEL RECORDS

Any member may request access to his/her own personnel records during the normal business hours of those responsible for maintaining such files. Any member seeking the removal of any item from his/her personnel records shall file a written request to the Chief of Police through the chain of command. The Department shall remove any such item if appropriate, or within 30 days provide the member with a written explanation of why the contested item will not be removed. If the contested item is not removed from the file, the member's request and the written response from the Department shall be retained with the contested item in the member's corresponding personnel record (Government Code § 3306.5).

Members may be restricted from accessing files containing any of the following information:

(a) An ongoing internal affairs investigation to the extent that it could jeopardize or compromise the investigation pending final disposition or notice to the member of the intent to discipline.

(b) Confidential portions of internal affairs files that have not been sustained against the member.

(c) Criminal investigations involving the member.

(d) Letters of reference concerning employment/appointment, licensing or issuance of permits regarding the member.

(e) Any portion of a test document, except the cumulative total test score for either a section of the test document or for the entire test document.

(f) Materials used by the Department for staff management planning, including judgments or recommendations concerning future salary increases and other wage treatments,

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

management bonus plans, promotions and job assignments or other comments or ratings used for department planning purposes.

(g) Information of a personal nature about a person other than the member if disclosure of the information would constitute a clearly unwarranted invasion of the other person's privacy.

(h) Records relevant to any other pending claim between the Department and the member that may be discovered in a judicial proceeding.

### 1025.11 RETENTION AND PURGING

Unless provided otherwise in this policy, personnel records shall be maintained in accordance with the established records retention schedule.

(a) During the preparation of each member’s performance evaluation, all personnel complaints and disciplinary actions should be reviewed to determine the relevancy, if any, to progressive discipline, training and career development. Each supervisor responsible for completing the member's performance evaluation should determine whether any prior sustained disciplinary file should be retained beyond the required period for reasons other than pending litigation or other ongoing legal proceedings.

(b) If a supervisor determines that records of prior discipline should be retained beyond the required period, approval for such retention should be obtained through the chain of command from the Chief of Police.

(c) If, in the opinion of the Chief of Police, a personnel complaint or disciplinary action maintained beyond the required retention period is no longer relevant, all records of such matter may be destroyed in accordance with the established records retention schedule.

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

# Collateral Duty Assignments

## 1026.1 PURPOSE AND SCOPE

It is the intent of the Brentwood Police Department that when a collateral duty assignment opportunity becomes available, that all qualified and interested personnel are considered equally. To facilitate the selection process, the following procedure is established.

## 1026.2 REQUEST FOR COLLATERAL ASSIGNMENT

The Chief of Police or his/her designee will distribute an announcement to qualified personnel when a collateral duty assignment opportunity becomes available. If not specifically stated in other policies, the qualifications and requirements for the collateral duty assignment will be contained in the announcement, along with instructions on how to request consideration.

In general, the request for consideration for the collateral duty assignment will be in the form of a "Memo of Interest," directed to the Commander of the division in which the assignment exists.

Qualified employees will thereafter be informed of the process for selection.

### 1026.2.1 DESIRABLE QUALIFICATIONS

Qualifications for collateral duty assignments will depend on the nature of the assignment, as determined by the Chief of Police. Qualification criteria may include, but is not limited to:

(a) Years of law enforcement and/specific assignment experience

(b) Probationary status

(c) Interest in position applied for

(d) Education, training, and demonstrated abilities in related areas such as enforcement activities, investigative techniques, report writing, public relations, etc.

(e) Complete any training required by POST or law.

## 1026.3 ASSIGNMENTS

The following positions are considered temporary limited assignments and are not considered special assignments nor promotions:

(a) SWAT Officer

(b) CNT Officer

(c) Public Information Officer (PIO)

(d) Field Training Officer (FTO)

(e) Training Instructor

(f) Other assignments as may be determined by the Chief of Police.

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

### 1026.4 SELECTION PROCESS

The following criteria apply to collateral duty assignments:

(a) Administrative evaluation as determined by the Chief of Police. This may involve a process that includes a review of supervisors recommendations. Each supervisor who has supervised or otherwise been involved with the candidate(s) may submit a recommendation.

(b) The supervisor recommendations will be submitted to the Commander of the division in which the assignment exists. The Division Commander will establish an interview panel.

(c) After the selection process and/or interview, the Division Commander will submit his/her recommendation(s) to the Chief of Police.

(d) The Chief of Police will review the recommendation(s) and make selection for the assignment.

The policy and procedures for all positions may be waived for temporary assignments, emergency situations, or for training.

### 1026.5 DURATION OF THE ASSIGNMENT

The duration of all collateral duty assignments are not fixed. Any employee may be assigned or removed at any time by the discretion of the Chief of Police.

### 1026.6 REQUEST TO LEAVE A COLLATERAL DUTY ASSIGNMENT

Personnel currently assigned to a collateral duty position, may request to be relieved of the assignment by submitting a memo to the Division Commander in which the assignment exists.

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

# Special Assignments

## 1027.1 PURPOSE AND SCOPE

It is the intent of the Department that when a special assignment opportunity becomes available, that all qualified and interested personnel are considered equally. To facilitate the selection process, the following procedure is established.

## 1027.2 REQUEST FOR SPECIAL ASSIGNMENT

The Chief of Police or his/her designee will distribute an announcement to qualified personnel when a special assignment opportunity becomes available. If not specifically stated in other policies, the qualifications and requirements for the special assignment will be contained in the announcement, along with instructions on how to request consideration.

In general, the request for consideration for the assignment will be in the form of a "Memo of Interest," directed to the Commander of the division in which the assignment exists.

Qualified employees will thereafter be informed of the process for selection.

### 1027.2.1 DESIRABLE QUALIFICATIONS

Qualifications for special assignment will depend on the nature of the assignment, as determined by the Chief of Police. Qualification criteria may include, but is not limited to:

(a) Years of law enforcement and/or specific assignment experience

(b) Probationary status

(c) Interest in position applied for

(d) Education, training, and demonstrated abilities in related areas; such as enforcement activities, investigative techniques, report writing, public relations, etc.

(e) Complete any training required by POST or law.

## 1027.3 ASSIGNMENTS

The following positions are considered special assignments and are not considered promotions:

(a) Investigator/Detective Officer

(b) Investigative/Detective Sergeant

(c) School Resource Officer

(d) Youth Officer

(e) Traffic Officer

(f) Special Operations Sergeant

(g) Professional Standards Sergeant

(h) Other assignments as may be determined by the Chief of Police.

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

These positions are filled or not filled, entirely at the discretion of the Chief of Police.

## 1027.4 SELECTION PROCESS

The following criteria apply to special assignments:

(a) Administrative evaluation as determined by the Chief of Police. This may involve a process that includes a review of supervisors recommendations. Each supervisor who has supervised or otherwise been involved with the candidate(s) may submit a recommendation.

(b) The supervisor recommendations will be submitted to the Commander of the division in which the assignment exists. The Division Commander will establish an interview panel.

(c) After the selection process and/or interview, the Division Commander will submit his/her recommendation(s) to the Chief of Police.

(d) The Chief of Police will review the recommendation(s) and make a selection for the assignment.

The policy and procedures for all positions may be waived for temporary assignments, emergency situations, or for training.

### 1027.4.1 REQUIRED PATROL DUTY BETWEEN ASSIGNMENTS

When an officer leaves a special assignment, he/she must work as a patrol officer in the Patrol Bureau for at least two full shift rotations before being eligible to apply for another special assignment.

The required patrol duty between special assignments takes effect on the first day of the first patrol shift rotation in 2011.

Canine officers leaving the canine assignment do not have the above outlined patrol requirement prior to applying for a different special assignment.

## 1027.5 DURATION OF THE ASSIGNMENT

The duration of all special assignments are not fixed. Any employee may be assigned or removed at any time by the discretion of the Chief of Police. However, in general, the following timeframes can be expected for the listed special assignments:

(a) Detective Officer/Sergeant (3 years)

(b) Traffic Officer (5 years)

(c) Canine Officer (life of the dog)

(d) School Resource Officer/Youth Officer (3 years)

(e) Professional Standards Sergeant (3 years)

(f) Special Operations Sergeant (3 years)

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

### 1027.6 REQUEST TO LEAVE A SPECIAL OR COLLATERAL ASSIGNMENT

Personnel currently assigned to a special assignment may request a transfer to the Patrol Bureau. The request for transfer is to be submitted in memo format to the Chief of Police through the chain of command.

### 1027.7 NOTICE OF TRANSFER

Personnel being assigned from a special assignment back to patrol shall be provided a Notice of Transfer memo which shall include the assignment date, the name of the supervisor or manager they are to report to, and the right to appeal the transfer.

### 1027.8 APPEAL OF TRANSFER

Personnel who are notified of reassignment to patrol from a special assignment, may within ten (10) days after the notification of reassignment, respond orally or in writing to the Chief of Police regarding their removal from the special assignment.

The employee may appeal the removal from the special assignment to the City Manager pursuant to the Adminiatrative Appeals policy, Policy Manual Section 1029.

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

# Administrative Appeals

## 1028.1 PURPOSE AND SCOPE

This administrative appeal process is established pursuant to Government Code Section 3304.5. This policy applies to all public safety officers (as that term is defined by Government Code Section 3301) who are subject to any punitive (disciplinary) action or denial of promotion on grounds other than merit.

A punitive action is defined as any personnel action that may lead to dismissal, demotion, suspension, reduction in salary, written reprimand, or transfer for purposes of punishment (Government Code Section 3303).

## 1028.2 PROCEDURE FOR SUSPENSION, DEMOTIONS, AND DISMISSALS

### 1028.2.1 RIGHT OF APPEAL

Any officer shall have the right of appeal from any punitive action under this policy. Such appeal must be filed in writing with the City Manager within five (5) calendar days of the date of service of the Notice of Punitive Action. Failure to file an appeal within such period constitutes a waiver of the right of appeal. Filling a notice of appeal shall not stay the imposition of punitive action.

If the City Manager is the party initially proposing discipline, then any response under this Section shall be addressed to the City Council.

### 1028.2.2 APPEAL HEARING

(a) Scheduling the Hearing:

1. If the officer files a notice of appeal, an evidentiary hearing before a neutral hearing officer arranged for by the Human Resources Manager, shall be scheduled within twenty (20) calendar days after receipt of the notice of appeal, if possible. The hearing will commence as expeditiously as it can be arranged.

(b) Conduct of the Hearing:

1. The formal rules of evidence do not apply, although the hearing officer shall have the discretion to exclude evidence that is incompetent, irrelevant or cumulative, or the presentation of which will otherwise consume undue time.
2. The parties may present opening statements.
3. The parties may present evidence through documents and testimony. Witnesses shall testify under oath. The oath may be administered by the certified court reporter or by the hearing officer. Witnesses are subject to cross examination.
4. Following the presentation of the evidence, if any, the parties may submit oral and/or written closing arguments for consideration by the hearing officer.

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

5. The hearing shall be recorded by a certified shorthand court reporter. The cost of the services of the court reporter shall be shared equally between the City and the appellant.

6. The hearing shall be closed to the public.

(c) Advisory Findings:

1. The recommended findings of the hearing officer shall be rendered within thirty (30) calendar days of the hearing, or within a reasonable time thereafter, and shall be advisory only to the City Manager. In the event the punitive action being appealed was initially imposed by the City Manager, the hearing officer's finding shall be advisory to the City Council. The City Council shall make the final decision. The City Manager or City Council may accept, modify, or reject the recommended decision. Nothing in this policy shall be construed as to bind the City Manager or City Council, to any findings of the hearing officer.

(d) Burden of Proof/Persuasion:

1. The employer shall have the burden of providing the facts cited in support of the punitive action by a preponderance of the evidence. The employer shall also bear the burden of persuasion that the punitive action being appealed is not an abuse of discretion.

1028.2.3 DECISION

(a) City Manager:

1. The City Manager shall render a written decision after receiving the advisory findings of the hearing officer. The City Manager's decision shall be final and conclusive. A copy of such decision shall be forwarded to the appellant.

(b) City Council:

1. In the event the punitive action was imposed by the City Manager, the City Council shall consider the advisory findings of the hearing officer and shall render a final and conclusive decision. A copy of such decision shall be forwarded to the appellant.

(c) The decision shall be served upon the appellant and his/her attorney in the manner prescribed by the Code of Civil Procedure Section 1094.6, subsection (b).

1028.2.4 FAILURE OF OFFICER TO APPEAR AT THE HEARING

The failure of the officer to appear at the hearing shall be deemed a withdrawal of his/her appeal and a waiver of the right to appeal.

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

1028.2.5 REPRESENTATION
The officer may represent himself/herself at the hearing, or be represented by an attorney or another representative of his/her choice.

**1028.3 PROCEDURE FOR WRITTEN REPRIMANDS, DISCIPLINARY TRANSFERS, ETC**
This procedure shall apply to punitive actions for which officers are not entitled to an appeal under Section 1029.2 of this policy. Punitive actions which are covered by this subsection include, but are not limited to written reprimands, disciplinary transfers, and/or non-disciplinary transfers resulting in a loss of compensation (e.g., non-disciplinary transfer out a premium pay assignment).

1028.3.1 RIGHT TO ADMINISTRATIVE APPEAL

(a) An officer who is subjected to punitive action other than dismissal, demotion, or suspension, or who is subjected to an action which may lead to punitive action shall be entitled to receive an administrative appeal under this procedure.

(b) The officer shall not be entitled to appeal the action prior to its imposition, i.e., an officer shall not be entitled to receive a hearing akin to a *"Skelly"* hearing or other pre-disciplinary appeal hearing prior to imposition of the punitive action.

1028.3.2 NOTICE OF APPEAL

(a) Within five (5) calendar days of receipt by an officer of notification of punitive action as set forth above, the officer shall notify the City Manager via the chain of command, in writing of the officer's intent to appeal the punitive action.

(b) The notice of appeal shall specify the action being appealed and the substantive and procedural grounds for the appeal.

1028.3.3 APPEAL HEARING

(a) Scheduling the Hearing:

1. If the officer files a notice of appeal, an evidentiary hearing before a neutral hearing officer arranged for by the Human Resources Manager, shall be scheduled within twenty (20) calendar days after receipt of the notice of appeal, if possible. The hearing will commence as expeditiously as it can be arranged.

(b) Conduct of the Hearing:

1. The formal rules of evidence do not apply, although the hearing officer shall have the discretion to exclude evidence that is incompetent, irrelevant or cumulative, or the presentation of which will otherwise consume undue time.

2. The parties may present opening statements.

3. The parties may present evidence through documents and testimony. Witnesses shall testify under oath. The oath shall be administered by the hearing officer.

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

4. The parties shall only be entitled to confront and cross-examine witnesses if the punitive action involves charges of misconduct.
5. Following the presentation of evidence, if any, the parties may submit oral closing arguments for consideration by the hearing officer.
6. The hearing shall be audio recorded.

(c) Advisory Findings:

1. The findings of the hearing officer shall be rendered within thirty (30) calendar days of the hearing, or within a reasonable time thereafter, and shall be advisory only to the City Manager. In the event the punitive action was imposed by the City Manager, the hearing officer's finding shall be advisory to the City Council. The City Council shall make the final decision. The City Manager (or City Council) may accept, modify, or reject the hearing officer's recommended decision. Nothing in this policy shall be construed to bind the City Manager or City Council, to any findings of the hearing officer.

(d) Burden of Proof/Persuasion:

1. If the action being appealed does not involve allegations of misconduct (i.e., allegations that the officer has violated one or more federal, state, or local laws, and/or City or Police Department regulations, procedures, or rules) the limited purpose of the hearing shall be to provide the officer the opportunity to establish a record of the circumstances surrounding the action. The Department's burden shall be satisfied if the Department establishes that the actions was reasonable, even though reasonable persons might disagree about whether the action was the best one under the circumstances.
    (a) For example, if the Department imposes a non-disciplinary transfer of an officer out of a premium pay assignment with the intent of affording other officers the opportunity to work in the assignment, the decision would not be subject to being overturned as long as it was reasonable, even if one or more persons disagree with the decision.
2. If punitive action involves charges of misconduct (i.e., allegations that the officer has violated one or more laws, regulations, procedures, or rules), the Department shall have the burden of proving by a preponderance of the evidence the facts which form the basis for the charge of misconduct and the burden of persuasion that the punitive action was reasonable under the circumstances.
    (a) For example, if an officer received a written reprimand for unauthorized absence from work, then the Department would bear the burden of proving that the officer was absent from work without authorization and a written reprimand was reasonable under the circumstances.

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

1028.3.4 DECISION

(a) City Manager:

1. The City Manager shall render a written decision after receiving the advisory findings of the hearing officer. The City Manager's decision shall be final and conclusive. A copy of such decision shall be forwarded to the appellant.

(b) City Council:

1. In the event the punitive action was imposed by the City Manager, the City Council shall consider the advisory findings of the hearing officer and shall render a final and conclusive decision. A copy of such decision shall be forwarded to the appellant.

(c) The decision shall be served upon the appellant and his/her attorney in the manner prescribed by the Code of Civil Procedure Section 1094.6, subsection (b).

1028.3.5 FAILURE OF OFFICER TO APPEAR AT HEARING

The failure of the officer to appear at the hearing shall be deemed a withdrawal of his/her appeal and waiver of the right to appeal.

1028.3.6 REPRESENTATION

The officer may represent himself/herself at the hearing, or be represented by an attorney or another representative of his/her choice.

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

# Department Awards

## 1029.1 PURPOSE AND SCOPE

Special recognition may be in order whenever an employee performs his/her duties in an exemplary manner. This procedure provides general guidelines for the commending of exceptional employee performance.

## 1029.2 AWARDS

The order of precedence for Departmental awards is

### 1029.2.1 MEDAL OF VALOR

The Medal of Valor shall be awarded to members of the Department who, while serving in an official capacity, distinguish themselves conspicuously by the performance of an heroic act in excess of normal demands of police service where the employee is fully aware of the imminent threat of his/her personal safety.

(a) Criteria for Eligibility:

1. The situation was extremely hazardous.
2. A strong possibility existed, at the time the employee acted; he/she could have suffered serious injury or death.
3. The act was not foolhardy.
4. The employee did not use poor judgment thus creating the necessity for his/her acts.

### 1029.2.2 DISTINGUISHED SERVICE MEDAL

(a) Criteria for Eligibility:

1. Distinguished service in an individual action meritorious in nature; or
2. Demonstrated exemplary performance over time.

### 1029.2.3 LIFESAVING MEDAL

The Lifesaving Medal shall be awarded to the employee that saves a life of another at risk to themselves, or by heroic effort or efficiency, saves a life.

### 1029.2.4 PURPLE HEART

The Purple Heart shall be awarded to members of the Department who, while serving in an official capacity, are injured in the performance of their duties.

(a) Criteria for Eligibility:

1. The employee was serving in an official capacity.
2. The employee was attempting to carry out the duties of his/her office.

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

3. The injury was of a relatively serious nature and required medical attention.
4. The injury was one that, normally, could only be sustained by a police employee carrying out the duties of his/her office.

1029.2.5 GOLD POLICE CROSS MEDAL
The Gold Police Cross shall be awarded posthumously to any member of the Department killed in the line of duty, and is presented to the member's beneficiary.

1029.2.6 CHIEF'S COMMENDATION AWARD
The Chief's Commendation shall be awarded to members of the Department to take official notice of a commendatory act or service by a member of the Department.

Examples of actions warranting the awarding of the Chief's Commendation may include: alertness resulting in a key apprehension or recovery, conspicuous bravery or superior handling of a difficult situation.

1029.2.7 DEPARTMENT ACHIEVEMENT AWARD
The Department Achievement Award shall take official notice of exemplary duty performance by a member of the Department.

Examples of actions warranting the awarding of a Certificate of Achievement may be: sponsorship of a successful public safety program, a conspicuously positive public relations effort, or leadership (formal or informal) in an arduous Department project.

1029.2.8 CHIEF'S LETTER OF APPRECIATION
The Chief's Letter of Appreciation shall take official notice of superior duty performance by a member of the Department. This award would be in the form of a letter from the Chief, or his designee, to the employee and placed in their personnel file.

1029.2.9 LETTER OF RECOGNITION
A Letter of Recognition may be made by any supervisor of the Department regarding any other employee of the Department, provided the reporting person is superior in rank or is the person-in-charge of the individual being recognized. Any employee may recommend a Letter of Recognition to the supervisor of the employee subject to recognition.

(a) An act by an employee deserving of a Letter of Recognition may include, but not limited to:
    1. Superior handling of a difficult situation.
    2. Conspicuous bravery or outstanding performance.
    3. Any action or performance that is above and beyond the typical duties of an employee.

(b) The format and review of the Letter shall include the following:

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

1. The supervisor shall prepare a Memorandum to the employee routed via the chain of command to the Chief of Police documenting the action to be recognized.
2. The Chief of Police will return the Letter of Recognition to the employee being recognized for his/her signature. A copy of the Letter of Recognition will be placed in the employee's personnel file.

### 1029.3 NOMINATIONS FOR AWARD

Any employee who believes that the actions of another employee warrant consideration for an award enumerated herein, may recommend that employee for recognition and commendation.

(a) The nominator shall complete a Memorandum to their immediate supervisor. The Memorandum should identify a specific award to be considered, and detail his/her actions or accomplishments that support conferring the recommended award upon the employee. Multiple employees may be recommended for an award originating from a single incident but each must be recommended separately.

(b) The nominator shall forward the completed recommendation to the recommended employee's immediate supervisor. The Supervisor will recommend approval or disapproval and provide commentary to support their recommendation. This recommendation then will be forwarded through the chain of command of the affected employee with a recommendation and commentary at every level. All recommendations must be forwarded up the chain of command regardless of the supervisor's recommendation and be done so in timely fashion.

The Chief's Letter of Appreciation and the Letter of Recognition are excluded from the above listed procedure.

### 1029.4 AWARDS REVIEW COMMITTEE

The Department's Awards Review Committee shall be comprised of the Department's Captains, a Lieutenant, and a Sergeant. The Committee shall consider every request for a commendation excluding the Chief's Letter of Appreciation and the Letter of Recognition.

(a) The Committee shall be convened as soon as practical, when a request for an award is forwarded to them via proper channels.

(b) The Committee shall review the recommendation and the subsequent endorsements form the recommended employee's chain of command. The Committee may also conduct further investigation, as necessary, to insure accuracy, equity, and impartiality in the proceedings and uniformity in application of this program.

(c) The Committee will then make a recommendation regarding the request to the Chief of Police. This recommendation can include: approval as submitted, disapproval as submitted, approval with a recommendation to upgrade or downgrade the level of award from that recommended.

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

(d) The Chief of Police will then review, approve, disapprove, or modify the request. The person making the recommendation shall be notified of the final disposition of their recommendation.

### 1029.5 RECORDING OF MEDALS, COMMENDATIONS, AND CERTIFICATES

Whenever an employee is awarded a medal, commendation, or certificate, a record of same shall be placed in the employee's personnel file for an official record of the recognition being bestowed.

### 1029.6 PRESENTATION OF AWARDS

All Department awards shall be presented to the individual in whatever manner is deemed appropriate by the Chief of Police.

### 1029.7 RIBBON BARS

Ribbon bars will be worn on the Class A uniform jacket and/or shirt. The ribbon bar will be worn horizontally, immediately above the name tag centered above the right pocket. No more than three ribbon bars will be worn on a tier. Awards received in excess of three will be worn on successive tiers of three each. Ribbons not constituting a full tier will be dressed evenly and centered above the highest completed tier. Ribbons shall be dressed from right to left, top to bottom, in order of importance.

(a) In addition to the award earned, ribbons will given to be worn on the uniform for the following:

1. Medal of Valor.
2. Distinguished Service Medal.
3. Lifesaving Medal.
4. Purple Heart.
5. Chief's Commendation.

### 1029.8 SEPARATION PLAQUES

Employees who service retire with a minimum of 20 years of full time law enforcement employment and a minimum of 5 years employment with the Brentwood Police Department will be presented a plaque recognizing their contribution to the department and the prefession.

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

# Fitness Room Policy

## 1030.1 PURPOSE AND SCOPE

The Brentwood Police Officers Association (BPOA) requested facility space for a fitness room in which various exercise related equipment could be placed for the voluntary off-duty use and enjoyment of its members and others associated with the Police Department. The Police Department is able to accommodate the request at this time.

A Fitness Room has been designated near the locker rooms in the Police Facility. The BPOA, not the Department, selected and purchased the equipment in the Fitness Room. While the type, operation, maintenance, and inspection of the equipment is the responsibility of the BPOA, the room itself is within the authority of the Chief of Police.

The term "Fitness Room" is merely the label for the designated space, and is not intended by the Department to in any way suggest that the use of any or all equipment will benefit your physical/ mental fitness or health.

Use of exercise equipment may result in injury. Be aware that the Labor Code exempts from Workers Compensation coverage those injuries arising from voluntary participation in any off-duty recreational, social, or athletic activity not reasonably expected or required by the employment.

Use of the BPOA equipment in the Fitness Room is strictly voluntary and shall only be done off-duty. Those with authorized access to the Fitness Room can choose to use or not use the equipment. The Police Department and the City neither intends or expects to derive any direct, indirect, or residual benefit, whatsoever, from an individual's choice to use or not use any of the Fitness Room equipment. There is no expressed or implied requirement by this Department that the Fitness Room equipment ever be used by anyone, nor is it suggested that the use of this equipment will enhance or improve job performance or opportunities. In fact, the designated Fitness Room space is situated such that no member of the Police Department need ever enter into the Fitness Room to perform their job duties.

## 1030.2 FITNESS ROOM EQUIPMENT

The BPOA is responsible for the maintenance of their equipment and for establishing reasonable rules and guidelines regarding the Fitness Room and use of the equipment.

### 1030.2.1 EQUIPMENT MAINTENANCE

The BPOA shall establish a written inspection and maintenance procedure compatible with the manufacturer's recommendations. Records of inspection and maintenance shall be retained.

### 1030.2.2 EQUIPMENT AND FITNESS ROOM RULES

The BPOA shall establish reasonable rules and guidelines regarding use of the equipment and Fitness Room. The rules shall be provided to all users and shall be available for reading in the Fitness Room. The rules and guidelines shall address, but not limit to, the following:

(a) Reporting problems or defects with the equipment.

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

(b) Taking precautions against further use of equipment when there is a known hazardous condition or defect.

(c) Reporting injuries.

(d) Suggestions on warm-up exercises and safe use of the equipment.

(e) Cleanliness of the area and equipment, including wiping down of equipment with an antibacterial solution.

(f) Use of audio/visual equipment.

## 1030.3 ACCESS

As with other areas of the Police Facility, access to the Fitness Room by members of the Department and/or by others is by permission and sole discretion of the Chief of Police. Access may be limited, suspended, or revoked for any reason or no reason at all.

### 1030.3.1 FULL ACCESS

Full access means unsupervised permission to enter the Fitness Room. Persons with full access may be subject to restrictions as determined by the Chief of Police. The following is a general representation of those subject to full access:

(a) Regular full-time employees of the Brentwood Police Department.

(b) California Highway Patrol (CHP) officers assigned to the BPD substation provided such use does not conflict with CHP policies or directives.

(c) Others as may be determined by the Chief of Police.

### 1030.3.2 LIMITED ACCESS

Limited access means under the direct and constant supervision of a person with full access. Facility security is the purpose of limited access supervision. Persons with limited access may be subject to restrictions as determined by the Chief of Police. The following is a general representation of those subject to limited access:

(a) Brentwood Police Chaplains and VIP volunteers 18 years of age and older with a waiver of liability on file.

(b) Others as may be determined by the Chief of Police.

### 1030.3.3 NO ACCESS

Persons not described as having full or limited access shall not be in the Fitness Room. This includes but is not limited to, friends, family, members of the public, and other City employees.

## 1030.4 RESTRICTION, SUSPENSION, AND REVOCATION OF ACCESS

There may arise an occasion when access to the Fitness Room is restricted, suspended, or revoked. This may apply to all, some, or individual users of the Fitness Room.

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

1030.4.1 RESTRICTION ON ACCESS
Persons with full or limited access may be restricted to certain days and times. Other restrictions on access may typically occur due to cleaning, maintenance, repairs, crowding, or other reasons.

1030.4.2 SUSPENSION OF ACCESS
Access to the Fitness Room may be suspended for the following typical reasons, including but not limited to:

(a) Disciplinary action related to Fitness Room use.

(b) Failure to follow Fitness Room use rules.

(c) Failure to follow rules established by the BPOA governing Fitness Room and equipment use.

(d) The condition of the room poses an obvious dangerous or hazardous situation.

(e) The Fitness Room is temporarily being utilized for another Department purpose.

1030.4.3 REVOCATION OF ACCESS
Access to the Fitness Room may be revoked for the following reasons, including but not limited to:

(a) Acts, omissions, or conditions that would warrant suspension of access, but are of a more serious nature.

(b) The Fitness Room is being used for another prolonged Department purpose.

**1030.5 FITNESS ROOM RULES**
As with other areas of the Police Facility, no employee has a right of access to the Fitness Room. A violation of Fitness Room rules may trigger suspension or revocation of access. In addition, violation(s) could result in separate and independent grounds for disciplinary action.

All persons accessing the Fitness Room:

(a) Shall conduct themselves in accordance with Department policy, City rules, and ordinances.

(b) Shall not visit or use the Fitness Room during duty hours. Duty hours include breaks and paid lunch periods. Duty hours do not include unpaid lunch time or other breaks between duty hours for which there is no compensation. Exception: FLSA exempt employees (use of the Fitness Room shall be deemed "off duty" during that time period).

(c) Shall not visit or use the Fitness Room without authorized access, unless an exigent circumstance exists.

(d) Shall not bring food or drink into the Fitness Room. Exception: Water or other fluids that will not leave a stain.

(e) Shall not bring in exercise or other equipment, unless approved by the BPOA.

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

(f) Shall not deface or damage doors or walls, nor post or affix items to the doors and walls without permission of the Chief of Police.

(g) Shall keep the room free of debris and clutter. The room shall be left in a neat and orderly condition and all personal items removed. Any personal items left unattended are subject to being discarded (thrown away).

(h) Shall only wear appropriate attire that would be suitable in a typical family-oriented fitness center. Required attire shall include close-toed footwear, upper body and lower body clothing.

(i) Shall report damage, defects, or other poor conditions to the appropriate authority as soon as practical, and take reasonable measures to prevent others from being exposed to a known dangerous condition.

### 1030.6 RELEASE OF LIABILITY AND HOLD HARMLESS

Persons who wish to use the Fitness Room must first have a signed Waiver of Claims, Release of Liability and Hold Harmless statement on file with the Department. This document may be obtained from and returned to the Executive Assistant to the Chief of Police.

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

# Fitness for Duty

## 1031.1 PURPOSE AND SCOPE

All officers are required to be free from any physical, emotional, or mental condition which might adversely affect the exercise of peace officer powers. The purpose of this policy is to ensure that all officers of this department remain fit for duty and able to perform their job functions (Government Code § 1031).

## 1031.2 EMPLOYEE RESPONSIBILITIES

(a) It shall be the responsibility of each member of this department to maintain good physical condition sufficient to safely and properly perform essential duties of their position.

(b) Each member of this department shall perform his/her respective duties without physical, emotional, and/or mental constraints.

(c) During working hours, all employees are required to be alert, attentive, and capable of performing his/her assigned responsibilities.

(d) Any employee who feels unable to perform his/her duties shall promptly notify a supervisor. In the event that an employee believes that another employee is unable to perform his/her duties, such observations and/or belief shall be promptly reported to a supervisor.

## 1031.3 SUPERVISOR RESPONSIBILITIES

(a) A supervisor observing an employee, or receiving a report of an employee who is perceived to be, unable to safely perform his/her duties due to a physical or mental condition shall take prompt and appropriate action in an effort to resolve the situation.

(b) Whenever feasible, the supervisor should attempt to ascertain the reason or source of the problem and in all cases a preliminary evaluation should be made in an effort to determine the level of inability of the employee to perform his/her duties.

(c) In the event the employee appears to be in need of immediate medical or psychiatric treatment, all reasonable efforts should be made to provide such care.

(d) In conjunction with the Watch Commander or employee's available Division Commander, a determination should be made whether or not the employee should be temporarily relieved from his/her duties.

(e) The Chief of Police shall be promptly notified in the event that any employee is relieved from duty.

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

### 1031.4 NON-WORK RELATED CONDITIONS

Any employee suffering from a non-work related condition which warrants a temporary relief from duty may be required to use sick leave or other paid time off (PTO) in order to obtain medical treatment or other reasonable rest period.

### 1031.5 WORK RELATED CONDITIONS

Any employee suffering from a work related condition which warrants a temporary relief from duty shall be required to comply with personnel rules and guidelines for processing such claims.

Upon the recommendation of the Watch Commander or unit supervisor and concurrence of a Division Commander, any employee whose actions or use of force in an official capacity result in death or serious injury to another may be temporarily removed from regularly assigned duties and/or placed on paid administrative leave for the wellbeing of the employee and until such time as the following may be completed:

(a) A preliminary determination that the employee's conduct appears to be in compliance with policy and, if appropriate.

(b) The employee has had the opportunity to receive necessary counseling and/or psychological clearance to return to full duty.

### 1031.6 PHYSICAL AND PSYCHOLOGICAL EXAMINATIONS

(a) Whenever circumstances reasonably indicate that an employee is unfit for duty, the Chief of Police may serve that employee with a written order to undergo a physical and/or psychological examination in cooperation with Department of Human Resources to determine the level of the employee’s fitness for duty. The order shall indicate the date, time and place for the examination.

(b) The examining physician or therapist will provide the Department with a report indicating that the employee is either fit for duty or, if not, listing any functional limitations which limit the employee's ability to perform job duties. If the employee places his/her condition at issue in any subsequent or related administrative action/grievance, the examining physician or therapist may be required to disclose any and all information which is relevant to such proceeding (Civil Code § 56.10(c)(8)).

(c) In order to facilitate the examination of any employee, the Department will provide all appropriate documents and available information to assist in the evaluation and/or treatment.

(d) All reports and evaluations submitted by the treating physician or therapist shall be part of the employee’s confidential personnel file.

(e) Any employee ordered to receive a fitness for duty examination shall comply with the terms of the order and cooperate fully with the examining physician or therapist regarding any clinical interview, tests administered or other procedures as directed.

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

Any failure to comply with such an order and any failure to cooperate with the examining physician or therapist may be deemed insubordination and shall be subject to discipline up to and including termination.

(f) Once an employee has been deemed fit for duty by the examining physician or therapist, the employee will be notified to resume his/her duties.

### 1031.7 LIMITATION ON HOURS WORKED

Absent emergency operations, members should not b assigned to work more than fifteen (15) hours in one day.

Except in very limited circumstances members should have a minimum of 8 hours off between shifts. Supervisors should give consideration to reasonable rest periods and are authorized to deny overtime or relieve to off-duty status any member who has exceeded the above guidelines.

Limitations on the number of hours worked apply to shift changes, shift trades, rotation, holdover, training, general overtime and any other work assignments.

### 1031.8 APPEALS

An employee who is separated from paid employment or receives a reduction in salary resulting from a fitness for duty examination shall be entitled to an administrative appeal as outlined in the Personnel Complaints Policy.

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

# Meal Periods and Breaks

## 1033.1 PURPOSE AND SCOPE

This policy regarding meals and breaks, insofar as possible, shall conform to the Memorandum of Understanding between the employee's bargaining group and the City.

### 1033.1.1 MEAL PERIODS

Sworn employees and Community Service Officers shall remain on duty subject to call during meal breaks. All other employees are not on call during meal breaks unless directed otherwise by a supervisor.

Uniformed patrol, traffic officers, and Community Service Officers shall request clearance from Dispatch and/or the field supervisor prior to taking a meal period. Uniformed officers shall take their breaks within the City limits unless on assignment outside of the City.

The time spent for the meal period shall not exceed the authorized time allowed.

### 1033.1.2 15 MINUTE BREAKS

Each employee is entitled to a 15 minute break, near the mid point, for each four-hour work period. Only one 15 minute break shall be taken during each four hours of duty.

Employees normally assigned to the Police Facility shall remain in the Police Facility for their breaks. This would not prohibit them from taking a break outside the facility if on official business.

Field officers will take their breaks in their assigned areas, subject to call and shall monitor their radios. When field officers take their breaks away from their vehicles, they shall keep Dispatch informed of their status and location. Officers may take their meal break at the Police Facility.

### 1033.1.3 SCHEDULING

At the direction of the employee's supervisor, the employee may be required to take scheduled breaks and meals in order to meet the needs of the Department and service to the public.

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

# Lactation Break Policy

## 1034.1 PURPOSE AND SCOPE

The purpose of this policy is to provide reasonable accommodations to employees desiring to express breast milk for the employee's infant child (Labor Code § 1034).

## 1034.2 POLICY

It is the policy of this department to provide, in compliance with the Fair Labor Standards Act, reasonable break time and appropriate facilities to accommodate any employee desiring to express breast milk for her nursing infant child (29 USC § 207; Labor Code § 1030).

## 1034.3 LACTATION BREAK TIME

A rest period should be permitted each time the employee has the need to express breast milk (29 USC § 207; Labor Code § 1030). In general, lactation breaks that cumulatively total 30 minutes or less during any four-hour work period or major portion of a four-hour work period would be considered reasonable. However, individual circumstances may require more or less time. Such breaks, if feasible, should be taken at the same time as the employee's regularly scheduled rest or meal periods.

While a reasonable effort will be made to provide additional time beyond authorized breaks, any such time exceeding regularly scheduled and paid break time will be unpaid (Labor Code § 1030).

Employees desiring to take a lactation break shall notify Dispatch or a supervisor prior to taking such a break. Such breaks may be reasonably delayed if they would seriously disrupt department operations (Labor Code § 1032).

Once a lactation break has been approved, the break should not be interrupted except for emergency or exigent circumstances.

## 1034.4 PRIVATE LOCATION

The Department will make reasonable efforts to accommodate employees with the use of an appropriate room or other location to express milk in private. Such room or place should be in close proximity to the employee's work area and shall be other than a bathroom or toilet stall. The location must be shielded from view and free from intrusion from co-workers and the public (29 USC § 207; Labor Code § 1031).

Employees occupying such private areas shall either secure the door or otherwise make it clear to others that the area is occupied with a need for privacy. All other employees should avoid interrupting an employee during an authorized break, except to announce an emergency or other urgent circumstance.

Authorized lactation breaks for employees assigned to the field may be taken at the nearest appropriate private area.

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

## 1034.5 STORAGE OF EXPRESSED MILK

Any employee storing expressed milk in any authorized refrigerated area within the Department shall clearly label it as such and shall remove it when the employee ends her shift.

### 1034.5.1 STATE REQUIREMENTS

Employees have the right to request lactation accommodations. If a break time or location accommodation cannot be provided, the supervisor shall provide the member with a written response regarding the reasons for the determination (Labor Code § 1034).

Lactation rooms or other locations should comply with the prescribed feature and access requirements of Labor Code § 1031.

Employees who believe that their rights have been violated under this policy or have been the subject of discrimination or retaliation for exercising or attempting to exercise their rights under this policy, are encouraged to follow the chain of command in reporting a violation, but may also file a complaint directly with the Labor Commissioner (Labor Code § 1033).

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

# Payroll Record Procedures

## 1035.1 PURPOSE AND SCOPE

Payroll records are submitted to Support on the 15th and the last day of the month.

### 1035.1.1 RESPONSIBILITY FOR COMPLETION OF PAYROLL RECORDS

Employees are responsible for the accurate and timely submission of payroll records for the payment of wages.

### 1035.1.2 ELECTRONIC TIME SHEETS

Any employee using the electronic (computerized) time accounting system, is responsible for complying with the appropriate procedures for submittal and the accuracy of its content.

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

# Overtime Compensation Requests

## 1037.1 PURPOSE AND SCOPE

It is the policy of the Department to compensate non-exempt salaried employees who work authorized overtime either by payment of wages as agreed and in effect through the Memorandum of Understanding (MOU), or by the allowance of accrual of compensatory time off.

### 1037.1.1 DEPARTMENT POLICY

Because of the nature of police work, and the specific needs of the Department, a degree of flexibility concerning overtime policies must be maintained.

Non-exempt employees are not authorized to volunteer work time to the Department. All requests to work overtime shall be approved in advance by a supervisor. If circumstances do not permit prior approval, then approval shall be sought as soon as practical during the overtime shift and in no case later than the end of shift in which the overtime is worked.

The individual employee may request compensatory time in lieu of receiving overtime payment, however, the employee may not exceed 80 hours of compensatory time accrual.

## 1037.2 ACCOUNTING FOR OVERTIME WORKED

Employees are to record the actual time worked in an overtime status. In some cases, the Memorandum of Understanding provides that a minimum number of hours will be paid, (e.g., Court, call-out, etc.).

### 1037.2.1 ACCOUNTING FOR PORTIONS OF AN HOUR

When accounting for less than a full hour, time worked shall be rounded up to the nearest quarter of an hour as indicated by the following chart:

| TIME WORKED | INDICATE ON CARD |
|---|---|
| 1 to 15 minutes | 1/4 hour |
| 16 to 30 minutes | 1/2 hour |
| 31 to 45 minutes | 3/4 hour |
| 46 to 60 minutes | 1 hour |

### 1037.2.2 VARIATION IN TIME REPORTED

Where two or more employees are assigned to the same activity, case, or court trial and the amount of time for which payment is requested varies from that reported by the other officer, the Watch Commander or other approving supervisor may require each employee to include the reason for the variation.

## 1037.3 EMPLOYEE RESPONSIBILITY

Employees shall complete the appropriate time accounting entry on their time sheet immediately after working the overtime.

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

### 1037.4 SUPERVISOR RESPONSIBILITY

The supervisor who verifies the overtime earned shall verify that the overtime was worked before approving the request.

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

# Outside Employment

## 1039.1 PURPOSE AND SCOPE

In order to avoid actual or perceived conflicts of interest for departmental employees engaging in outside employment, all employees shall obtain written approval from the Chief of Police prior to engaging in any outside employment. Approval of outside employment shall be at the discretion of the Chief of Police in accordance with the provisions of this policy.

### 1039.1.1 DEFINITIONS

It is the policy of the Brentwood Police Department that no employee shall engage in any outside employment activity or enterprise which is unsuitable or in conflict with his or her duties, functions, or responsibilities as a City of Brentwood employee, nor shall her or she engage in any activity which will directly or indirectly contribute to the lessening of his or her effectiveness as a City employee.

No Department employee may engage in outside work activities which may reasonably cause that employee to be recognized as a City employee, when such recognition may reasonably cause confusion as to whether the employee is acting independently or as an agent of the City.

### 1039.1.2 DEFINITION

**Outside Employment:** Any employee who receives wages, compensation, or other consideration of value from another employer, organization, or individual not affilitated directly or indirectly with the City for services, products, or benefits rendered including employee-ownded business and/or employees with personally vested interest in a business.

## 1039.2 OBTAINING APPROVAL

(a) An employee wishing to engage in outside employment for compensation must complete an Outside Employment Request form which shall be submitted to the Chief of Police for consideration, stating the nature of the activity, the time required, and such other information as may be needed to determine whether the activity is compatible with City employment, and then to the City Manager for decision of final approval.

(b) In making a determination as to the acceptability of the outside employment, the City Manager shall consider, among other pertinent factors, whether the activity:

1. Involves acceptance by the employee of any money or other consideration for the performance of an act which the employee would be expected to render as a regular part of his or her duties as a City employee.

2. Involves the performance of an act outside City employment, which may later be subject to the control, audit, inspection or enforcement of that employee or the Department.

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

3. Involves conditions which are likely to lessen the efficiency of an employee in his or her regular City employment or provide conditions of substantial danger of injury or illness.

4. Involves the use for private gain or advantage of City time, facilities, equipment and supplies, information, prestige or influence of the employee's City office or employment.

(c) In compliance with the stated purpose of this policy, the Chief of Police and the City Manager may permit employment in any or all of the following activities:

1. To teach, in an accredited educational institution, subject matter courses which are in keeping with the employee's official duties, for example: Police Lieutenant teaching course work at the Police Academy;

2. To appear as an expert witness in appropriate legal proceedings, subject to individual case approval;

3. Any other employment which the Chief of Police and the City Manager may determine is not in conflict with this policy.

(d) No City-owned equipment, autos, tools, trucks, supplies, or any other item shall be used by any employee while the employee is engaged in any outside employment or activity.

(e) Employees are not eligible for City's worker's compensation benefits for injuries incurred in their outside employment.

(f) Hours of Outside Employment:

1. Except for situations which are approved in advance by the Chief of Police and the City Manager, no employee will work an outside job for which they receive renumeration based on hours worked of at a fixed salary for more than twenty (20) hours per "workweek." The workweek is to be the workweek as defined by their position with the City.

2. No person shall, except for situations which are approved in advance by the Chief of Police and the City Manager, work at an outside job for which they receive renumeration based on hours worked or at a fixed salary, when such employment does not allow at least eight (8) hour interval between the completion of the outside employment and the start of the employee's regular City work day.

(g) Employee must have current performance evaluation rating of "meets standards" or higher to be eligible.

(h) Authorization for outside employment is reviewed annually and is automatically terminated whenever the outside employer and/or nature of the outside employment

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

changes from that specified on the request form. When such a change occurs, the employee shall apply for a new approval for outside employment as provided in this policy.

(i) If approved, the employee will be provided with a copy of the approved authorization.

(j) Any employee seeking approval of outside employment, whose request has been denied, shall be provided with a written reason for the denial of the application at the time of the denial (Penal Code § 70(e)(3)).

1039.2.1 APPEAL OF DENIAL OF OUTSIDE EMPLOYMENT

(a) The employee may submit a written appeal to the Personnel Officer if they do not agree with the justification for the revocation/suspension of their outside employment authorization based reasons identified in Section 1040.2.2. The employee appeal must be presented within ten (10) days after receipt of the notice that their outside employment authorization has been revoked/suspended. The appeal shall include detailed information that demonstrates the appropriateness to continue the outside employment authorization.

(b) The Personnel Officer will review the written appeal and consider the information provided by the employee. If necessary, the Personnel Officer will contact the employee, supervisor, manager, or Chief of Police and other involved parties, if any. The Personnel Officer shall render a formal decision in writing to the employee with ten (10) days after receipt of the appeal. Such decision shall be considered final.

1039.2.2 REVOCATION/SUSPENSION OF OUTSIDE EMPLOYMENT PERMITS

Any outside employment authorization may be revoked or suspended under the following circumstances:

(a) Should an employee's performance at this Department decline to a point where it is evaluated by a supervisor as "unacceptable" and needs improvement to reach an overall level of competency, the Chief of Police may, at his or her discretion, revoke any previously approved outside employment authorization. That revocation will stand until the employee's performance has been reestablished at an "acceptable" level and his/her supervisor recommends reinstatement of the outside employment authorization.

(b) Suspension or revocation of a previously approved outside employment authorization may be included as a term or condition of sustained discipline

(c) If, at any time during the term of a valid outside employment authorization, an employee's conduct or outside employment conflicts with the provisions of City or Department policy, rules and/or regulations, the authorization may be suspended or revoked

(d) While on suspension or Administrative Leave.

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

(e) When an employee is unable to perform one or more essential job functions due to an injury or other condition, any previously approved outside employment authorization may be rescinded for the reasons listed in Section 1040.6.

**1039.3 PROHIBITED OUTSIDE EMPLOYMENT**

Consistent with the provisions of Government Code § 1126, the Department expressly reserves the right to deny any Outside Employment Request submitted by an employee seeking to engage in any activity which:

(a) Involves the employee's use of Departmental time, facilities, equipment or supplies, the use of the Department badge, uniform, prestige or influence for private gain or advantage.

(b) Involves the employee's receipt or acceptance of any money or other consideration from anyone other than this Department for the performance of an act which the employee, if not performing such act, would be required or expected to render in the regular course or hours of employment or as a part of the employee's duties as a member of this Department.

(c) Involves the performance of an act in other than the employee's capacity as a member of this Department that may later be subject directly or indirectly to the control, inspection, review, audit or enforcement of any other employee of this Department.

(d) Involves time demands that would render performance of the employee's duties for this Department less efficient.

1039.3.1 OUTSIDE SECURITY AND PEACE OFFICER EMPLOYMENT

Consistent with the provisions of Penal Code § 70, and because it would further create a potential conflict of interest, no member of this department may engage in any outside employment as a private security guard, private investigator or other similar private security position.

**1039.4 DEPARTMENT RESOURCES**

Employees are prohibited from using any Department equipment or resources in the course of or for the benefit of any outside employment. This shall include the prohibition of access to official records or databases of this Department or other agencies through the use of the employee's position with this Department.

1039.4.1 REVIEW OF FINANCIAL RECORDS

Employees approved for outside employment expressly agree that their personal financial records may be requested and reviewed/audited for potential conflict of interest (Government Code § 3308; Government Code § 1126). Prior to providing written approval for an outside employment position, the Department may request that an employee provide his/her personal financial records for review/audit in order to determine whether a conflict of interest exists. Failure of the employee to provide the requested personal financial records could result in denial of the off-duty work permit. If, after approving a request for an outside employment position, the Department becomes

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

concerned that a conflict of interest exists based on a financial reason, the Department may request that the employee provide his/her personal financial records for review/audit. If the employee elects not to provide the requested records, his/her off-duty work permit may be revoked pursuant to § 1040.2.2(c) of this policy.

### 1039.5 CHANGES IN OUTSIDE EMPLOYMENT STATUS

If an employee terminates his or her outside employment during the period of a valid authorization, the employee shall promptly submit written notification of such termination to the Chief of Police through the chain of command. Any subsequent request for renewal or continued outside employment must thereafter be processed and approved through normal procedures set forth in this policy.

Employees shall also promptly submit in writing to the Chief of Police any material changes in outside employment including any change in the number of hours, type of duties, or demands of any approved outside employment. Employees who are uncertain whether a change in outside employment is material are advised to report the change.

### 1039.6 OUTSIDE EMPLOYMENT WHILE ON DISABILITY

Department employees engaged in outside employment who are placed on disability leave or modified duty shall inform their Division Commander in writing within five (5) days whether or not they intend to continue to engage in such outside employment while on such leave. The Division Commander shall review the duties of the outside employment along with any related doctor's orders, and make a recommendation to the Chief of Police whether such outside employment should continue.

In the event the Chief of Police determines that the outside employment should be discontinued or if the employee fails to promptly notify his/her Division Commander of his/her intentions regarding their outside employment authorization, a notice of revocation of the member's authorization will be forwarded to the involved employee, and a copy attached to the original outside employment authorization.

Criteria for suspending the outside employment authorization include, but are not limited to, the following:

(a) The outside employment is detrimental to the total recovery of the disabled employee, as indicated by the City's professional medical advisors.

(b) The outside employment performed requires the same or similar physical ability, as would be required of an on-duty employee.

(c) The employee's failure to make timely notice of their intentions to their Division Commander.

When the disabled employee returns to full duty with the Brentwood Police Department, a request (in writing) may be made to the Chief of Police to restore the authorization.

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

# Occupational Disease and Work-Related Injury Reporting

## 1041.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidance regarding the timely reporting of occupational diseases, mental health issues, and work-related injuries.

### 1041.1.1 DEFINITIONS

Definitions related to this policy include:

**Occupational disease or work-related injury** - An injury, disease, or mental health issue arising out of employment (Labor Code § 3208; Labor Code § 3208.3; Labor Code § 3212 et seq.).

## 1041.2 POLICY

The Brentwood Police Department will address occupational diseases and work-related injuries appropriately, and will comply with applicable state workers' compensation requirements (Labor Code § 3200 et seq.).

### 1041.2.1 ACCIDENT DEFINED

**Accident -** is defined as any occurrence from which bodily injury or property damage may result, regardless of whether any injury or damage actually does occur (e.g., exposure where no immediate injury is apparent).

## 1041.3 RESPONSIBILITIES

### 1041.3.1 MEMBER RESPONSIBILITIES

Any member sustaining any occupational disease or work-related injury shall report such event as soon as practicable, but within 24 hours, to a supervisor, and shall seek medical care when appropriate (8 CCR 14300.35).

### 1041.3.2 SUPERVISOR RESPONSIBILITIES

A supervisor learning of any occupational disease or work-related injury should ensure the member receives medical care as appropriate.

Supervisors shall ensure that required documents regarding workers' compensation are completed and forwarded promptly. Any related Citywide disease- or injury-reporting protocol shall also be followed.

Supervisors shall determine whether the Major Incident Notification and Illness and Injury Prevention policies apply and take additional action as required.

### 1041.3.3 DIVISION COMMANDER RESPONSIBILITIES

The Division Commander who receives a report of an occupational disease or work-related injury should review the report for accuracy and determine what additional action should be taken. The report shall then be forwarded to the Chief of Police, the City's risk management entity, and the

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

Administration Division Commander to ensure any required Division of Occupational Health and Safety Administration (Cal/OSHA) reporting is made as required in the illness and injury prevention plan identified in the Illness and Injury Prevention Policy.

1041.3.4 CHIEF OF POLICE RESPONSIBILITIES
The Chief of Police shall review and forward copies of the report to the Department of Human Resources. Copies of the report and related documents retained by the Department shall be filed in the member's confidential medical file.

## 1041.4 OTHER DISEASE OR INJURY

Diseases and injuries caused or occurring on-duty that do not qualify for workers' compensation reporting shall be documented on the designated report of injury form, which shall be signed by a supervisor. A copy of the completed form shall be forwarded to the appropriate Division Commander through the chain of command and a copy sent to the Administration Division Commander.

Unless the injury is extremely minor, this report shall be signed by the affected member, indicating that he/she desired no medical attention at the time of the report. By signing, the member does not preclude his/her ability to later seek medical attention.

## 1041.5 SETTLEMENT OFFERS

When a member sustains an occupational disease or work-related injury that is caused by another person and is subsequently contacted by that person, his/her agent, insurance company or attorney and offered a settlement, the member shall take no action other than to submit a written report of this contact to his/her supervisor as soon as possible.

1041.5.1 NO SETTLEMENT WITHOUT PRIOR APPROVAL
No less than 10 days prior to accepting and finalizing the settlement of any third-party claim arising out of or related to an occupational disease or work-related injury, the member shall provide the Chief of Police with written notice of the proposed terms of such settlement. In no case shall the member accept a settlement without first providing written notice to the Chief of Police. The purpose of such notice is to permit the City to determine whether the offered settlement will affect any claim the City may have regarding payment for damage to equipment or reimbursement for wages against the person who caused the disease or injury, and to protect the City's right of subrogation, while ensuring that the member's right to receive compensation is not affected.

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

# Personal Appearance Standards

## 1043.1 PURPOSE AND SCOPE

Employees shall maintain their personal hygiene and appearance to project a professional image appropriate for this Department and for their assignment.

## 1043.2 GROOMING STANDARDS

Unless otherwise stated, the following appearance standards shall apply to all employees, except those whose current assignment would deem them not appropriate, and where the Chief of Police has granted exception.

### 1043.2.1 HAIR

Hairstyles of all members shall be neat in appearance. For male sworn members, hair must not extend below the top edge of the uniform collar while assuming a normal stance.

For female sworn members, hair must be no longer than the horizontal level of the bottom of the uniform patch when the employee is standing erect, worn up or in a tightly wrapped braid or ponytail.

### 1043.2.2 MUSTACHES

A short and neatly trimmed mustache may be worn. Mustaches shall not extend below the corners of the mouth or beyond the natural hairline of the upper lip.

### 1043.2.3 SIDEBURNS

Sideburns shall not extend below the bottom of the outer ear opening (the top of the earlobes) and shall be trimmed and neat.

### 1043.2.4 FACIAL HAIR

Facial hair other than sideburns, mustaches and eyebrows shall not be worn, unless authorized by the Chief of Police or his or her designee.

### 1043.2.5 FINGERNAILS

For officers, fingernails extending beyond the tip of the finger can pose a safety hazard to officers or others. For this reason, fingernails shall be trimmed so that no point of the nail extends beyond the tip of the finger.

### 1043.2.6 JEWELRY AND ACCESSORIES

No jewelry or personal ornaments shall be worn by officers on any part of the uniform or equipment, except those authorized within this manual. Jewelry, if worn around the neck, shall not be visible above the shirt collar.

Earrings shall not be worn by uniformed sworn members, detectives or special assignment personnel without permission of the Chief of Police or his/her designee. Only one ring may be worn on each hand of the employee while on-duty.

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

### 1043.3 TATTOOS

No employee shall have a tattoo visible while on duty. The manner and method for the concealment of an otherwise visible tattoo shall require prior authorization and approval of the Chief of Police.

Exception: This section does not apply to preexisting tattoos of members of this Department who were hired on or before October 31, 2003.

For purposes of this section, a tattoo is any intentionally applied permanent or temporary decorative marking or branding affixed to the skin. This section is not intended to preclude injury or medically associated scars, marks, or aides, nor is it intended to prohibit the wearing of appropriate cosmetics when worn in a manner that reflects professionalism and a business like appearance.

### 1043.4 BODY PIERCING OR ALTERATION

Body piercing or alteration to any area of the body visible in any authorized uniform or attire that is a deviation from normal anatomical features and which is not medically required is prohibited. Such body alteration includes, but is not limited to:

(a) Tongue splitting or piercing.

(b) The complete or transdermal implantation of any material other than hair replacement.

(c) Abnormal shaping of the ears, eyes, nose or teeth

(d) Branding or scarification.

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

# Uniform Regulations

## 1045.1 PURPOSE AND SCOPE

The uniform policy of the Brentwood Police Department is established to ensure that sworn and non-sworn uniformed officers will be readily identifiable to the public through the proper use and wearing of Department uniforms. Employees should also refer to the following associated Policy Manual sections:

Section 700 - Department Owned and Personal Property

Section 1024 - Body Armor

Section 1044 - Personal Appearance Standards

The Uniform and Equipment Specifications are attached as an appendix and may be periodically updated by the Chief of Police or his/her designee.

## 1045.2 WEARING AND CONDITION OF UNIFORM AND EQUIPMENT

Police employees wear the uniform to be identified as the law enforcement authority in society. The uniform also serves an equally important purpose to identify the wearer as a source of assistance in an emergency, crisis or other time of need.

(a) Uniform and equipment shall be maintained in a serviceable condition and shall be ready at all times for immediate use. Uniforms shall be neat, clean, and appear professionally pressed. The wearing of old or patched clothing shall not be permitted.

(b) All Peace Officers and Community Service Officers of this department shall possess and maintain at all times, a serviceable uniform and the necessary equipment to perform uniformed field duty.

(c) Personnel shall wear only the uniform specified for their rank and assignment.

(d) Command staff shall wear gold tone, while all others will wear silver. Duty belt buckles may also be black or velcro closures.

(e) Tie bars will be solid/flat traditional non-decorative silver or gold tone.

(f) The uniform is to be worn in compliance with the specifications set forth in this policy.

(g) All supervisors will perform periodic inspections of their personnel to ensure conformance to these regulations.

(h) Items such as, knives, cellular phones, pagers or other electronic communication devices shall not be worn on any part of the uniform unless stored in a department approved carrying case.

(i) Uniforms and leather equipment that is worn and no longer meets standards shall be replaced. All leather gear shall be basketweave with hidden snaps or velcro closures.

(j) Non-sworn attire shall not be worn in combination with any distinguishable part of the uniform.

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

(k) Uniforms are only to be worn while on duty, while in transit to or from work, for court, or at other official department functions or events, or as approved by the Chief of Police

(l) If the uniform is worn while in transit, an outer garment shall be worn over the uniform shirt so as not to bring attention to the employee while he/she is off duty.

(m) Employees are not to purchase or drink alcoholic beverages while wearing any part of the department uniform, including the uniform pants.

(n) Mirrored sunglasses will not be worn with any department uniform.

(o) Visible jewelry, other than those items listed below, shall not be worn with the uniform unless specifically authorized by the Chief of Police or his designee.

1. Wrist watch

2. Wedding ring(s), class ring, or other ring of tasteful design. A maximum of one ring/set may be worn on each hand

3. Medical alert bracelet

1045.2.1 DEPARTMENT ISSUED IDENTIFICATION
The Department issues each employee an official department identification card bearing the employee's name, identifying information and photo likeness. All employees shall be in possession of their department issued identification card at all times while on duty or when carrying a concealed weapon.

(a) Whenever on duty or acting in an official capacity representing the Department, employees shall display their Department issued identification in a courteous manner to any person upon request and as soon as practical.

(b) Officers working specialized assignments may be excused from the possession and display requirements when directed by their Division Commander.

## 1045.3 UNIFORMS
Refer to the Uniform Specifications document for further details related to all uniform items outlined below.

1045.3.1 SWORN CLASS A UNIFORM
The Class A uniform is to be worn on special occasions such as funerals, graduations, ceremonies, or as directed. The Class A uniform is the traditional LAPD wool uniform and is required for all sworn personnel. The Class A uniform consist of:

1. Officers, Sergeants and Command Staff:

(a) Formal hat (sworn only)

(b) Long sleeve wool shirt.

(c) Necktie ," length must end within 1 ½ inch above duty belt.

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

(d) Tie bar ," worn center of breast pockets

(e) Pants

(f) Ike jacket (sworn only)

(g) Black polished shoes/boots (pointed toes are not permitted).

(h) Duty belt with holster, one handcuff case and magazine pouch.

2. Motor officer:

(a) Ike jacket or leather jacket

(b) Long sleeve wool shirt

(c) Bowtie or white ascot

(d) Pants

(e) Motor boots

(f) Duty belt ," gear configuration is situational depending on service/assignment.

At the direction of the Chief of Police or Division Commander, the Ike jacket and/or the formal hat may be excluded. Officers may wear the Class A wool uniform on patrol without the hat, jacket and tie at anytime. The poly/rayon blend uniform shirt and pants are not permitted, effective January 1, 2012.

### 1045.3.2 CLASS B UNIFORM

All uniformed officers and Sergeants will possess and maintain a serviceable Class B uniform at all times. The Class B uniform will consist of the authorized Patrol Duty Uniform (PDU) only.

(a) The long or short sleeve shirt will be worn with the collar open. Ties are not worn with a PDU.

(b) A black crew neck t-shirt shall be worn with the uniform.

(c) All shirt buttons must remain buttoned except for the last button at the neck.

(d) Shoes for the Class B uniform are the same as Class A uniform.

2. Motor officers

(a) Long or short sleeve wool shirt.

(b) Breeches.

(c) Motor boots.

### 1045.3.3 CLASS C UNIFORM

The Class C uniform may be worn during Special Events, deployments or for Bicycle Patrol. The Class C uniform consists of:

(a) A Special Event uniform shirt.

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

(b) Black shorts, or optionally, a pair of black cargo style pants.

(c) Black socks (if visible).

(d) Black shoes, typically trainer style.

(e) Approved department issued baseball style cap or authorized bini.

(f) Approved department issued bicycle helmet (for bicycle patrol).

1045.3.4 SPECIALIZED UNIT UNIFORMS
The Chief of Police may authorize special uniforms to be worn by officers in specialized units such as Motor Officers and SWAT.

Motor Officers are authorized to wear the following:

(a) 1. Leather Jacket - Taylor brand, LAPD model

2. Motor Jacket - Tour Master

3. Motor Breeches - Frontline with the approved royal blue accent stripe

4. Motor Boots - All American Boot Manufacturing Inc. Blue Knight series.

5. Motor Wings - On patrol jacket and uniform shirts

(b) SWAT Operators will wear approved BDU uniforms as directed by the SWAT Commander.

(c) Officers assigned to mulit-agency teams may wear an approved black BDU patrol uniform.

1045.3.5 FOUL WEATHER GEAR
Only Department approved jackets and Department issued rain gear and caps are authorized. All jackets will have sewn on name strips or lettering along with a rank appropriate badge.

**1045.4 COMMUNITY SERVICE OFFICER CLASS A UNIFORM**
The CSO Class A Uniform is the traditional wool uniform and shall be worn on special occasions such as funerals, graduations, ceremonies, or as directed. The Class A uniform is required for all CSO's:

(a) Long sleeve shirt, black tie, with silver tone flat tie-bar.

(b) Black polished shoes or boots (pointed toes are not permitted).

(c) Duty-belt with one handcuff case and keepers.

1045.4.1 MOURNING BADGE
All CSO's will possess and maintain a serviceable Class B uniform at all times. The Class B uniform will consist of the authorized Patrol Duty Uniform (PDU) only:

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

(a) The long or short sleeve tan shirt may be worn with the collar open. Ties are not worn with the Class B Uniform.

(b) A black crew neck t-shirt shall be worn with the uniform.

(c) All shirt buttons must remain buttoned except for the last button at the neck.

(d) Shoes for the Class B uniform are as described in the Class A uniform.

(e) Approved department issued baseball style cap or authorized bini in inclement weather only.

**1045.5 DEPARTMENT ISSUED HEADGEAR**

(a) Approved department issued baseball cap or authorized bini are permitted during inclement weather for sworn and non-sworn personnel only unless prior approval is given by the Division Commander. Inclement weather is extreme heat, cold and/or rain.

(b) The baseball style cap and bini shall not be worn at any other time.

(c) The baseball style cap and bini will not be worn to court.

1045.5.1 POLICE CLERK UNIFORM

(a) Police Clerk Uniform:

1. Shirts, long and short sleeve polo style in solid colors. Shirts may be worn over the belt.

2. Shirts will have the Brentwood Police Department shield embroidered on the left.

3. "RECORDS" shall be embroidered below the shield logo.

4. Employee first names will be embroidered on the right side of the shirt.

5. Shirts will not have pockets on the chest.

6. Pants shall be black or navy blue.

7. Sweaters will be the department approved black uniform style.

8. Shoes will be black with a heel of no more than 2".

Police Clerk Friday Attire:

1. Police Clerk uniform shirt.

2. Black or blue jeans.

3. Capri style and approved cargo pants in solid black, navy blue and khaki.

4. Black open toe sandals are acceptable as part of the Friday attire. No flip flops or stilettos.

1045.5.2 CIVILIAN ATTIRE

There are assignments within the Department that do not require the wearing of a uniform. There are also assignments in which the wearing of non-sworn attire is necessary.

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

(a) All employees shall wear clothing that fits properly, is clean and free of stains, and not damaged or excessively worn.

(b) All male administrative, investigative and support personnel who elect to wear non-sworn clothing to work shall wear button style shirts with a collar, slacks or suits that are moderate in style.

(c) All female administrative, investigative, and support personnel who elect to wear non-sworn clothes to work shall wear dresses, slacks, shirts, blouses, or suits which are moderate in style.

(d) The following items shall not be worn on duty: 1. T-shirt alone. 2. "Flip flops". 3. Swimsuit, tube tops, or halter-tops. 4. Spandex type pants or see-through clothing. 5. Distasteful printed slogans, buttons or pins.

(e) Variations from this order are allowed at the discretion of the Chief of Police or designee when the employee's assignment or current task is not conducive to the wearing of such clothing.

(f) No item of non-sworn attire may be worn on duty that would adversely affect the reputation of the Brentwood Police Department or the morale of the employees.

1045.5.3 VOLUNTEERS (VIPS)

(a) Shirt - Department issued black collared polo with black undershirt.

(b) Pant - Black uniform pant or approved slacks. Jeans and cargo pants and prohibited.

(c) Shoes - Black boots or shoes. Pointed toe shoes are prohibited.

(d) Socks - Black.

(e) Belts - Black.

(f) ID Card - The BPD ID card shall be worn at all times with the department issued lanyard.

(g) Hats - BPD issued baseball with the title "VOLUNTEER" across the front. Cap may be worn at any time outdoors.

(h) Jacket - Uniform jackets are available in the VIPS office. Shall be returned at end of shift.

(i) Traffic Safety Vest - Shall be worn when deployed for traffic duties.

(j) Purchases - Individual uniform purchases must be approved by the VIPS Coordinator.

1045.5.4 POLICE EXPLORER

The Class A uniform is to be worn on special occasions such as funerals, graduations, ceremonies, or as directed. The Class A uniform is required for all uniformed personnel. The Explorer Class A uniform includes:

a. Long sleeve light blue shirt, black tie with a flat/plain silver tie bar.

b. Uniform pants (LAPD blue).

c. Black polished uniform shoes or boots (pointed toes are not permitted).

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

d. Duty belt with one handcuff case and keepers. The Class B uniform includes the above uniform; however, a long or short sleeve shirt is worn without a tie and with a black T-shirt.

1045.5.5 POLICE CHAPLAINS

The Class A uniform is to be worn on special occasions such as funerals, graduations, ceremonies, or as directed. The Class A uniform is required for all uniformed personnel. The Police Chaplain Class A uniform includes:

a. Long sleeve light blue shirt, black tie with a flat/plain silver tie bar.

b. Uniform pants (LAPD blue).

c. Black polished uniform shoes or boots (pointed toes are not permitted).

d. A black basketweave uniform belt.

1045.5.6 INSIGNIA AND PATCHES

(a) Shoulder Patches - The authorized shoulder patch supplied by the department shall be machine stitched to the sleeves of all uniform shirts and jackets, three-quarters of an inch below the shoulder seam of the shirt and be bisected by the crease in the sleeve. Patches are department property and shall not be sold or given away without permission of the Chief of Police. All patches shall be returned to the department when no longer serviceable or upon separation of employment.

(b) Service stripes are indicators for length of service for sworn and uniformed non-sworn employees that may be worn on long sleeved shirts and jackets. They are to be machine stitched onto the uniform. The bottom of the service stripe shall be sewn the width of one and one-half inches above the cuff seam with the rear of the service stripes sewn on the dress of the sleeve. The stripes are to be worn on the left sleeve only. Each service stripe represents five years of service.

(c) A traditional rectangular nameplate with navy blue lettering (for all new purchases), or an authorized sewn on cloth nameplate, shall be worn at all times while in uniform. The nameplate shall display the employee's first initial and last name. The name plate shall be worn and placed above the right pocket located in the middle, bisected by the pressed shirt seam, with equal distance from both sides of the nameplate to the outer edge of the pocket.

(d) When a jacket is worn, the nameplate or an authorized sewn on cloth nameplate shall be affixed to the jacket in the same manner as the uniform.

(e) Assignment Insignias - Assignment insignias, (SWAT, FTO, CNT, MOTOR WINGS, etc.) may be worn as designated by the Chief of Police.

(f) Flag Pin - The department authorized flag pin may be worn, centered above the nameplate. The approved flag pin is similar in size and shape to the department approved nameplate.

(g) Badge - The department issued badge, or an authorized sewn on cloth replica, must be worn and visible at all times while in uniform.

(h) Rank Insignia - The designated insignia indicating the employee's rank must be worn at all times while in uniform. The Chief of Police may authorize exceptions.

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

(i) Chief - The Chief of Police will display (4) gold stars on each collar tab.

(j) Captain - Captains will display the traditional double gold bars on each collar tab.

(k) Lieutenant - Lieutenants will display the traditional single gold bar on each collar tab.

(l) Sergeant - Sergeants will display sergeant chevrons with a bottom rocker.

(m) Field Training Officers - Field Training Officers will display (2) stripes.

1045.5.7 MOURNING BANDS
Uniformed employees may wear a black mourning band across the uniform badge whenever a law enforcement officer is killed in the line of duty. The following mourning periods will be observed:

(a) As directed by the Chief of Police.

(b) National Peace Officers Memorial Day (May 15th) - From 0001 hours until 2359 hours.

## 1045.6 POLITICAL ACTIVITIES, ENDORSEMENTS, AND ADVERTISEMENTS

Unless specifically authorized by the Chief of Police, Brentwood Police Department employees may not wear any part of the uniform, be photographed wearing any part of the uniform, utilize a department badge, patch or other official insignia, or cause to be posted, published, or displayed, the image of another employee, or identify himself/herself as an employee of the Brentwood Police Department to do any of the following (Government Code §§ 3206 and 3302):

(a) Endorse, support, oppose, or contradict any political campaign or initiative.

(b) Endorse, support, oppose, or contradict any social issue, cause, or religion.

(c) Endorse, support, or oppose, any product, service, company or other commercial entity.

(d) Appear in any commercial, social, or non-profit publication, or any motion picture, film, video, public broadcast, or any website.

## 1045.7 OPTIONAL EQUIPMENT - MAINTENANCE, AND REPLACEMENT

(a) Any of the items listed in the Uniform and Equipment Specifications as optional shall be purchased totally at the expense of the employee. No part of the purchase cost shall be offset by the Department for the cost of providing the Department issued item.

(b) Maintenance of optional items shall be the financial responsibility of the purchasing employee. For example, repairs due to normal wear and tear.

(c) Replacement of items listed in this order as optional shall be done as follows:

1. When the item is no longer functional because of normal wear and tear, the employee bears the full cost of replacement.

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

2. When the item is no longer functional because of damage in the course of the employee's duties, it shall be replaced following the procedures for the replacement of damaged personal property (Policy Manual § 700).

1045.7.1 RETIREE BADGES

The Chief of Police may issue identification in the form of a badge, insignia, emblem, device, label, certificate, card or writing that clearly states the person has honorably retired from the Brentwood Police Department. This identification is separate and distinct from the identification authorized by Penal Code § 25455 and referenced in the Retired Officer CCW Endorsement Policy in this manual.

A badge issued to an honorably retired peace officer that is not affixed to a plaque or other memento will have the words “Honorably Retired” clearly visible on its face. A retiree shall be instructed that any such badge will remain the property of the Brentwood Police Department and will be revoked in the event of misuse or abuse (Penal Code § 538d).

## 1045.8 UNAUTHORIZED UNIFORMS, EQUIPMENT AND ACCESSORIES

Brentwood Police Department employees may not wear any uniform item or have made an accessory or attachment unless specifically authorized in the Uniform and Equipment Specifications or by the Chief of Police or designee.

Brentwood Police Department employees may not use or carry any safety item, tool or other piece of equipment unless specifically authorized in the Uniform and Equipment Specifications or by the Chief of Police or designee.

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

# Nepotism and Conflicting Relationships

## 1049.1 PURPOSE AND SCOPE

All Police Department employee's relationships as they may effect the work environment, is governed by the City's Council/Administrative Policy No. 20-27, Nepotism and Fraternization Policy (8-12-08).

### 1049.1.1 ACCESSING THE CITY'S POLICY

The City's Policy can be accessed through the City's Intranet page:

(a) Open the Employee's Information tab,

(b) Open the Policies link,

(c) Open Policy 20-27.

The Policy may be viewed or printed for reference from the Intranet.

## 1049.2 RESTRICTED DUTIES AND ASSIGNMENTS

The Department will not prohibit all personal or business relationships between employees. However, in order to avoid nepotism or other inappropriate conflicts, the following reasonable restrictions shall apply (Government Code § 12940):

(a) Employees are prohibited from directly supervising, occupying a position in the line of supervision or being directly supervised by any other employee who is a relative or with whom they are involved in a personal or business relationship.

1. If circumstances require that such a supervisor/subordinate relationship exist temporarily, the supervisor shall make every reasonable effort to defer matters pertaining to the involved employee to an uninvolved supervisor.

2. When personnel and circumstances permit, the Department will attempt to make every reasonable effort to avoid placing employees in such supervisor/subordinate situations. The Department, however, reserves the right to transfer or reassign any employee to another position within the same classification in order to avoid conflicts with any provision of this policy.

(b) Employees are prohibited from participating in, contributing to or recommending promotions, assignments, performance evaluations, transfers or other personnel decisions affecting an employee who is a relative or with whom they are involved in a personal or business relationship.

(c) Whenever possible, FTOs and other trainers will not be assigned to train relatives. FTOs and other trainers are prohibited from entering into or maintaining personal or business relationships with any employee they are assigned to train until such time as the training has been successfully completed and the employee is off probation.

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

(d) To avoid actual or perceived conflicts of interest, members of this department shall refrain from developing or maintaining personal or financial relationships with victims, witnesses or other individuals during the course of or as a direct result of any official contact.

(e) Except as required in the performance of official duties or, in the case of immediate relatives, employees shall not develop or maintain personal or financial relationships with any individual they know or reasonably should know is under criminal investigation, is a convicted felon, parolee, fugitive or registered sex offender or who engages in serious violations of state or federal laws.

### 1049.2.1 EMPLOYEE RESPONSIBILITY

Prior to entering into any personal or business relationship or other circumstance which the employee knows or reasonably should know could create a conflict of interest or other violation of this policy, the employee shall promptly notify his/her uninvolved, next highest level of supervisor.

Whenever any employee is placed in circumstances that would require the employee to take enforcement action or provide official information or services to any relative or individual with whom the employee is involved in a personal or business relationship, the employee shall promptly notify his/her uninvolved, immediate supervisor. In the event that no uninvolved supervisor is immediately available, the employee shall promptly notify dispatch to have another uninvolved employee either relieve the involved employee or minimally remain present to witness the action.

### 1049.2.2 SUPERVISOR'S RESPONSIBILITY

Upon being notified of, or otherwise becoming aware of any circumstance that could result in or constitute an actual or potential violation of this policy, a supervisor shall take all reasonable steps to promptly mitigate or avoid such violations whenever possible. Supervisors shall also promptly notify the Chief of Police of such actual or potential violations through the chain of command.

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

# Department Badges

## 1051.1 PURPOSE AND SCOPE

The Brentwood Police Department badge and uniform patch as well as the likeness of these items and the name of the Brentwood Police Department are property of the Department and their use shall be restricted as set forth in this policy.

## 1051.2 POLICY

The uniform badge shall be issued to department members as a symbol of authority and the use and display of departmental badges shall be in strict compliance with this policy. Only authorized badges issued by this department shall be displayed, carried or worn by members while on duty or otherwise acting in an official or authorized capacity.

### 1051.2.1 FLAT BADGE

Sworn officers, with the written approval of the Chief of Police may purchase, at his/her own expense, a flat badge capable of being carried in a wallet. The use of the flat badge is subject to all the same provisions of departmental policy as the uniform badge.

(a) An officer may sell, exchange, or transfer the flat badge he/she purchased to another officer within the Brentwood Police Department with the written approval of the Chief of Police.

(b) Should the flat badge become lost, damaged, or otherwise removed from the officer's control, he/she shall make the proper notifications as outlined in the Department Owned and Personal Property Policy.

(c) An honorably retired officer may keep his/her flat badge upon retirement.

(d) The purchase, carrying or display of a flat badge is not authorized for non-sworn personnel.

### 1051.2.2 CIVILIAN PERSONNEL

Badges and departmental identification cards issued to non-sworn personnel shall be clearly marked to reflect the position of the assigned employee (e.g. Community Service Officer, Explorer, Records Clerk, etc).

(a) Non-sworn personnel shall not display any department badge except as a part of his/her uniform and while on duty, or otherwise acting in an official and authorized capacity.

(b) Non-sworn personnel shall not display any department badge or represent him/herself, on or off duty, in such a manner which would cause a reasonable person to believe that he/she is a sworn peace officer.

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

1051.2.3 RETIREE UNIFORM BADGE
Upon honorable retirement employees may purchase his/her assigned duty badge for display purposes. It is intended that the duty badge be used only as private memorabilia as other uses of the badge may be unlawful or in violation of this policy.

## 1051.3 UNAUTHORIZED USE

Except as required for on-duty use by current employees, no badge designed for carry or display in a wallet, badge case or similar holder shall be issued to anyone other than a current or honorably retired peace officer.

Department badges are issued to all sworn employees and non-sworn uniformed employees for official use only. The department badge, shoulder patch or the likeness thereof, or the department name shall not be used for personal or private reasons including, but not limited to, letters, memoranda, and electronic communications such as electronic mail or web sites and web pages.

The use of the badge, uniform patch and department name for all material (printed matter, products or other items) developed for department use shall be subject to approval by the Chief of Police.

Employees shall not loan his/her department badge or identification card to others and shall not permit the badge or identification card to be reproduced or duplicated.

## 1051.4 PERMITTED USE BY EMPLOYEE GROUPS

The likeness of the department badge shall not be used without the expressed authorization of the Chief of Police and shall be subject to the following:

(a) The employee associations may use the likeness of the department badge for merchandise and official association business provided they are used in a clear representation of the association and not the Brentwood Police Department. The following modifications shall be included:

1. The text on the upper and lower ribbons is replaced with the name of the employee association.
2. The badge number portion displays the acronym of the employee association.

(b) The likeness of the department badge for endorsement of political candidates shall not be used without the expressed approval of the Chief of Police.

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

# Temporary Modified-Duty Assignments

## 1053.1 PURPOSE AND SCOPE

The Chief of Police may designate a "temporary modified duty assignment" for an employee who has a short term illness, condition or impairment and is unable to perform their full duties.

The purpose of temporary modified duty assignments is to:

(a) Return an employee with a work related temporary impairment to regular duty as soon as possible in order to reduce workers compensation costs.

(b) Minimize the financial hardship to an employee due to a non-work related temporary job impairment.

(c) Benefit an employee with a temporary job impairment and the Brentwood Police Department, by providing the employee a temporary opportunity to safely work at meaningful supplemental tasks, enhancing services, or having projects completed which may not have otherwise been accomplished without additional cost.

(d) Aid the employee's progressive return to full duty.

## 1053.2 POLICY

Subject to operational considerations, the Brentwood Police Department may identify temporary modified-duty assignments for employees who have an injury or medical condition resulting in temporary work limitations or restrictions. A temporary assignment allows the employee to work, while providing the Department with a productive employee during the temporary period.

## 1053.3 GENERAL CONSIDERATIONS

Priority consideration for temporary modified-duty assignments will be given to employees with work-related injuries or illnesses that are temporary in nature. Employees having disabilities covered under the Americans with Disabilities Act (ADA) or the California Fair Employment and Housing Act (Government Code § 12940 et seq.) shall be treated equally, without regard to any preference for a work-related injury.

No position in the Brentwood Police Department shall be created or maintained as a temporary modified-duty assignment.

Temporary modified-duty assignments are a management prerogative and not an employee right. The availability of temporary modified-duty assignments will be determined on a case-by-case basis, consistent with the operational needs of the Department. Temporary modified-duty assignments are subject to continuous reassessment, with consideration given to operational needs and the employee’s ability to perform in a modified-duty assignment.

The Chief of Police or the authorized designee may restrict employees working in temporary modified-duty assignments from wearing a uniform, displaying a badge, carrying a firearm,

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

operating an emergency vehicle, engaging in outside employment, or being otherwise limited in employing their peace officer powers.

Temporary modified-duty assignments shall generally not exceed a cumulative total of 1,040 hours in any one-year period.

## 1053.4 PROCEDURE

Employees may request a temporary modified-duty assignment for short-term injuries or illnesses.

Employees seeking a temporary modified-duty assignment should submit a written request to their Division Commanders or the authorized designees. The request should, as applicable, include a certification from the treating medical professional containing:

(a) An assessment of the nature and probable duration of the illness or injury.

(b) The prognosis for recovery.

(c) The nature and scope of limitations and/or work restrictions.

(d) A statement regarding any required workplace accommodations, mobility aids or medical devices.

(e) A statement that the employee can safely perform the duties of the temporary modified-duty assignment.

The Division Commander will make a recommendation through the chain of command to the Chief of Police regarding temporary modified-duty assignments that may be available based on the needs of the Department and the limitations of the employee. The Chief of Police or the authorized designee shall confer with the Department of Human Resources or the City Attorney as appropriate.

Requests for a temporary modified-duty assignment of 20 hours or less per week may be approved and facilitated by the Watch Commander or Division Commander, with notice to the Chief of Police.

### 1053.4.1 MODIFIED-DUTY SCHEDULES

The schedules of employees assigned to modified duty may be adjusted to suit medical appointments or Department needs at the discretion of the Division Commander.

The employee and his/her supervisors should be informed in writing of the schedule, assignment and limitations and restrictions as determined by the employee's health care provider.

### 1053.4.2 ACCOUNTABILITY

(a) Modifications to duty assignments shall not create a new job, position, or classification, but may include or alter some duties of an existing position on a temporary basis.

(b) An employee assigned to temporary modified duty shall be under the direct supervision of a supervisor for the Division in which they are assigned.

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

1. In the case of a worker's compensation claim, appropriate notice of the temporary modified duty assignment shall be forwarded to the Human Resources Division by the Division Commander or his designee.

(c) It is the responsibility of the employee on temporary modified duty to keep their supervisor timely appraised of their condition. When the employee receives a medical release to return to full duty status from his/her treating physician, or from a physician to whom the employee is sent by the City at the City's expense, the employee must give the medical release to his/her direct supervisor without delay. If a conflict arises between the employee's treating physician and the physician assigned by the City, as to the employee's ability to return to full duty, the opinion of a third physician, paid for by the City, shall be obtained and shall be controlling.

1. In the case of a worker's compensation claim, appropriate notice of a medical release to full duty shall be forwarded to the Human Resources Division by the Division Commander or his designee.

(d) A temporary modified duty assignment terminates if any of the following occurs:

1. The employee has been in the assignment for six (6) months, and the Chief of Police has not granted an extension.
2. The Chief of Police determines that there no longer exists a meaningful temporary job function that fulfills a Department need which would conform to the current restrictions, limitations recommendations specified by the employee's treating doctor or a doctor hired by the City.
3. The employee is properly cleared for return to full duty status.
4. The employee's condition is no longer properly defined as a temporary job impairment.

1053.4.3 MEDICAL EXAMINATIONS

The Department reserves the right to require, prior to returning to full-duty status, a fitness-for-duty examination of any employee assigned to a modified-duty assignment or of any employee having been on such assignment. Such examinations shall be at the expense of the Department.

Prior to returning to full-duty status, employees shall be required to provide a statement signed by their health care provider indicating that they are medically cleared to perform the basic and essential job functions of their assignment without restriction or limitation.

## 1053.5 ACCOUNTABILITY

Written notification of assignments, work schedules and any restrictions should be provided to employees assigned to temporary modified-duty assignments and their supervisors. Those assignments and schedules may be adjusted to accommodate department operations and the employee’s medical appointments, as mutually agreed upon with the Division Commander.

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

1053.5.1 EMPLOYEE RESPONSIBILITIES
The responsibilities of employees assigned to temporary modified duty shall include, but not be limited to:

(a) Communicating and coordinating any required medical and physical therapy appointments in advance with their supervisors.

(b) Promptly notifying their supervisors of any change in restrictions or limitations after each appointment with their treating medical professionals.

(c) Communicating a status update to their supervisors no less than once every 30 days while assigned to temporary modified duty.

(d) Submitting a written status report to the Division Commander that contains a status update and anticipated date of return to full-duty when a temporary modified-duty assignment extends beyond 60 days.

1053.5.2 SUPERVISOR RESPONSIBILITIES
The employee's immediate supervisor shall monitor and manage the work schedule of those assigned to temporary modified duty.

The responsibilities of supervisors shall include, but not be limited to:

(a) Periodically apprising the Division Commander of the status and performance of employees assigned to temporary modified duty.

(b) Notifying the Division Commander and ensuring that the required documentation facilitating a return to full duty is received from the employee.

(c) Ensuring that employees returning to full duty have completed any required training and certification.

## 1053.6 MEDICAL EXAMINATIONS
Prior to returning to full-duty status, employees shall be required to provide certification from their treating medical professionals stating that they are medically cleared to perform the essential functions of their jobs without restrictions or limitations.

The Department may require a fitness-for-duty examination prior to returning an employee to full-duty status, in accordance with the Fitness for Duty Policy.

## 1053.7 PREGNANCY
If an employee is temporarily unable to perform regular duties due to a pregnancy, childbirth, or a related medical condition, the employee will be treated the same as any other temporarily disabled employee (42 USC § 2000e(k)). A pregnant employee shall not be involuntarily transferred to a temporary modified-duty assignment. Nothing in this policy limits a pregnant employee's right to a temporary modified-duty assignment if required under Government Code § 12945.

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

1053.7.1 NOTIFICATION

Pregnant employees should notify their immediate supervisors as soon as practicable and provide a statement from their medical providers identifying any pregnancy-related job restrictions or limitations. If at any point during the pregnancy it becomes necessary for the employee to take a leave of absence, such leave shall be granted in accordance with the City's personnel rules and regulations regarding family and medical care leave.

## 1053.8 PROBATIONARY EMPLOYEES

Probationary employees who are assigned to a temporary modified-duty assignment shall have their probation extended by a period of time equal to their assignment to temporary modified duty.

## 1053.9 MAINTENANCE OF CERTIFICATION AND TRAINING

Employees assigned to temporary modified duty shall maintain all certification, training and qualifications appropriate to both their regular and temporary duties, provided that the certification, training or qualifications are not in conflict with any medical limitations or restrictions. Employees who are assigned to temporary modified duty shall inform their supervisors of any inability to maintain any certification, training or qualifications.

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

# Employee Speech, Expression and Social Networking

## 1057.1 PURPOSE AND SCOPE

This policy is intended to address issues associated with employee use of social networking sites and to provide guidelines for the regulation and balancing of employee speech and expression with the needs of the Department.

Nothing in this policy is intended to prohibit or infringe upon any communication, speech or expression that is protected or privileged under law. This includes speech and expression protected under state or federal constitutions as well as labor or other applicable laws. For example, this policy does not limit an employee from speaking as a private citizen, including acting as an authorized member of a recognized bargaining unit or officer associations, about matters of public concern, such as misconduct or corruption.

Employees are encouraged to consult with their supervisor regarding any questions arising from the application or potential application of this policy.

### 1057.1.1 APPLICABILITY

This policy applies to all forms of communication including but not limited to film, video, print media, public or private speech, use of all internet services, including the World Wide Web, e-mail, file transfer, remote computer access, news services, social networking, social media, instant messaging, blogs, forums, video, and other file-sharing sites.

## 1057.2 POLICY

Public employees occupy a trusted position in the community, and thus, their statements have the potential to contravene the policies and performance of this department. Due to the nature of the work and influence associated with the law enforcement profession, it is necessary that employees of this department be subject to certain reasonable limitations on their speech and expression. To achieve its mission and efficiently provide service to the public, the Brentwood Police Department will carefully balance the individual employee’s rights against the Department’s needs and interests when exercising a reasonable degree of control over its employees’ speech and expression.

## 1057.3 SAFETY

Employees should consider carefully the implications of their speech or any other form of expression when using the internet. Speech and expression that may negatively affect the safety of the Brentwood Police Department employees, such as posting personal information in a public forum, can result in compromising an employee’s home address or family ties. Employees should therefore not disseminate or post any information on any forum or medium that could reasonably be anticipated to compromise the safety of any employee, an employee's family, or associates.

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

Examples of the type of information that could reasonably be expected to compromise safety include:

- Disclosing a photograph and name or address of an officer who is working undercover.
- Disclosing the address of a fellow officer.
- Otherwise disclosing where another officer can be located off-duty.

### 1057.4 PROHIBITED SPEECH, EXPRESSION AND CONDUCT

To meet the department's safety, performance and public-trust needs, the following are prohibited unless the speech is otherwise protected (for example, an employee speaking as a private citizen, including acting as an authorized member of a recognized bargaining unit or officer associations, on a matter of public concern):

(a) Speech or expression made pursuant to an official duty that tends to compromise or damage the mission, function, reputation or professionalism of the Brentwood Police Department or its employees.

(b) Speech or expression that, while not made pursuant to an official duty, is significantly linked to, or related to, the Brentwood Police Department and tends to compromise or damage the mission, function, reputation or professionalism of the Brentwood Police Department or its employees. Examples may include:

1. Statements that indicate disregard for the law or the state or U.S. Constitution.
2. Expression that demonstrates support for criminal activity.
3. Participating in sexually explicit photographs or videos for compensation or distribution.

(c) Speech or expression that could reasonably be foreseen as having a negative impact on the credibility of the employee as a witness. For example, posting statements or expressions to a website that glorify or endorse dishonesty, unlawful discrimination or illegal behavior.

(d) Speech or expression of any form that could reasonably be foreseen as having a negative impact on the safety of the employees of the Department. For example, a statement on a blog that provides specific details as to how and when prisoner transportations are made could reasonably be foreseen as potentially jeopardizing employees by informing criminals of details that could facilitate an escape or attempted escape.

(e) Speech or expression that is contrary to the canons of the Law Enforcement Code of Ethics as adopted by the Brentwood Police Department.

(f) Use or disclosure, through whatever means, of any information, photograph, video or other recording obtained or accessible as a result of employment with the Department

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

for financial or personal gain, or any disclosure of such materials without the express authorization of the Chief of Police or the authorized designee.

(g) Posting, transmitting or disseminating any photographs, video or audio recordings, likenesses or images of department logos, emblems, uniforms, badges, patches, marked vehicles, equipment or other material that specifically identifies the Brentwood Police Department on any personal or social networking or other website or web page, without the express authorization of the Chief of Police.

(h) Accessing websites for non-authorized purposes, or use of any personal communication device, game device or media device, whether personally or department-owned, for personal purposes while on-duty, except in the following circumstances:

1. When brief personal communication may be warranted by the circumstances (e.g., inform family of extended hours).
2. During authorized breaks such usage should be limited as much as practicable to areas out of sight and sound of the public and shall not be disruptive to the work environment.

Employees must take reasonable and prompt action to remove any content, including content posted by others, that is in violation of this policy from any web page or website maintained by the employee (e.g., social or personal website).

### 1057.4.1 UNAUTHORIZED ENDORSEMENTS AND ADVERTISEMENTS

While employees are not restricted from engaging in the following activities as private citizens or as authorized members of a recognized bargaining unit or officer associations, employees may not represent the Brentwood Police Department or identify themselves in any way that could be reasonably perceived as representing the Brentwood Police Department in order to do any of the following, unless specifically authorized by the Chief of Police (Government Code § 3206; Government Code § 3302):

(a) Endorse, support, oppose or contradict any political campaign or initiative.

(b) Endorse, support, oppose or contradict any social issue, cause or religion.

(c) Endorse, support or oppose any product, service, company or other commercial entity.

(d) Appear in any commercial, social or nonprofit publication or any motion picture, film, video, public broadcast or on any website.

Additionally, when it can reasonably be construed that an employee, acting in his/her individual capacity or through an outside group or organization (e.g., bargaining group or officer associations), is affiliated with this department, the employee shall give a specific disclaiming statement that any such speech or expression is not representative of the Brentwood Police Department.

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

Employees retain their right to vote as they choose, to support candidates of their choice and to express their opinions as private citizens, including as authorized members of a recognized bargaining unit or officer associations, on political subjects and candidates at all times while off-duty.

However, employees may not use their official authority or influence to interfere with or affect the result of an election or a nomination for office. Employees are also prohibited from directly or indirectly using their official authority to coerce, command or advise another employee to pay, lend or contribute anything of value to a party, committee, organization, agency or person for political purposes (5 USC § 1502).

### 1057.5 PRIVACY EXPECTATION

Employees forfeit any expectation of privacy with regard to e-mails, texts, or anything published or maintained through file-sharing software or any internet site (e.g., Facebook) that is accessed, transmitted, received, or reviewed on any department technology system (see the Information Technology Use Policy for additional guidance).

The Department shall not require an employee to disclose a personal user name or password for accessing personal social media or to open a personal social website; however, the Department may request access when it is reasonably believed to be relevant to the investigation of allegations of work-related misconduct (Labor Code § 980).

### 1057.6 CONSIDERATIONS

In determining whether to grant authorization of any speech or conduct that is prohibited under this policy, the factors that the Chief of Police or authorized designee should consider include:

(a) Whether the speech or conduct would negatively affect the efficiency of delivering public services.

(b) Whether the speech or conduct would be contrary to the good order of the Department or the efficiency or morale of its members.

(c) Whether the speech or conduct would reflect unfavorably upon the Department.

(d) Whether the speech or conduct would negatively affect the member's appearance of impartiality in the performance of his/her duties.

(e) Whether similar speech or conduct has been previously authorized.

(f) Whether the speech or conduct may be protected and outweighs any interest of the Department.

### 1057.7 TRAINING

Subject to available resources, the Department should provide training regarding employee speech and the use of social networking to all members of the Department.

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

# Peer Support Team

## 1058.1 PURPOSE AND SCOPE

The purpose of the Brentwood Police Department Peer Support Team is to provide personal support for all members of the department who are involved in critical incidents while on or off duty, or who have experienced significant emotional events while off duty for which personal support is requested. With peer support available, incidents and situations that could have a significant effect on an employee's mental, emotional and physical well-being can be minimized. The Peer Support Team is designed to be peer driven, and its goal is to act in the best interests of both the employee and the department. The three main functions of the team are to provide defusing, critical incident debriefing and basic peer support.

This policy has three specific objectives:

a. It provides a background for understanding the department's Peer Support Team

b. It provides practical guidelines for management of the team And,

c. It provides the team members with guidelines for assisting their peers.

As the Peer Support Team matures, policy and procedural changes are inevitable.

The program coordinator and team members shall be required to keep open lines of communication to facilitate this evolving process.

Effective, honest communication in a caring environment, balanced by the team's protocol, will greatly enhance the opportunity for a successful program.

### 1058.1.1 DEFINITION

The Peer Investigation Team is a group of employees trained to provide support to fellow employees in need of assistance. The Peer Investigation Team offers assistance and appropriate support resources to employees when personal or professional problems negatively affect their work performance, family unit or self. This communication is confidential, providing it does not violate any law or department regulation.

Critical Incident: An event that is outside the NORMAL HUMAN experience. Examples include, but are not limited to: shootings, officer injury, gun take-aways, child deaths, officer suicides, disease exposure, disasters, etc. A critical incident can also be any incident experienced by an employee, who the employee feels affects their well-being.

Employee: Any member of the Brentwood Police Department that is sworn, non-sworn, paid or volunteer.

Peer Investigation Team: A group of employees trained to provide support to fellow employees in need of assistance.

Peer Investigation Professional: A mental health professional with sufficient police exposure, and whom the Peer Investigation Team approves.

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

Post Traumatic Stress: It is a NORMAL REACTION to an ABNORMAL SITUATION. Examples include, but are not limited to, the normal physical ailments as well as normal physiological responses (time distortion, altered visual and auditory perceptions) that occur during and after a critical incident.

This program is also designed to:

a. Provide emotional support during and after times of personal or professional crisis to employees who need assistance.

b. Promote trust, allow anonymity, and preserve confidentiality for persons using the Peer Investigation Team within the guidelines of the program.

c. Develop team members to identify personal conflicts and provide guidance or referrals to support resources as required.

d. Maintain an effective peer support training and response program.

e. Provide support to employees with illnesses and/or on the job injuries.

### 1058.1.2 MISSION STATEMENT

The Brentwood Police Department has recognized the value of providing a way for their employees and their family members to deal with personal and/or professional problems.

A successful approach to this problem has been to provide a program which offers a complimentary non professional (peer) support team coupled with a professional Employee Assistance Program (EAP). The peer support team is composed of a cross section of employees who have volunteered to make themselves available to any member of the department who is in need of support. The team will be composed of the following team members:

(1) Administrator

(2) Sergeants

(3) Officers

(1) Record's clerk

All Chaplains on staff

This will provide a way for the Brentwood Police Department employees to talk out personal and/or professional problems with someone who understands and cares. The Brentwood Police Department's most valuable resource is its employees. The peer support team's goal is to assist peers with stresses caused by personal and/or professional problems and help them continue to be a productive member of the Brentwood Police Department.

### 1058.1.3 ROLE OF TEAM MEMBERS

The team member will provide assistance to employees in time of stress and crisis. The responsibilities of team members are as follows:

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

a. Provide trust, anonymity and assure confidentiality within the guidelines to any and all department employees who seek assistance from the Peer Investigation Team

b. Attend the Peer Investigation training and any additional training that will be required

c. Provide assistance and support on a voluntary basis to employees and their family, referring them to the appropriate support resource when necessary

d. Be available to the individual for additional follow up support

e. Maintain contact with the program coordinator regarding team members' activities

f. Agree to be contacted and respond (when necessary) at anytime

g. Attend monthly Peer Investigation Team meetings

The team member is not exempt from federal, state, local ordinance, and/or city & department policies. When necessary, contact the Peer Investigation Program coordinator for assistance and guidance.

Notification and Response: It is the policy of the Brentwood Police Department that when an incident occurs that requires a critical incident debriefing, the Peer Investigation Lieutenant shall be notified by the Watch Commander. The Peer Investigation Team can also be called by a supervisor or involved employee(s) when, from their perspective, an incident has the potential for producing the type of emotional shock that may adversely impact the psychological well-being of the employee(s).

### 1058.1.4 ROLE OF COORDINATOR

The Peer Investigation Lieutenant will be designated the Peer Investigation Program's coordinator. The Peer Investigation Lieutenant will provide logistical support and act as a liaison with department's administration when necessary.

The Peer Investigation Program coordinator acts as the primary liaison between the team members, support resource representative, the department, and employees. The program coordinator serves as the link to ensure that the Peer Investigation Team is being managed in accordance with the goals and objectives established for the program.

The program coordinator's duties include, but are not limited to:

(a) Supervising the program on a daily basis

(b) Selecting team members

(c) Coordinating training for team members

(d) Developing support resources to assist employees who need assistance

(e) Maintaining and accounting of resources used by team members

(f) Offering guidance to team members when problems occur

(g) Ensuring follow up response of team members when referrals are requested

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

### 1058.1.5 PEER SUPPORT SELECTION PROCESS

When the Peer Investigation Team has an opening, a memorandum will be distributed to all members in the department. All interested employees will turn in memorandums of interest. An oral board will be set up and team members will be selected.

(a) Prospective team members must meet the following criteria:

1. Agree to maintain confidentiality within the guidelines provided in this policy

2. Be in good standing with the department

(b) Desirable qualities include:

1. Active listener with problem solving skills

2. Be empathetic and possess interpersonal communication skills.

3. Be motivated and willing to manage time effectively. This will allow minimal impact on their normal duties

### 1058.1.6 TRAINING PROGRAM

All team members will receive basic peer support training and critical incident stress management training. The yearly training program will consist of support resource training and will be overseen by the program coordinator.

The major training emphasis will focus on skill development for conducting peer assistance which will include:

Active listening

General assessment

Problem solving

Relationship termination (death, divorce, etc.)

Referral and follow up

### 1058.1.7 SERVICE ASSIGNMENT

(a) Team members may resign from the team at anytime. Team members are required to notify the program coordinator.

(b) Team members may be terminated for participating in conduct not consistent with program's policy and objectives.

(c) Negative job performance by team member must be reported by the team member's supervisor to the program coordinator for resolution.

### 1058.1.8 ORGANIZATIONAL RESOURCES

Team members can use organizational resources to assist peer employees with the approval from the on duty sergeant or program coordinator:

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

Support: The Peer Investigation Lieutenant or designee will coordinate initial and follow-up support for the involved employee, including logistical support. The Peer Investigation Team will not hinder any criminal or administrative investigation.

Debriefing and Information: When possible, the Peer Investigation Team will ensure that the employee has an opportunity to participate in a formal critical incident debriefing within 72 hours after the incident. Employees may request debriefings at any time. The Peer Investigation Team will also provide information to members so they can understand the normal responses to that incident, and what can be done to minimize their impact. A critical incident debriefing is not a tactical debrief.

Non-Critical Incidents: Employees may approach any Peer Investigation Team member at any time for assistance in any personal matter. No record will be kept of the contact except for non-specific statistical purposes (Names will not be kept). Employees will not be referred to peer support by supervisors for unacceptable job performance or as a result of disciplinary action.

Team members are authorized to use department facilities to meet with employees upon approval of a supervisor.

The team member is permitted to consult with employees on duty. If the consultation is lengthy or the employee is in distress, the team member will advise the employee's immediate supervisor immediately as well as the program coordinator.

Critical Incidents: The employee is encouraged to participate in critical incident debriefings under the following circumstances:

When an employee witnesses a death or imminent death to another employee.

When a death or imminent death occurs to a citizen or employee, as a result of that employee's action.

When an employee is seriously injured, and a debriefing is logistically possible.

When an incident such as a disaster occurs, or there are other special circumstances that a debriefing would be in the best interests of the employee and the department.

### 1058.1.9 CONFIDENTIALITY

Peer Investigation members shall maintain the confidentiality entrusted to them, and will not discuss any information obtained while providing peer support. It is understood, however, that by law, no confidential and privileged communication exists between a peer support member and an employee. Situations that cannot be maintained confidential are:

When information received by the peer member reveals that a criminal act has occurred.

When the Peer Investigation member is involved as a participant or witness;

Where there is reason to believe that the employee intends to injure him/herself or another person. In the case of threatened serious injury, a reasonable attempt shall be made to warn the intended victim(s).

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

When due to substance abuse, the employee is a danger to self, citizens, or fellow employees.

The Peer Investigation member will not be ordered to give information to the department concerning the content of peer support sessions for administrative purposes, except as listed above.

Supervisory officers who are Peer Members cannot abdicate their supervisory responsibilities when on-duty, confronted by misconduct, disciplinary problems, or other improper actions on the part of employees.

If a Peer Investigation member feels that specialized assistance is necessary, they may contact another peer support member or professional referral, as long as the involved employee agrees and gives their approval.

### 1058.1.10 INTERNAL INVESTIGATIONS

It may occur that a team member, while providing support to an employee, becomes an involved party in a disciplinary investigation.

The team member's role in disciplinary situations should be one of support and assisting employees through the stress they may face during the disciplinary process. The team member should be guided by the confidentiality policy of the Peer Investigation Program.

He/she should not volunteer any information received in confidence, however, team members may not hamper or impede the actual investigation, nor may they attempt to shelter the individual from the department's investigation.

Department supervisors shall respect the confidentiality of the prior peer support conversations. If a team member is ordered by a supervisor to divulge information obtained during a peer support session that divulgence shall be ordered by the Chief of Police.

If any team member has any questions or concerns regarding these situations, they should consult with the program coordinator or Peer Investigation Lieutenant for guidelines and assistance.

### 1058.1.11 PEER SUPPORT PROGRAM SKILLS AND TECHNIQUES

The purpose of this section is to provide the team member with a summary of the guidelines to be followed when dealing with situations under field conditions. These guidelines are the basic tools for providing assistance. Used properly, they will help boost the team member's confidence and will reduce the risks of mismanaging emotional problems.

### 1058.1.12 LISTENING

Listening techniques are fundamental to interviewing. The purpose of effective listening includes:

(a) Encouraging self expression

(b) Allowing an employee the opportunity to direct the interview

(c) Giving individuals a sense of responsibility for what happens

(d) Helping individuals relax and be comfortable during the interview

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

(e) Fostering trust and a sense of security

1058.1.13 ASSESSMENT
The process of making a judgment about the information gathered during the interview. Two primary factors that must be considered are:

(a) Assess whether the problem is one with which you can assist the person or one that should be referred to professional resources

(b) Assess whether the problem needs urgent attention

1058.1.14 REFERRAL
The process of directing an employee to the appropriate professional service(s) or support resource that is available to the employee.

1058.1.15 FOLLOW UP
Having a team member check in with an employee after a referral and assuring the employee is on their way to recovering from the stressful situation.

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

# Anti-Retaliation

## 1059.1 PURPOSE AND SCOPE

This policy prohibits retaliation against members who identify workplace issues, such as fraud, waste, abuse of authority, gross mismanagement or any inappropriate conduct or practices, including violations that may pose a threat to the health, safety or well-being of members.

This policy does not prohibit actions taken for nondiscriminatory or non-retaliatory reasons, such as discipline for cause.

These guidelines are intended to supplement and not limit members' access to other applicable remedies. Nothing in this policy shall diminish the rights or remedies of a member pursuant to any applicable federal law, provision of the U.S. Constitution, law, ordinance or memorandum of understanding.

## 1059.2 POLICY

The Brentwood Police Department has a zero tolerance for retaliation and is committed to taking reasonable steps to protect from retaliation members who, in good faith, engage in permitted behavior or who report or participate in the reporting or investigation of workplace issues. All complaints of retaliation will be taken seriously and will be promptly and appropriately investigated.

## 1059.3 RETALIATION PROHIBITED

No member may retaliate against any person for engaging in lawful or otherwise permitted behavior; for opposing a practice believed to be unlawful, unethical, discriminatory or retaliatory; for reporting or making a complaint under this policy; or for participating in any investigation related to a complaint under this or any other policy.

Retaliation includes any adverse action or conduct, including but not limited to:

- Refusing to hire or denying a promotion.
- Extending the probationary period.
- Unjustified reassignment of duties or change of work schedule.
- Real or implied threats or other forms of intimidation to dissuade the reporting of wrongdoing or filing of a complaint, or as a consequence of having reported or participated in protected activity.
- Taking unwarranted disciplinary action.
- Spreading rumors about the person filing the complaint or about the alleged wrongdoing.
- Shunning or unreasonably avoiding a person because he/she has engaged in protected activity.

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

## 1059.4 COMPLAINTS OF RETALIATION

Any member who feels he/she has been retaliated against in violation of this policy should promptly report the matter to any supervisor, command staff member, Chief of Police or the City Human Resource's Manager.

Members shall act in good faith, not engage in unwarranted reporting of trivial or minor deviations or transgressions, and make reasonable efforts to verify facts before making any complaint in order to avoid baseless allegations. Members shall not report or state an intention to report information or an allegation knowing it to be false, with willful or reckless disregard for the truth or falsity of the information or otherwise act in bad faith.

Investigations are generally more effective when the identity of the reporting member is known, thereby allowing investigators to obtain additional information from the reporting member. However, complaints may be made anonymously. All reasonable efforts shall be made to protect the reporting member’s identity. However, confidential information may be disclosed to the extent required by law or to the degree necessary to conduct an adequate investigation and make a determination regarding a complaint. In some situations, the investigative process may not be complete unless the source of the information and a statement by the member is part of the investigative process.

## 1059.5 SUPERVISOR RESPONSIBILITIES

Supervisors are expected to remain familiar with this policy and ensure that members under their command are aware of its provisions.

The responsibilities of supervisors include, but are not limited to:

(a) Ensuring complaints of retaliation are investigated as provided in the Personnel Complaints Policy.

(b) Receiving all complaints in a fair and impartial manner.

(c) Documenting the complaint and any steps taken to resolve the problem.

(d) Acknowledging receipt of the complaint, notifying the Chief of Police via the chain of command and explaining to the member how the complaint will be handled.

(e) Taking appropriate and reasonable steps to mitigate any further violations of this policy.

(f) Monitoring the work environment to ensure that any member making a complaint is not subjected to further retaliation.

(g) Periodic follow-up with the complainant to ensure that retaliation is not continuing.

(h) Not interfering with or denying the right of a member to make any complaint.

(i) Taking reasonable steps to accommodate requests for assignment or schedule changes made by a member who may be the target of retaliation if it would likely mitigate the potential for further violations of this policy.

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

## 1059.6 COMMAND STAFF RESPONSIBILITIES

The Chief of Police should communicate to all supervisors the prohibition against retaliation.

Command staff shall treat all complaints as serious matters and shall ensure that prompt actions take place, including but not limited to:

(a) Communicating to all members the prohibition against retaliation.

(b) The timely review of complaint investigations.

(c) Remediation of any inappropriate conduct or condition and instituting measures to eliminate or minimize the likelihood of recurrence.

(d) The timely communication of the outcome to the complainant.

## 1059.7 WHISTLE-BLOWING

California law protects members who (Labor Code § 1102.5; Government Code § 53296 et seq.):

(a) Report a violation of a state or federal statute or regulation to a government or law enforcement agency, including the member's supervisor or any other member with the authority to investigate the reported violation.

(b) Provide information or testify before a public body if the member has reasonable cause to believe a violation of law occurred.

(c) Refuse to participate in an activity that would result in a violation of a state or federal statute or regulation.

(d) File a complaint with a local agency about gross mismanagement or a significant waste of funds, abuse of authority, or a substantial and specific danger to public health or safety. Members shall exhaust all available administrative remedies prior to filing a formal complaint.

(e) Are family members of a person who has engaged in any protected acts described above.

Members are encouraged to report any legal violations through the chain of command (Labor Code § 1102.5).

Members who believe they have been the subject of retaliation for engaging in such protected behaviors should promptly report it to a supervisor. Supervisors should refer the complaint to the Professional Standards Unit for investigation pursuant to the Personnel Complaints Policy.

### 1059.7.1 DISPLAY OF WHISTLE-BLOWER LAWS

The Department shall display a notice to members regarding their rights and responsibilities under the whistle-blower laws, including the whistle-blower hotline maintained by the Office of the Attorney General (Labor Code § 1102.8).

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

### 1059.8 RECORDS RETENTION AND RELEASE

The Records Supervisor shall ensure that documentation of investigations is maintained in accordance with the established records retention schedules.

### 1059.9 TRAINING

The policy should be reviewed with each new member.

All members should receive periodic refresher training on the requirements of this policy.

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

# Attachments

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

# Hate Crime Checklist.pdf

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

# HATE CRIME CHECKLIST



## VICTIM

**Victim Type:**

☐ **Individual**
Legal name (Last, First): _____
Other Names used (AKA): _____

☐ **School, business or organization**
Name: _____
Type: _____
*(e.g., non-profit, private, public school)*
Address: _____

☐ **Faith-based organization**
Name: _____
Faith: _____
Address: _____

**Target of Crime (Check all that apply):**

☐ Person ☐ Private property ☐ Public property

☐ Other _____

**Nature of Crime (Check all that apply):**

☐ Bodily injury ☐ Threat of violence

☐ Property damage

☐ Other crime: _____

Property damage - estimated value _____

## BIAS

**Type of Bias**
**(Check all characteristics that apply):**

☐ Disability
☐ Gender
☐ Gender identity/expression
☐ Sexual orientation
☐ Race
☐ Ethnicity
☐ Nationality
☐ Religion
☐ Significant day of offense
*(e.g., 9/11, holy days)*
☐ Other: _____

Specify disability (be specific):

_____

_____

**Actual or Perceived Bias – Victim's Statement:**

☐ Actual bias [Victim actually has the indicated characteristic(s)].

☐ Perceived bias [Suspect believed victim had the indicated characteristic(s)].

*If perceived, explain the circumstances in narrative portion of Report.*

**Reason for Bias:**

**Do you feel you were targeted based on one of these characteristics?**
☐ Yes ☐ No *Explain in narrative portion of Report.*

**Do you know what motivated the suspect to commit this crime?**
☐ Yes ☐ No *Explain in narrative portion of Report.*

**Do you feel you were targeted because you associated yourself with an individual or a group?**
☐ Yes ☐ No *Explain in narrative portion of Report.*

**Are there indicators the suspect is affiliated with a Hate Group (i.e., literature/tattoos)?**
☐ Yes ☐ No *Describe in narrative portion of Report.*

**Are there Indicators the suspect is affiliated with a criminal street gang?**
☐ Yes ☐ No *Describe in narrative portion of Report.*

**Bias Indicators (Check all that apply):**

☐ Hate speech ☐ Acts/gestures ☐ Property damage ☐ Symbol used
☐ Written/electronic communication ☐ Graffiti/spray paint ☐ Other: _____

*Describe with exact detail in narrative portion of Report.*

## HISTORY

**Relationship Between Suspect & Victim:**

Suspect known to victim? ☐ Yes ☐ No
Nature of relationship: _____
Length of relationship: _____
*If Yes, describe in narrative portion of Report*

☐ Prior reported incidents with suspect? Total # _____
☐ Prior unreported incidents with suspect? Total # _____
Restraining orders? ☐ Yes ☐ No
*If Yes, describe in narrative portion of Report*
Type of order: _____ Order/Case# _____

## WEAPONS

Weapon(s) used during incident? ☐ Yes ☐ No Type: _____
Weapon(s) booked as evidence? ☐ Yes ☐ No
Automated Firearms System (AFS) Inquiry attached to Report? ☐ Yes ☐ No

# HATE CRIME CHECKLIST



## EVIDENCE

Witnesses present during incident? ☐ Yes ☐ No Statements taken? ☐ Yes ☐ No

Evidence collected? ☐ Yes ☐ No

Photos taken? ☐ Yes ☐ No

Total # of photos: _____ D#: _____

Taken by: _____ Serial #: _____

Recordings: ☐ Video ☐ Audio ☐ Booked

Suspect identified: ☐ Field ID ☐ By photo ☐ Known to victim

## OBSERVATIONS

| VICTIM | SUSPECT |
|---|---|
| ☐ Tattoos | ☐ Tattoos |
| ☐ Shaking | ☐ Shaking |
| ☐ Unresponsive | ☐ Unresponsive |
| ☐ Crying | ☐ Crying |
| ☐ Scared | ☐ Scared |
| ☐ Angry | ☐ Angry |
| ☐ Fearful | ☐ Fearful |
| ☐ Calm | ☐ Calm |
| ☐ Agitated | ☐ Agitated |
| ☐ Nervous | ☐ Nervous |
| ☐ Threatening | ☐ Threatening |
| ☐ Apologetic | ☐ Apologetic |
| ☐ Other observations: _____ | ☐ Other observations: _____ |

**ADDITIONAL QUESTIONS (Explain all boxes marked "Yes" in narrative portion of report):**

Has suspect ever threatened you? ☐ Yes ☐ No

Has suspect ever harmed you? ☐ Yes ☐ No

Does suspect possess or have access to a firearm? ☐ Yes ☐ No

Are you afraid for your safety? ☐ Yes ☐ No

Do you have any other information that may be helpful? ☐ Yes ☐ No

**Resources offered at scene:** ☐ Yes ☐ No Type: _____

## MEDICAL

| Victim | Suspect | |
|---|---|---|
| ☐ | ☐ | Declined medical treatment |
| ☐ | ☐ | Will seek own medical treatment |
| ☐ | ☐ | Received medical treatment |

Authorization to Release Medical Information, Form 05.03.00, signed? ☐ Yes ☐ No

**Paramedics at scene?** ☐ Yes ☐ No Unit # _____

Name(s)/ID #: _____

Hospital: _____

Jail Dispensary: _____

Physician/Doctor: _____

Patient #: _____

| Officer (Name/Rank) | Date |
|---|---|
| | |
| Officer (Name/Rank) | Date |
| | |
| Supervisor Approving (Name/Rank) | Date |
| | |

# Lexipol chart OIS.xls

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

# Video Surveillance Sign.pdf

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

VIDEO SURVEILLANCE
NEIGHBORHOOD

# Commission on Peace Officer Standards and Training Hate Crimes Model Policy 2019.pdf

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

# Statutes and Legal Requirements.pdf

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

## Statutes and Legal Requirements

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

### *Definitions*

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

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

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

## Felonies

### *Hate Crimes*

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

### *Related Crimes*

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

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

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

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

CPC 594.3 - Vandalism of places of worship.

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

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

## Misdemeanors

### *Hate Crimes*

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

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

### *Related Crimes*

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

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

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

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

## Enhancements

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

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

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

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

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

## Reporting

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

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

## Training and Policy Requirements

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

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

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

## Miscellaneous Provisions

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

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

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

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

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

**GC 6254** - Victim confidentiality.

# Lexipol chart OIS.xls

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

# Neighborhood Watch Video Surveillance Sign.pdf

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

# WARNING

## VIDEO SURVEILLANCE NEIGHBORHOOD

ALL SUSPICIOUS PERSONS AND ACTIVITIES
ARE ON VIDEO SURVEILLANCE AND IMMEDIATELY
REPORTED TO OUR POLICE DEPARTMENT

# NEIGHBORHOOD WATCH

## WE LOOK OUT FOR EACH OTHER!™

© 1999-2015 National Neighborhood Watch Institute / Santa Fe Springs, CA 90670-1208 / (888) 669-4872 — (888) NNWI-USA / www.NNWI.org

The Boris the Burgler™ logo design is a trademark of National Sheriffs' Association (NSA) and is reproduced with NSA's permission. Boris the Burgler™ is a service mark of NSA. NNWI is a Licensee of NSA and is authorized to use the Boris the Burgler™ name and logo.

# INDEX / TOPICS

. . . . . 28

## A

ABBREVIATIONS . . . . . 15
ACKNOWLEDGEMENTS
Policy manual. . . . . 18
Policy revisions. . . . . 18
ADMINISTRATIVE INVESTIGATION . . . 80
ADMINISTRATIVE INVESTIGATIONS
OIS . . . . . 80, 80, 80
OIS . . . . . 80, 80
Recorded media files. . . . . 352
ADULT ABUSE . . . . . 144
Investigations. . . . . 423
AIRCRAFT . . . . . 328
Accidents. . . . . 328
Ambulance. . . . . 381
ALCOHOL . . . . . 551
ALCOHOL USE . . . . . 551
ALCOHOL, INTOXICANTS . . . . . 198
AMMUNITION . . . . . 84
Gun violence restraining order surrenders. 259
ANTI-REPRODUCTIVE RIGHTS CRIMES . 222
APPOINTMENTS
Coordinator - portable audio/video recorders 353
Forfeiture reviewer. . . . . 436
Operations director . . . . . 451, 455
PIO. . . . . 203
ARRESTS
First amendment assemblies . . . . 376, 378
Log. . . . . 204
Seat belts. . . . . 573
ASSET FORFEITURE . . . . . 433
AUDIO/VIDEO RECORDING
Body-worn cameras. . . . . 350
Custodial interrogation. . . . . 421
AUDIO/VIDEO RECORDING, HOLDING CELLS
INSPECTIONS, Holding cells. . . . . 515
AUTHORITY
Canine handler. . . . . 112
Policy manual. . . . . 15
AUTHORITY, ETHICS . . . . . 194
AUTOMATED EXTERNAL DEFIBRILLATORS
(AED) . . . . . 382
AUTOMATED LICENSE PLATE READERS
(ALPR) . . . . . 386

## B

BADGE . . . . . 632
BATON . . . . . 64
BIOLOGICAL SAMPLES
Hazards. . . . . 329
BIOLOGICAL SAMPLES . . . . . 241
BODY ARMOR
Suspects. . . . . 82
BODY ARMOR . . . . . 575
BODY-WORN CAMERAS . . . . . 350
BOMBS . . . . . 296
Aircraft accidents. . . . . 329
BRADY MATERIAL . . . . . 446
BREATH TEST . . . . . 409

## C

CANINE
Request for Use. . . . . 111
CASH, CUSTODY
Phone Calls . . . . . 514, 514
CHANGE OF ASSIGNMENT . . . . . 587
CHIEF EXECUTIVE . . . . . 12
CHILD ABUSE . . . . . 159
CHILDREN
Transporting. . . . . 574
CITATIONS . . . . . 393
CIVIL
Liability response. . . . . 81
Subpoenas. . . . . 207
CIVIL DISPUTES . . . . . 371
CIVILIAN/NON-SWORN . . . . . 16
CIVILIAN/NONSWORN
Crisis intervention incidents. . . . . 369
CODE-3 . . . . . 108
COMMAND STAFF
Policy review. . . . . 18
COMMUNICABLE DISEASE
Health orders. . . . . 269
COMMUNICATION OPERATIONS . . . . 473
COMMUNICATIONS CENTER
Mandatory sharing. . . . . 210
COMMUNICATIONS CENTER
Crisis intervention incidents. . . . . 368
COMMUNICATIONS WITH HEARING
IMPAIRED OR DISABLED . . . . . 231
COMPUTERS
Digital evidence. . . . . 424
CONDUCT
OIS. . . . . 74
Standards of conduct. . . . . 196
CONFIDENTIALITY
ALPR. . . . . 386
CONTACTS AND TEMPORARY DETENTIONS
Warrant service. . . . . 453
CONTROL DEVICES

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

First amendment assemblies. . . . . 377
CONTROL DEVICES . . . . . 63
CONTROL DEVICES . . . . . 63
CORRESPONDENCE . . . . . 28
COURT APPEARANCES . . . . . 206
COURT ORDERS
Canine controlled substance. . . . . 118
Gun violence restraining order surrenders. 259
Subpoenas. . . . . 206
COURT ORDERS, CIVIL DISPUTES . . . 372
CRIME ANALYSIS . . . . . 472
CRIME SCENE AND DISASTER INTEGRITY
. . . . . 268
CRIMINAL ACTIVITY REPORTING . . . 200
CRISIS INTERVENTION INCIDENTS . . 366
CRISIS NEGOTIATION TEAM . . . . . 270
CRISIS RESPONSE UNIT . . . . . 270
CUSTODIAL INTERROGATIONS . . . . 421
CUSTODIAL SEARCHES . . . . . 518
CUSTODIAN OF RECORDS . . . . . 500

# D

DAMAGE BY CITY PERSONNEL . . . . 201
DEATH
Native American Graves (NAGPRA). . . 255
DEATH INVESTIGATION . . . . . 216
DEATH NOTIFICATION . . . . . 217
DEATH, CUSTODY – ADULTS
NOTIFICATIONS, Custody suicide attempt, death or serious injury. . . . . 515
DEBRIEFING
Warrant service. . . . . 453
DECONFLICTION . . . . . 457
DEFECTIVE VEHICLES . . . . . 465
DEFINITIONS . . . . . 15
DEPARTMENT OWNED PROPERTY . . . 462
DEPARTMENT PROPERTY
Loss Or Damage. . . . . 463
DISABLED
Motorist. . . . . 416
DISASTER PLAN . . . . . 22
DISCIPLINE . . . . . 193
DISCLAIMER . . . . . 14
DISCLOSING INFORMATION . . . . . 640
DISTRIBUTION . . . . . 16
DIVISION . . . . . 20
DOMESTIC VIOLENCE
Reporting of Employee Convictions. . . 549
DOMESTIC VIOLENCE
Definition Of Terms. . . . . 121
DRIVING, SAFETY SAFETY, CONDUCT
FIREARMS, CONDUCT . . . . . 197
DRUG USE . . . . . 551
DUI ENFORCEMENT . . . . . 408

# E

ELECTRICAL LINES . . . . . 324
ELECTRO-MUSCULAR DISRUPTION
TECHNOLOGY DEVICE . . . . . 68
ELECTRONIC CIGARETTES . . . . . 561
EMERGENCY MANAGEMENT PLAN . . . 22
EMERGENCY UTILITY . . . . . 324
EMPLOYEE COMMENDATIONS . . . . 595
EPINEPHRINE AUTO-INJECTORS . . . . 384
EVALUATION . . . . . 539
EVIDENCE
Digital. . . . . 424
NAGPRA. . . . . 255
Seizing recordings. . . . . 364
EVIDENCE, BOMBS . . . . . 300
EXPLOSIONS . . . . . 299
EXPOSURE(S) . . . . . 285

# F

FIREARM SERIAL NUMBERS . . . . . 486
FIREARMS
Removal for vehicle maintenance. . . . 465
Retiree. . . . . 38
FITNESS FOR DUTY . . . . . 603
FOREIGN DIPLOMATIC AND CONSULAR
REPRESENTIVES . . . . . 312
FOREIGN NATIONALS
Arrest or Detention. . . . . 312

# G

GANGS, EMPLOYEE AFFILIATION . . . 194
GRIEVANCE PROCEDURE . . . . . 545
GRIEVANCES
Supervisor authority. . . . . 16
GROOMING STANDARDS . . . . . 619

# H

HAZARDOUS MATERIAL . . . . . 285
HAZARDOUS MATERIAL (HAZMAT)
RESPONSE
Aircraft accidents. . . . . 329
HEARING IMPAIRED . . . . . 231
HELICOPTER ASSISTANCE . . . . . 335
HIGH-VISIBILITY VESTS . . . . . 393
HOMELESS . . . . . 360

# I

IDENTITY THEFT . . . . . 219

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

INFORMATION TECHNOLOGY USE
TECHNOLOGY USE . . . . . 199
INTERNET ACTIVITY . . . . . 640
INVESTIGATION AND PROSECUTION . 420

# J

JURISDICTION
Aircraft accidents. . . . . 329
JUVENILES
Citations. . . . . 309

# K

KINETIC PROJECTILES . . . . . 66

# L

LIGHT DUTY ASSIGNMENTS . . . . . 634
LIMITED ENGLISH PROFICIENCY . . . 224

# M

MANUALS . . . . . 22
MEAL PERIODS AND BREAKS . . . . . 606
MEDIA . . . . . 203
Aircraft accidents. . . . . 330
Operations plans. . . . . 459
Warrant service. . . . . 454
MEDICAL
Adult involuntary detention. . . . . 148
Aircraft accidents. . . . . 328
Examinations – Adult abuse. . . . . 149
For canines. . . . . 117
Leave act (FMLA). . . . . 554
Releases. . . . . 381
MENTAL ILLNESS
Restraints. . . . . 301
MINIMUM STAFFING . . . . . 29
MODIFIED DUTY ASSIGNMENTS . . . . 634
MODIFIED-DUTY ASSIGNMENTS . . . 634
MUTUAL AID
First amendment assemblies. . . . . 377
Warrant service. . . . . 453

# N

NATIVE AMERICAN GRAVES (NAGPRA) 255
NOTIFICATIONS
Aircraft accidents. . . . . 329
Impaired driving. . . . . 410
NAGPRA. . . . . 255
Sick leave. . . . . 554
NOTIFICATIONS . . . . . 75

# O

OATH OF OFFICE . . . . . 13
OC SPRAY . . . . . 65
OFFICER IDENTIFICATION . . . . . 474
OFFICER SAFETY
Crime scene and disaster integrity. . . . 268
LEOSA. . . . . 38
Seat belts. . . . . 573
Warrant service. . . . . 451
OFFICER-INVOLVED SHOOTING (OIS) . . 74
OPERATIONS PLANNING AND
DECONFLICTION . . . . . 455
ORGANIZATIONAL STRUCTURE . . . . 20
OUTSIDE AGENCY ASSISTANCE . . . . 209
OUTSIDE EMPLOYMENT . . . . . 612
Change in Status. . . . . 616
Prohibited Outside Employment. . . . 615
Security Employment. . . . . 615
OVERTIME
Court. . . . . 208
OVERTIME PAYMENT . . . . . 610

# P

PEPPER PROJECTILES . . . . . 65
PEPPER SPRAY . . . . . 65
PERFORMANCE EVALUATIONS
Sick leave. . . . . 555
PERSONAL APPEARANCE . . . . . 619
PERSONAL PROPERTY . . . . . 462
Loss Or Damage. . . . . 463
PERSONNEL COMPLAINTS
Portable audio/video review. . . . . 352
PHOTO LINEUP . . . . . 420
PHOTOGRAPHS
Aircraft accidents. . . . . 330
First amendment assemblies. . . . . 375
PIO . . . . . 203
POLICY MANUAL . . . . . 14
POLITICAL ACTIVITY . . . . . 641
POLITICAL ENDORSEMENTS . . . . . 641
PRESS INFORMATION OFFICER . . . . 203
PRIVACY EXPECTATIONS
Audio/video recordings. . . . . 351
Unmanned aerial system. . . . . 448
PRIVATE PERSONS ARRESTS . . . . . 220
PROHIBITED SPEECH . . . . . 640
PROTECTIVE CUSTODY
Dependent adults. . . . . 148
PUBLIC RECORDING OF LAW ENFORCEMENT
ACTIVITY . . . . . 363

# R

RACIAL- OR BIAS-BASED PROFILING . 265
RADIO COMMUNICATIONS . . . . . 474
RECORDS RELEASE

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department

ALPR. . . . . 388
Audio/video recordings. . . . . 354
Child deaths. . . . . 165
RECORDS RETENTION
Oath of office. . . . . 13
REFLECTORIZED VESTS . . . . . 393
RELIGION
NAGPRA. . . . . 255
REPORT CORRECTIONS . . . . . 202
REPORT PREPARATION . . . . . 200
RESPONSE TO CALLS . . . . . 108
RESTRAINTS . . . . . 301
REVIEWS
Complaints of racial- or bias-based profiling 266
Crisis intervention incidents. . . . . 370
Policy manual. . . . . 18
Portable audio/video. . . . . 352
RIDE-ALONG
Eligibility. . . . . 282
RISK ASSESSMENT . . . . . 455
ROLL CALL TRAINING . . . . . 267

# S

SAFETY
First responder. . . . . 268
Media. . . . . 203
SAFETY EQUIPMENT
First amendment assemblies. . . . . 376
Seat belts. . . . . 573
SCHOOL EMPLOYEE REPORTING . . . 239
SEARCH & SEIZURE . . . . . 131
SEARCH WARRANTS . . . . . 451
SEARCHES
Body scanner. . . . . 522
Crime scene. . . . . 269
Custodial. . . . . 518
Gun violence restraining orders. . . . . 259
SEAT BELTS . . . . . 573
SECURITY EMPLOYMENT . . . . . 615
SICK LEAVE . . . . . 554
SMOKING AND TOBACCO USE . . . . 561
SOCIAL NETWORKING . . . . . 639
SPECIAL ORDER . . . . . 21
STAFF . . . . . 14
STAFFING LEVELS . . . . . 29
STANDARDS OF CONDUCT . . . . . 192
SUBPOENAS . . . . . 206
SUBPOENAS AND COURT APPEARANCES 206
SUPERVISION DEPLOYMENTS . . . . . 29

# T

TASER . . . . . 68
TATTOOS . . . . . 620
TEAR GAS . . . . . 64
TEMPORARY CUSTODY OF ADULTS . . 513
TIME CARD . . . . . 609
TIME CARDS . . . . . 609
TOLL ROADS . . . . . 467
TRAFFIC FUNCTION . . . . . 392
TRAFFIC OFFICER/DEPUTY . . . . . 392
TRAINING
AED. . . . . 383
ALPR. . . . . 388
Canine. . . . . 117
Custodial searches. . . . . 521
Epinephrine auto-injector. . . . . 385
Firearms. . . . . 87
First amendment assemblies. . . . . 379
Operation planning and deconfliction. . . 460
Opioid medication. . . . . 383
Racial- or bias-based profiling. . . . . 266
Shared equipment and supplies. . . . . 210
Warrant service. . . . . 454
TRAINING
SWAT. . . . . 274
TRAINING PLAN . . . . . 23
TRAINING POLICY . . . . . 23
TRAINING, CUSTODY . . . . . 517

# U

UNIFORM REGULATIONS . . . . . 621
UNIFORMS
Courtroom attire. . . . . 208
UNLAWFUL ASSEMBLY . . . . . 377
UNMANNED AERIAL SYSTEM . . . . . 448
URINE TESTS . . . . . 410
USE OF FORCE
First amendment assemblies. . . . . 377
UTILITY SERVICE . . . . . 324

# V

VEHICLE MAINTENANCE . . . . . 465
VEHICLES
Impound hearings. . . . . 406
VIDEO RECORDINGS
First amendment assemblies. . . . . 375

# W

WARNINGS
Canine. . . . . 114
WARRANT SERVICE . . . . . 451
WASHING OF VEHICLES . . . . . 466
WATCH COMMANDERS . . . . . 347
WATER LINES . . . . . 324

Copyright Lexipol, LLC 2020/09/24, All Rights Reserved.
Published with permission by Brentwood Police Department