

Chapter 9 - Custody

Temporary Holding Facility Organization and Administration

900.1 PURPOSE AND SCOPE

The purpose of this policy is to establish the role and authority for Temporary Holding Facility operations and administration.

900.2 ADMINISTRATIVE AUTHORITY - CHIEF OF POLICE

The Administration of the Irvine Police Department holding facility is the responsibility of the Chief of Police.

900.3 BUSINESS SERVICES ADMINISTRATOR

It is the responsibility of the Business Services Administrator to enforce all rules and regulations pertaining to the facility operations, regulate the conduct and activities of subordinate personnel, and assure the safety and welfare of those individuals confined within. The Administrator or his/her designee;

- (a) Assists with the negotiation process of the custody contract.
- (b) Ensures regulatory compliance with the custody contract.
- (c) Monitors the performance of custody personnel.
- (d) Assists with an annual facility inspection.
- (e) Administers the facility program budget.
- (f) Reviews and updates the Department Custody Policy.

900.4 WATCH COMMANDER / FIELD SUPERVISOR

The watch commander has functional supervision of the custody facility and its personnel. The watch commander or designated field supervisor will make periodic inspections of the facility during his/her watch and monitor activities to assure compliance with procedural requirements.

Personnel with functional supervision of the custody facility shall attend Title 15 training once every two years

900.5 CUSTODY OFFICER

The custody officer is responsible for the safety and welfare of all prisoners within the department's custody facility during his/her tour of duty. The on-duty custody officer shall ensure that each prisoner brought to the facility is properly processed in accordance with the provisions of the this policy. Further, each custody officer is tasked with the responsibility to successfully fulfill any and all lawful directives received through the chain-of-command.

- (a) A custody officer shall not carry or possess a firearm in the performance of his or her duties.

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- (b) Those custody officers trained and certified in accordance with Penal Code (PC) §832 may:
 - 1. Make felony and misdemeanor arrests within the detention facility pursuant to a duly issued, valid warrant.
 - 2. Release persons arrested for intoxication when no further criminal process is being sought. He/she may also release misdemeanants on a promise to appear after completion of the booking process.

900.5.1 CUSTODY OFFICER TRAINING

- (a) State-Mandated Training: Custody officers and those persons directly responsible for supervising custody officers shall, within six months of appointment, successfully complete an initial eight-hour training session. Initial training shall include an orientation of the following subjects:
 - 1. Applicable minimum jail standards
 - 2. Jail operations liability
 - 3. Inmate segregation
 - 4. Department automated booking system
 - 5. Prisoner monitoring and use of facility logs
 - 6. Emergency planning and procedures, and
 - 7. Suicide prevention
- (b) Biennial Training: In addition to the initial training, custody personnel are required to successfully complete eight hours of subsequent training every two years.
- (c) Department Required Training: Additional training provided to custody officers should conform to the provisions of the current custody contract.

900.6 CUSTODY SUPERVISOR

The custody supervisor shall perform all of the duties assigned to a custody officer; however he/she is also responsible for:

- (a) Training and supervision of custody personnel.
- (b) Employee payroll and scheduling of personnel.
- (c) Regulatory compliance with the custody contract.
- (d) Assisting staff with the annual facility inspection.
- (e) Assisting staff with policy development and implementation.
- (f) Weekly facility safety checks.
- (g) Monthly fire safety facility checks.
- (h) Prisoner logs and related documents.
- (i) Custody officer performance evaluations and discipline.

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- (j) Regulatory compliance of all local, state and federal laws.
- (k) Compliance with Department policy and procedures.

900.7 MINIMUM STAFFING STANDARDS - TITLE 15, CCR, ARTICLE 3, §1027

The Department shall employ a sufficient number of personnel in the detention facility to permit safety checks by direct visual observation of every inmate every thirty minutes. There shall be at least one employee on duty at all times in the temporary custody facility, or in the police building where the facility is housed; who shall be immediately available and accessible to inmates in the event of an emergency. Such an employee shall not have any other duties that would conflict with the supervision and care of inmates in the event of an emergency. Whenever one or more female arrestees are in custody, there shall be at least one female employee who, in a like manner, shall be immediately available and accessible to such female inmates.

Classification and Segregation of Arrestees

901.1 CLASSIFICATION OF ARRESTEES

The classification of arrestees is designed to ensure proper assignment to holding cells according to sex, age, criminal sophistication, seriousness of the crime charged, assaultive/non-assaultive behavior and other criteria that warrant specific attention. The classification is based on objective criteria that include screening at time of intake by trained personnel, and a record of each inmate's classification level, housing restrictions, and housing assignments. Documentation of an inmate's classification shall be noted on the short narrative section of the booking form. Cell assignment shall be noted on the photo/thumb print screen.

901.2 GENERAL CLASSIFICATION

- (a) Misdemeanor
 - 1. Male
 - (a) Adult
 - (b) Juvenile
 - 2. Female
 - (a) Adult
 - (b) Juvenile
- (b) Felony
 - 1. Male
 - (a) Adult
 - (b) Juvenile
 - 2. Female
 - (a) Adult
 - (b) Juvenile
- (c) Mentally Disturbed

901.3 GENERAL SEGREGATION

Minimum segregation of arrestees is required by law (Penal Code (PC) §§4001 and 4002; Title 15, California Code of Regulations (CCR), Article 5) with separation not only from physical contact, but visual and audible contact. This policy will establish guidelines for the segregation of arrestees once they are housed in the custody facility and as provided by law.

Female arrestees shall be segregated from male arrestees at all times. It is unlawful for any custody officer or police officer to search the person of an arrestee of the opposite sex, except in the company of an officer of the same sex as the arrestee (PC §4021).

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901.4 DEVELOPMENTALLY DISABLED ARRESTEES

If an arrestee is determined to be developmentally disabled, the arrestee should not be booked in the custody facility. The arrestee should be transported and booked at another lodging facility.

901.5 ADMINISTRATIVE SEGREGATION

The Administrative segregation consists of separate and secure housing with no deprivation of privileges except as necessary for the protection of inmates and staff. Administrative segregation provides for the care and control of the unusual arrestee and shall be provided as follows:

- (a) Felons should not be confined with misdemeanants. Exceptions are permitted if facility capacity reaches the maximum limit.
- (b) Arrestees received with communicable diseases (e.g., AIDS, tuberculosis, hepatitis, venereal disease or other special medical problems) will not be confined in the Irvine holding facility due to the inability to properly segregate such individuals from the other arrestees (California Code of Regulations (CCR) Title 15, §1051).
- (c) Mentally disordered persons who appear to be a danger to themselves or others will be confined in the Irvine custody facility's "safety-cell" to protect the safety of the inmate or others. If an evaluation from medical or mental health staff is not readily available, an inmate shall be considered mentally disordered if he or she appears to be a danger to themselves or others or if he/she appears gravely disabled.
- (d) Complete segregation shall be provided for arrestees who, based upon gender or sex-based identity, if it would tend to increase the arrestee's risk of victimization while incarcerated. If complete segregation is not available in the custody facility for such arrestee, they will be transferred to the Orange County Jail (California Code of Regulations, Title 15, CCR, §1053).
- (e) Inmates who are determined to be prone to escape, prone to assault staff or other inmates, or likely to need protection from other inmates may be segregated in order to maintain order, safety and security. This is not used for purposes of punishment or discipline and will not result in a deprivation of privileges while in custody. If an arrestee exhibits this type of behavior, the officer or Watch Commander may direct the arrestee to an alternate custody facility (Title 15, CCR, §1053).

Booking Procedures

902.1 PURPOSE AND SCOPE

The procedure presented in this policy is designed to ensure that each prisoner is received and processed through the Temporary Custody Facility in a consistent manner and in compliance with federal law, state law, and common safety practices. Strict compliance with this policy will:

- (a) Reduce the opportunity for prisoners to introduce weapons, narcotics, or unauthorized contraband into the holding facility, and;
- (b) Promote the safety of department personnel as well as those persons in temporary custody.

902.2 PERSONNEL RESPONSIBILITY

All department personnel, including contract employees, having the responsibility for prisoner custody or control within the temporary holding facility shall follow the procedure outlined below.

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902.5 ARRESTED PARENT - CHILD SAFETY

Special considerations exist for an arrestee who is a parent of one or more dependent children. Additional allowances shall be made by the arresting/booking officers for a parent in custody, in accordance with the Child and Dependent Adult Safety policy.

902.6 PROCESSING PRISONER'S PROPERTY

The custody officer and/or the arrest/transport officer shall inventory, document, package and store all property that accompanies each prisoner into the custody facility. Each property item shall be scrutinized and processed in the following manner:

- (a) Property inventory should be video-recorded when possible. Cameras mounted over the booking counter and Intoxilyzer station may be used for this purpose.
- (b) Log each item into the property section of the prisoner's booking record. Each item's description should be sufficiently detailed so as to allow for easy identification.
- (c) The Custody Officer will place the prisoner's property in container. The prisoner's name will be displayed on the outside of the container. The container will be placed in a custody facility property locker along with any of the prisoner's loose clothing. The prisoner's shoes are placed on the floor outside his/her assigned cell. When the property bag has to be opened to remove a portion of the prisoner's property, the date,

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time and reason for the bag being opened will be recorded in the miscellaneous section of the pre-booking form. The custody officer opening the container and a witnessing party will sign the entry. If it becomes necessary to issue a new container, the old container will be placed inside the new container and an entry will be made on the pre-booking form.

- (d) Each container should display the prisoner's name and an adequate description of the contents if not a clear container.
- (e) All monies removed from the prisoner shall be counted by the custody officer in front of the prisoner (if practical), and then counted again by a second employee. Booking personnel should ask the prisoner to initial the booking document next to the total amount of money inventoried as a verification of the amount retained by custody personnel.
 - 1. All U.S. currency and coin should be placed in a separate container and sealed.
 - 2. Should any money be withdrawn or added to the cash container, the officer making such change shall enter the amount below the original entry and initial it.
 - 3. Foreign currency and other documents of apparent value should be inventoried and sealed in a separate container. The value of such currency or other documents shall not be added to the U.S. currency total.
- (f) Rings, jewelry gems, precious stones or similar items of apparent value or small enough to be easily lost should also be sealed in an container. Gems or precious stones should not be referred to by name (i.e. diamond, sapphire, etc) and no value estimate should be affixed to the items.
- (g) Large items of a prisoner's property that will not fit in the property lockers may be booked into an evidence locker as safekeeping by the transporting officer. A notation will be made on the booking form.
- (h) Prisoners, unless unruly or intoxicated, shall be allowed to retain prescription eyeglasses and hearing aids.

No writing materials, pins, clips, belts, sharp object or alike will be allowed in the holding cells.

Smoking is not allowed in any part of the Custody Facility.

902.7 DISCOVERY OF EVIDENCE OR CONTRABAND

If, during the booking process, a custody officer discovers potential criminal evidence, contraband, or any suspicious item, this discovery shall be reported to the arrest/transport officer.

- (a) The arrest/transport officer is responsible for seizing and processing these items. The custody officer may be required to provide a supplemental report to the crime/arrest report that will document his or her observations and actions relative to the discovery of this property.
- (b) Evidence of any crime, illegal property, or items subject to further investigation shall conform to the Property Procedures.

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- (c) If the prisoner's clothing is seized, disposable clothing will be provided by custody personnel.

902.8 RELEASING PRISONER'S PROPERTY

The prisoner and the custody officer will inventory the property and the custody officer will check off each item listed on the hard copy and any shortages or overages will be indicated. If the custody officer cannot resolve the shortage/overage, it will be brought to the attention of the watch commander for a determination of what action will be taken. The property will be returned to the prisoner, including his/her shoes, coat or other parcels.

902.9 PROPERTY DISPOSITION - TRANSFERS TO ANOTHER FACILITY

When a prisoner is being transported to another facility, a separate inventory process is not necessary if the original sealed bag has not been tampered with or the seal broken. The transporting officer will verify name and identity, maintain physical possession of the prisoner's property and give it to the appropriate custody personnel at the intake facility. When transferring monies, the transporting officer shall require a written receipt from the destination facility for the amount transferred. It will be the decision of the intake personnel at the destination facility if they wish to count the funds prior to acceptance.

902.10 TEMPORARY REMOVAL OF PRISONER'S PROPERTY

Occasionally, it is necessary to remove a prisoner's property for analysis during an on-going investigation or for retrieval as evidence or contraband. Regardless of the purpose, any removal by officers or detectives must be documented once the prisoner's property has been inventoried during the booking process.

In the event property must be removed from the prisoner's booking inventory, the employee causing the removal must:

- (a) Notify the watch commander/field supervisor and the custody officer.
- (b) Complete the lower portion of IPD Form 89-13 (Authorization to Remove Arrestee or Arrestee's Property). Once completed, this form must remain with the arrestee's booking forms.

Once analyzed, the property shall be returned to the prisoner's booking inventory, with a notation as to the time and date of the return made on the form. If the property that is removed so that it may be processed as evidence or contraband, the employee will note that fact in the narrative of the form and in the case report.

Once completed, the form will remain with the master case file.

902.11 PRISONER'S TELEPHONE CALLS

Phone calls shall be provided during booking as outlined in the penal code and as described in the Temporary Custody of Adults policy.

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902.12 PROCEDURAL REQUIREMENTS - PRISONER'S TELEPHONE CALLS

Custody officers and/or police officers engaged in the process of booking a prisoner are responsible for facilitating that prisoner's telephone calls. In order to ensure compliance with state regulations, personnel will follow the procedure outlined below:

- (a) Local Telephone Calls: Obtain the telephone number and name of the person that the prisoner wishes to call; make the call; and then ensure the requested person is on the line. Allow the prisoner to converse with that person for a reasonable period of time.
- (b) Prisoners may be allowed to use their cellular phone to make long distant calls with the approval of the arresting, transporting, or on duty supervisor..
- (c) Custody officers, police officers or detectives may permit a prisoner additional telephone calls beyond those mandated by state law.
- (d) All calls will be logged into the booking system. A notation for each attempted phone call should indicate if the calls were completed or not, and to whom. The prisoner will be given various opportunities to complete the allotted number of telephone calls after arriving at the station. (If the prisoner is intoxicated or combative, house the prisoner and postpone the prisoner's calls until they can be made safely). The prisoner should be advised that there is no expectation of privacy when making these phone calls.
- (e) A prisoner's telephone call to an attorney shall not be monitored, eavesdropped upon or recorded (PC §851.5 (b)(1)).

There is no obligation for the officer to make a call on a prisoner's behalf - for example in the case of a person that is so intoxicated that he or she cannot make a call. An officer is not required to wake an intoxicated person three hours after booking so that they may complete a call.

There is also no limitation on the amount of time a prisoner's phone call must last. A prisoner should be given sufficient time on the phone to contact whomever he/she desires and to arrange for necessary items because of his/her arrest. The phone calls are not intended to be lengthy conversations and the officer may use his or judgment in determining the duration of the calls.

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902.14 PHOTOGRAPHS

A booking photograph shall be taken of each prisoner booked into the custody facility. The photo will be of the prisoner looking straightforward. Copies of the photograph may be attached to the department booking form and forwarded to the Records Bureau upon release or transfer of the prisoner. Copies of the booking photographs shall be provided to the court upon request. Other photographs taken by the department in connection with mandatory registrations, or investigations will be retained in separate files, by category, or booked as evidence.

902.15 PRISONER RELEASE PROCEDURE

Prisoners shall only be released upon legal authority and in the manner described below. The releasing officer shall:

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- (a) Ensure that all reports and forms related to booking of the prisoner are complete before the prisoner is released.
- (b) Verify that all bail monies are accounted for.
- (c) Ensure that bail bonds are attached to the necessary paperwork and placed in the Records Bureau safe.
- (d) Return all of the prisoner's personal property, not to include evidence or contraband.
- (e) Verify that the appropriate Temporary Custody Facility Log is complete, showing the date, time, and authority and reason for release and the releasing officer's name.
- (f) Escort the subject to be released from the custody facility to the front lobby. At no time will a released prisoner be allowed in any secure area of the station without personal supervision by a department employee.

902.16 COURT-ORDERED BOOKING / RESPONSIBILITY

Court ordered bookings are the responsibility of the custody officer. In the absence of the custody officer, an officer may be called in from the field to perform the function upon the approval of the watch commander.

- (a) Court ordered bookings will be from one of two sources:
 - 1. Orange County Superior Court as part of their court process.
 - 2. A cite and release in the field by IPD officers prior to the defendant going to court.
- (b) The original Department Record (DR) number associated with the person and the applicable case will be used.
- (c) The custody officer shall obtain a copy of defendant's court ordered booking documentation for inclusion in the master case file. In addition, the custody officer shall process:
 - 1. Fingerprints
 - 2. A booking photograph

Custodial Searches

903.1 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 Irvine 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.

903.1.1 DEFINITIONS

Definitions related to this policy include:

Pat-Down Search - This is the normal type of search used by officers in the field to check an individual for 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 prisoner, or other prisoners.

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.

903.2 POLICY

All searches shall be conducted with concern for safety, dignity, courtesy, respect for privacy and hygiene, and in compliance with policy and law to protect the rights of those who are subject to any search.

Searches shall not be used for intimidation, harassment, punishment or retaliation.

903.3 FIELD AND TRANSPORTATION SEARCHES

An officer should conduct a custody search of an individual immediately after his/her arrest, when receiving an individual from the custody of another, and before transporting a person who is in custody in any department vehicle.

Whenever practicable, a custody search should be conducted by an officer of the same sex as the person being searched. If an officer of the same sex is not reasonably available, a witnessing officer should be present during the search.

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903.4 SEARCHES AT POLICE FACILITIES

Custody searches shall be conducted on all individuals in custody, upon entry to the Irvine Police Department facilities. Except in exigent circumstances, the search should be conducted by a member of the same sex as the individual being searched. If a member of the same sex is not available, a witnessing member must be present during the search.

Custody searches should also be conducted any time an individual in custody enters or re-enters a secure area, or any time it is reasonably believed that a search is necessary to maintain the safety and security of the facility.

903.4.1 GENDER SEARCH REQUIREMENTS

If an arrestee of the opposite gender of both the transporting officer and custody officer is brought into the secured facility, the custody officer shall request either a police matron clerk or an officer of the same gender as the arrestee to conduct the search, and be present for any direct contact.. This is meant to include searching of juveniles during juvenile detentions at the police station.

Employees are not to search or enter the cell of a prisoner of the opposite gender, unless another same-gender employee is present.

In the event an employee is not readily available to search incoming prisoners and conduct safety inspections every 30 minutes, the prisoner shall be transported to the county jail or other appropriate facility, or released pursuant to another lawful process (e.g., citation, O.R. release, etc.).

903.4.2 MATRONS

The police matron clerk is not a custody officer as defined in Penal Code §831 and need not meet the training requirements established by the Corrections Standards Authority in PC §6035. Personnel employed in the classifications below, however, must successfully complete a Jail Security Clerks/Matrons Course.

Matrons do not have the responsibility or the authority for the custody of the arrestee. That responsibility belongs to the custody officer or arresting officer. The matron does not take "delivery" of arrestees, nor does she perform any portion of the booking process. The person performing matron duties will:

- (a) Conduct pat-down searches.
- (b) Escort and remain present with the arrestee during restroom use or the obtaining of a blood or urine sample.
- (c) At the custody officer's request, assist with the arrestee safety check.
- (d) Remain available to the custody officer while the arrestee is in the facility.

The police matron clerk should be a non-sworn, female employee in the following classifications:

- (a) Police Lead Records Specialist
- (b) Police Records Specialist

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- (c) Public Safety Dispatcher Supervisor
- (d) Public Safety Dispatcher
- (e) Public Safety Assistant

903.5 STRIP SEARCHES

No person arrested and held in custody on a misdemeanor or infraction offense, except those involving weapons, possession of controlled substances or violence, shall be subjected to a strip search or visual body cavity search prior to placement in the general jail population unless an officer has determined that there is reasonable suspicion based upon specific and articulable facts to believe such person is concealing a weapon or contraband which would be discovered by such a search (Penal Code § 4030(f)).

- (a) No strip search or visual body cavity search shall be conducted without prior written authorization from a supervisor. The time, date, and place of the search, the name and gender of the person conducting the search and a statement of the results of the search shall be recorded in the arrest record. A copy of the written authorization and recorded information shall be retained and made available to the arrestee or other authorized representative upon request .
- (b) All strip and visual body cavity searches shall be conducted under sanitary conditions and in an area of privacy so that the search cannot be observed by persons not participating in the search (Penal Code § 4030(m)).
- (c) Unless conducted by a physician or other licensed medical personnel, the officer(s) conducting the strip search or visual body cavity search shall be of the same gender as the person being searched (Penal Code § 4030(l)).
- (d) Whenever possible, a second officer of the same gender should also be present during the search, for security and as a witness to the finding of evidence.
- (e) The officer conducting a strip search or visual body cavity search shall not touch the breasts, buttocks or genitalia of the person being searched (Penal Code § 4030(j)).
- (f) No employee should view an arrestee's private underclothing, buttocks, genitalia or female breasts while that person is showering or changing clothes unless the arrestee otherwise qualifies for a strip search. However, if serious hygiene or health issues make it reasonably necessary to assist the arrestee with a shower or a change of clothes, a supervisor should be contacted to ensure reasonable steps are taken to obtain the arrestee's consent and/or otherwise protect the arrestee's privacy and dignity.

Nothing in this policy section shall prohibit the otherwise lawful collection of trace evidence from an arrestee in accordance with the provisions of (c) through (f) above and based on a valid exigency, consent or a search warrant.

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903.5.1 STRIP SEARCH PROCEDURES

Strip searches at Irvine 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.
- (g) No member of the opposite gender 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.

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- (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.

903.6 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).
- (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.

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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.

903.7 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.

Temporary Custody of Adults

904.1 PURPOSE AND SCOPE

This policy provides guidelines to address the health and safety of adults taken into temporary custody by members of the Irvine 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.

904.1.1 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 Irvine Police Department prior to being released or transported to a housing or other type of facility.

904.2 POLICY

The Irvine 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.

904.3 GENERAL CRITERIA AND SUPERVISION

No adult should be in temporary custody for longer than 24 hours; however, every effort should be made to have them transferred to another facility within six hours.

904.3.1 INDIVIDUALS WHO SHOULD NOT BE IN TEMPORARY CUSTODY

Individuals who exhibit certain behaviors or conditions should not be in temporary custody at the Irvine Police Department, but should be transported to a jail facility, a medical facility, or another type of facility as appropriate. These include:

- (a) Any individual who is unconscious or has been unconscious while being taken into custody or while being transported.
- (b) Any individual who has a medical condition, including pregnancy, that may require medical attention, supervision, or medication while he/she is in temporary custody.
- (c) Any individual who is seriously injured.

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- (d) Individuals who are a suspected suicide risk (see the Mental Illness Commitments Policy).
 - 1. If the officer taking custody of an individual believes that he/she may be a suicide risk, the officer shall ensure continuous direct supervision until evaluation, release, or a transfer to an appropriate facility is completed (15 CCR 1030).
- (e) Individuals who are obviously in crisis, as defined in the Crisis Intervention Incidents Policy.
- (f) Individuals who are under the influence of alcohol, a controlled substance, or any substance to the degree that may require medical attention, or who have ingested any substance that poses a significant risk to their health, whether or not they appear intoxicated.
- (g) Any individual who has exhibited extremely violent or continuously violent behavior including behavior that results in the destruction of property or demonstrates an intent to cause physical harm to him/herself or others (15 CCR 1053; 15 CCR 1055).
- (h) Any individual who claims to have, is known to be afflicted with, or displays symptoms of any communicable disease that poses an unreasonable exposure risk (15 CCR 1051).
- (i) Any individual with a prosthetic or orthopedic device where removal of the device would be injurious to his/her health or safety.
- (j) Any individual who is obviously developmentally disabled (15 CCR 1057).
- (k) Any individual who appears to be a danger to him/herself or others due to a mental disorder, or who appears gravely disabled (15 CCR 1052).
- (l) Any individual who needs restraint beyond the use of handcuffs or shackles for security reasons (15 CCR 1058).
- (m) Any individual obviously suffering from drug or alcohol withdrawal (15 CCR 1213).

Officers taking custody of a person who exhibits any of the above conditions should notify a supervisor of the situation. These individuals should not be in temporary custody at the Department unless they have been evaluated by a qualified medical or mental health professional, as appropriate for the circumstances.

904.3.2 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).

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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.

904.3.3 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.

904.3.4 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.

904.4 INITIATING TEMPORARY CUSTODY

The officer responsible for an individual in temporary custody should evaluate the person for any apparent chronic illness, disability, vermin infestation, possible communicable disease or any other potential risk to the health or safety of the individual or others. The officer should specifically ask if the individual is contemplating suicide and evaluate him/her for obvious signs or indications of suicidal intent.

The receiving officer should ask the arresting officer if there is any statement, indication or evidence surrounding the individual's arrest and transportation that would reasonably indicate the individual is at risk for suicide or critical medical care. If there is any suspicion that the individual may be suicidal, he/she shall be transported to the Orange County Jail or the appropriate mental health facility.

The officer should promptly notify the watch commander of any conditions that may warrant immediate medical attention or other appropriate action. The watch commander shall determine whether the individual will be placed in a cell, immediately released or transported to jail or other facility.

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904.4.1 SCREENING AND PLACEMENT

The officer responsible for an individual in custody shall (15 CCR 1050):

- (a) Advise the watch commander of any significant risks presented by the individual (e.g., suicide risk, health risk, violence).
- (b) Evaluate the following issues against the stated risks in (a) to determine the need for placing the individual in a single cell:
 - 1. Consider whether the individual may be at a high risk of being sexually abused based on all available known information (28 CFR 115.141), or whether the person is facing any other identified risk.
 - 2. Provide any individual identified as being at a high risk for sexual or other victimization with heightened protection. This may include (28 CFR 115.113; 28 CFR 115.141):
 - (a) Continuous, direct sight and sound supervision.
 - (b) Single-cell placement in a cell that is actively monitored on video by a member who is available to immediately intervene.
 - 3. Ensure individuals are separated according to severity of the crime (e.g., felony or misdemeanor).
 - 4. Ensure males and females are separated by sight and sound when in cells.
 - 5. Ensure restrained individuals are not placed in cells with unrestrained individuals.
- (c) Ensure that those confined under civil process or for civil causes are kept separate from those who are in temporary custody pending criminal charges.
- (d) Ensure separation, as appropriate, based on other factors, such as age, criminal sophistication, assaultive/non-assaultive behavior, mental state, disabilities and sexual orientation.

For further information, see Class and Segregation procedures

904.4.2 CONSULAR NOTIFICATION

Consular notification may be mandatory when certain foreign nationals are arrested. The Operations Division Commander will ensure that the U.S. Department of State's list of countries and jurisdictions that require mandatory notification is readily available to department members. There should also be a published list of foreign embassy and consulate telephone and fax numbers, as well as standardized notification forms that can be transmitted and then retained for documentation. Prominently displayed signs informing foreign nationals of their rights related to consular notification should also be posted in areas used for the temporary custody of adults.

Department members assigned to process a foreign national shall:

- (a) Inform the individual, without delay, that he/she may have his/her consular officers notified of the arrest or detention and may communicate with them.
 - 1. This notification should be documented.

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- (b) Determine whether the foreign national's country is on the U.S. Department of State's mandatory notification list.
 - 1. If the country is on the mandatory notification list, then:
 - (a) Notify the country's nearest embassy or consulate of the arrest or detention by fax or telephone.
 - (b) Tell the individual that this notification has been made and inform him/her without delay that he/she may communicate with consular officers.
 - (c) Forward any communication from the individual to his/her consular officers without delay.
 - (d) Document all notifications to the embassy or consulate and retain the faxed notification and any fax confirmation for the individual's file.
 - 2. If the country is not on the mandatory notification list and the individual requests that his/her consular officers be notified, then:
 - (a) Notify the country's nearest embassy or consulate of the arrest or detention by fax or telephone.
 - (b) Forward any communication from the individual to his/her consular officers without delay.

904.5 SAFETY, HEALTH AND OTHER PROVISIONS

904.5.1 TEMPORARY CUSTODY LOGS

Any time an individual is in temporary custody at the Irvine Police Department, the custody shall be promptly and properly documented in a custody log, including:

- (a) Identifying information about the individual, including his/her name.
- (b) Date and time of arrival at the Department.
- (c) Any charges for which the individual is in temporary custody and any case number.
- (d) Time of all safety checks (15 CCR 1027; 15 CCR 1027.5).
- (e) Any medical and other screening requested and completed.
- (f) Any emergency situations or unusual incidents.
- (g) Any other information that may be required by other authorities, such as compliance inspectors.
- (h) Date and time of release from the Irvine Police Department.

The watch commander should make periodic checks to ensure all log entries and safety and security checks are made on time.

904.5.2 TEMPORARY CUSTODY REQUIREMENTS

Members monitoring or processing anyone in temporary custody shall ensure:

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- (a) Safety checks and significant incidents/activities are noted on the log.
- (b) Individuals 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 individual is not aware.
 - 2. This does not apply to surreptitious and legally obtained recorded interrogations.
- (c) There is reasonable access to toilets and wash basins.
- (d) There is reasonable access to a drinking fountain or water.
- (e) There are reasonable opportunities to stand and stretch, particularly if handcuffed or otherwise restrained.
- (f) There is privacy during attorney visits.
- (g) Those in temporary custody are generally permitted to remain in their personal clothing unless it is taken as evidence or is otherwise unsuitable or inadequate for continued wear while in custody.
- (h) Clean blankets are provided as reasonably necessary to ensure the comfort of an individual.
 - 1. The supervisor should ensure that there is an adequate supply of clean blankets.
- (i) Adequate shelter, heat, light and ventilation are provided without compromising security or enabling escape.
- (j) Adequate furnishings are available, including suitable chairs or benches.

904.5.3 MEDICAL CARE

First-aid equipment and basic medical supplies should be available to department members (15 CCR 1220). At least one member who has current certification in basic first aid and CPR should be on-duty at all times.

Should a person in custody be injured or become ill, appropriate medical assistance should be sought. A supervisor should meet with those providing medical aid at the facility to allow access to the person. Members shall comply with the opinion of medical personnel as to whether an individual in temporary custody should be transported to the hospital. If the person is transported while still in custody, he/she will be accompanied by an officer.

Those who require medication while in temporary custody should not be at the Irvine Police Department. They should be released or transferred to another facility as appropriate.

904.5.4 ORTHOPEDIC OR PROSTHETIC APPLIANCE

Subject to safety and security concerns, individuals shall be permitted to retain an orthopedic or prosthetic appliance. However, if the member supervising the individual has probable cause to believe the possession of the appliance presents a risk of bodily harm to any person or is a risk to the security of the facility, the appliance may be removed from the individual unless its removal would be injurious to his/her health or safety.

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Whenever a prosthetic or orthopedic appliance is removed, the watch commander shall be promptly apprised of the reason. It shall be promptly returned when it reasonably appears that any risk no longer exists (Penal Code § 2656; 15 CCR 1207).

904.5.5 TELEPHONE CALLS

Immediately upon being booked and, except where physically impossible, no later than three hours after arrest, an individual in custody has the right to make at least three completed calls to an attorney, bail bondsman, and a relative or other person (Penal Code § 851.5). Additional calls may be made as reasonable and necessary (15 CCR 1067). In providing further access to a telephone beyond that required by Penal Code § 851.5, legitimate law enforcement interests such as officer safety, effect on ongoing criminal investigations and logistics should be balanced against the individual's desire for further telephone access.

- (a) Telephone calls may be limited to local calls, except that long-distance calls may be made by the individual at his/her own expense.
 - 1. The Department should pay the cost of any long-distance calls related to arranging for the care of a child or dependent adult (see the Child and Dependent Adult Safety Policy).
 - 2. The provisions of Penal Code § 851.5 concerning this issue shall be posted in bold, block type in a conspicuous place within the facility.
- (b) The individual should be given sufficient time to contact whomever he/she desires and to make any necessary arrangements, including child or dependent adult care, or transportation upon release.
 - 1. Telephone calls are not intended to be lengthy conversations. The member assigned to monitor or process the individual may use his/her judgment in determining the duration of the calls.
 - 2. Within three hours of the arrest, the member supervising the individual should inquire whether the individual is a custodial parent with responsibility for a minor child, and notify the individual that he/she may make two additional telephone calls to a relative or other person for the purpose of arranging for the care of minor children (Penal Code § 851.5).
- (c) Calls between an individual in temporary custody and his/her attorney shall be deemed confidential and shall not be monitored, eavesdropped upon or recorded (Penal Code § 851.5(b)(1); 15 CCR 1068).

904.5.6 RELIGIOUS ACCOMMODATION

Subject to available resources, safety and security, the religious beliefs and needs of all individuals in custody should be reasonably accommodated (15 CCR 1072). Requests for religious accommodation should generally be granted unless there is a compelling security or safety reason and denying the request is the least restrictive means available to ensure security or safety. The responsible supervisor should be advised any time a request for religious accommodation is denied.

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Those who request to wear headscarves or simple head coverings for religious reasons should generally be accommodated absent unusual circumstances. Head coverings shall be searched before being worn.

Individuals wearing headscarves or other approved coverings shall not be required to remove them while in the presence of or while visible to the opposite sex if they so desire. Religious garments that substantially cover the individual's head and face may be temporarily removed during the taking of any photographs.

904.5.7 FIREARMS AND OTHER SECURITY MEASURES

Firearms and other weapons and control devices shall not be permitted in secure areas where individuals are in custody or are processed. They should be properly secured outside of the secure area. An exception may occur only during emergencies, upon approval of a supervisor.

All perimeter doors to secure areas shall be kept locked at all times, except during routine cleaning, when no individuals in custody are present or in the event of an emergency, such as an evacuation.

904.5.8 REPORTING PHYSICAL HARM OR SERIOUS THREAT OF PHYSICAL HARM

In addition to a custody log entry, any incident that results in physical harm or serious threat of physical harm to a member, person in custody or any other person shall be documented as stated in the Use of Force or On-Duty Injuries policies, or other applicable reporting process. A copy of all reports generated regarding the above circumstances shall be submitted as soon as reasonably practicable. The watch commander will retain a record of these reports for inspection purposes (15 CCR 1044).

904.5.9 ATTORNEYS AND BAIL BONDSMEN

- (a) An attorney may visit at the request of the individual in custody or a relative (Penal Code § 825).
- (b) Attorneys and bail bondsmen who need to interview an individual in custody should do so inside a secure interview room.
- (c) The individual in custody as well as the attorney or bail bondsman should be searched for weapons prior to being admitted to the interview room and at the conclusion of the interview.
- (d) Attorneys must produce a current California Bar card as well as other matching appropriate identification.
- (e) Interviews between attorneys and their clients shall not be monitored or recorded (15 CCR 1068).

904.5.10 DISCIPLINE

Discipline will not be administered to any individual in custody at this facility. Any individual in custody who repeatedly fails to follow directions or facility rules should be transported to the appropriate jail, mental health facility or hospital as soon as practicable. Such conduct should be documented and reported to the receiving facility (15 CCR 1081).

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904.6 USE OF RESTRAINT DEVICES

Individuals in custody may be handcuffed in accordance with the Handcuffing and Restraints Policy. Unless an individual presents a heightened risk, handcuffs should generally be removed when the person is in a cell.

The use of restraints, other than handcuffs or leg irons, generally should not be used for individuals in temporary custody at the Irvine Police Department unless the person presents a heightened risk, and only in compliance with the Handcuffing and Restraints Policy.

Individuals in restraints shall be kept away from other unrestrained individuals in custody and monitored to protect them from abuse.

904.6.1 PREGNANT ADULTS

Women who are known to be pregnant should be restrained in accordance with the Handcuffing and Restraints Policy.

904.7 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.

904.8 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.

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- (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 (15 CCR 1027.5).
 - 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.

904.8.1 USE OF SOBERING CELL

Inmates who are to be held in the Temporary Holding Facility and who present a threat to their own safety or the safety of others due to their state of intoxication should be placed in a sobering cell until their condition allows for continued processing. The sobering cell's capacity is seven. Maximum time for holding arrestees in the sobering cell is six hours. Physical safety checks must comply in frequency and manner with current policy.

The following guidelines apply when placing any inmate in a sobering cell (15 CCR 1056):

- (a) A cell log shall be initiated every time an inmate is placed in the cell. The log shall be maintained for the entire time the inmate is housed in the cell.
- (b) A safety check consisting of direct visual observation sufficient to assess the inmate's well-being and behavior shall occur at least once every 30 minutes. Each safety check shall be documented in the cell log.
- (c) Under no circumstances shall an inmate be held in a sobering cell for more than six hours without being evaluated by qualified medical personnel to ensure that the inmate does not have an urgent medical issue.
- (d) Inmates will be removed from the cell when they no longer pose a threat to their own safety and the safety of others, and are able to continue processing.

904.8.2 SAFETY CELL - TITLE 15, CCR §1055

The safety cell's capacity is one. The safety cell is used only for housing inmates who appear to be a danger to themselves or others. Once the inmate has been placed in the safety cell, every effort should be made to limit the retention period to two (2) hours.

Prisoners shall be allowed to retain sufficient clothing to provide for their personal privacy, unless specific identifiable risks to the prisoner's safety or to the security of the facility are identified and documented. Safety cells are not to be used for punishment or as a substitute for treatment.

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A prisoner may be placed in a safety cell only with the written approval of the watch commander/field supervisor. In an emergency, this approval may be obtained as soon as practicable after the prisoner has been placed in the safety cell. Watch commander/field supervisor approval shall be documented by the Custody Officer on the prisoner log.

At two (2) hour intervals, the custodial officer shall assess the prisoner's need to remain in the safety cell. In the event the prisoner has been confined for a period of eight (8) hours, he or she shall be transported to a local area hospital for assessment by a physician. Direct visual observation shall be conducted at least twice every thirty (30) minutes. Such observation shall be documented.

904.8.3 DURATION OF DETENTION

Arrestees will generally not be detained in the holding facility longer than six hours prior to transportation to another facility or proper release from custody. Confinement longer than six hours shall require watch commander pre-approval and shall be based on an accepted Department need. Situations requiring confinement at the facility may include the need to conduct an extensive investigation, process related evidence or other unusual need. Justification for this extension will not be based upon the convenience of Department personnel.

904.9 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 Irvine 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)

904.10 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.

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- (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 Irvine 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.

904.10.1 TRANSPORTATION OF PRISONERS

- (a) Whenever a prisoner is to be transported from the temporary holding facility to another facility by a member of this department or contract employee, the transporting employee shall be responsible for the following:
 - 1. Verify that the identity of each prisoner to be transported matches the booking paperwork.
 - 2. Ensure that all pertinent documentation accompanies the prisoner, such as copies of booking forms, medical records when appropriate, itemized list of prisoner's property, warrant copies, etc.
 - 3. Ensure that any known threat or danger the prisoner may pose, such as escape risk, suicide potential, or medical condition, is recorded on the prisoner's booking documentation and is transported with the prisoner to the next facility. The transporting officer shall ensure such threat or danger is communicated to intake personnel at the facility.
- (b) To ensure the safety and welfare of custody personnel and prisoners:
 - 1. No more than three arrestees will be transported by one officer in a police car.
 - 2. A seat belt will be provided for and utilized by each arrestee.

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3. Males and females will generally be segregated, i.e., female in front seat, male in back.
4. Adults and juveniles will be segregated.
5. Arrestees will be handcuffed during transportation.

A custody van is available and may be used to transport up to eight (8) arrestees. All previously listed restrictions apply to the custody van.

904.10.2 FORM REQUEST FOR PETITION TO SEAL RECORDS

Upon request, a detained arrestee released from custody shall be provided with the appropriate Judicial Council forms to petition the court to have the arrest and related records sealed (Penal Code § 851.91).

The Department shall display the required signage that complies with Penal Code § 851.91 advising an arrestee of the right to obtain the Judicial Council forms.

904.11 ASSIGNED ADMINISTRATOR

The Administrative Services 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
- (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
- (n) Any other applicable requirements under 15 CCR 1029

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).

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904.12 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 (15 CCR 1024):

- (a) Applicable minimum jail standards
- (b) Jail operations liability
- (c) Inmate segregation
- (d) Emergency procedures and planning, fire safety, and life safety.
- (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.

Temporary Custody of Juveniles

905.1 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 Irvine Police Department (34 USC § 11133).

Guidance regarding contacting juveniles at schools or who may be victims is provided in the Child Abuse Policy.

905.1.1 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.

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- (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).

905.2 POLICY

The Irvine Police Department is committed to releasing juveniles from temporary custody as soon as reasonably practicable and keeping juveniles safe while they are in temporary custody at the Irvine Police Department. Juveniles should be held in temporary custody only for as long as reasonably necessary for processing, transfer, or release.

905.3 JUVENILES WHO SHOULD NOT BE HELD

Juveniles who exhibit any of the following conditions should not be held at the Irvine 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 Irvine Police Department unless they have been evaluated by a qualified medical and/or mental health professional (15 CCR 1142).

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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).

905.3.1 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).

905.3.2 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).

905.4 CUSTODY OF JUVENILES

Officers should take custody of a juvenile and temporarily hold the juvenile at the Irvine 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 Irvine 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 Irvine Police Department (34 USC § 11133; Welfare and Institutions Code § 207.1(d)).

905.4.1 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 Irvine 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.

905.4.2 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 so by a parent or legal guardian in order to facilitate reunification (e.g., transported home or to

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the station to await a parent). Juvenile status offenders shall not be held in secure custody (34 USC § 11133).

905.4.3 CUSTODY OF JUVENILE OFFENDERS

Juvenile offenders should be held in non-secure custody while at the Irvine 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).

905.5 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).

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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).

905.6 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 Irvine 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.

905.7 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 Irvine Police Department (trained in the supervision of persons in custody) shall maintain a constant, immediate, side-by-

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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).

905.8 TEMPORARY CUSTODY REQUIREMENTS

Members and supervisors assigned to monitor or process any juvenile at the Irvine 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 Irvine Police Department more than four hours. This will enable the watch commander to ensure no juvenile is held at the Irvine 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.
- (n) Juveniles shall have the right to the same number of telephone calls as an adult in temporary custody.

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- (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).

905.9 RELIGIOUS ACCOMMODATION

Juveniles have the right to the same religious accommodation as adults in temporary custody (see the Temporary Custody of Adults Policy).

905.10 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 Irvine 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).

905.11 PERSONAL PROPERTY

The officer taking custody of a juvenile offender or status offender at the Irvine 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 Irvine Police Department.

905.12 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

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- (d) Availability of staff to provide adequate supervision or protection of the juvenile offender
- (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).

905.12.1 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.

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905.13 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 Irvine 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.

905.14 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.

905.14.1 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.

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- (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).

905.15 FORMAL BOOKING

No juvenile offender shall be formally booked without the authorization of the arresting officer's supervisor, or in his/her absence, the watch commander.

Any juvenile 14 years of age or older who is taken into custody for a felony, or any juvenile whose acts amount to a sex crime, shall be booked, fingerprinted, and photographed.

For all other acts defined as crimes, juveniles may be booked, fingerprinted or photographed upon the approval from the watch commander or Investigations Bureau supervisor, giving due consideration to the following:

- (a) The gravity of the offense
- (b) The past record of the offender
- (c) The age of the offender

905.16 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.

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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 Irvine 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 Investigations Bureau supervisors to ensure that personnel of those bureaus act within legal guidelines.

905.17 BOARD OF STATE AND COMMUNITY CORRECTIONS CERTIFICATION

The Administrative Services Division Commander shall coordinate the procedures related to the custody of juveniles held at the Irvine Police Department and ensure any required certification is maintained (Welfare and Institution Code § 210.2).

DNA Collection Procedures

906.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidelines for the collection, packaging, and shipment of Deoxyribonucleic acid (DNA) samples from those individuals required to provide such samples under the DNA Fingerprint, Unsolved Crime and Innocence Protection Act, and the State of California DNA Data Bank Program (Penal Code §295, et seq.).

906.2 PERSONS SUBJECT TO DNA COLLECTION

See the Biological Samples policy for complete information.

906.3 PROCEDURE

Qualified adult arrestees booked at the department's Temporary Holding Facility will submit to DNA collection as part of the booking process immediately following arrest, or as soon as practicable after arrest (Penal Code §296.1(a)(1)(A)).

- (a) Prior to collecting a DNA sample and obtaining palm prints, the arresting officer shall contact dispatch to determine if collection is necessary. Dispatch, at the officer's request, will check the Orange County District Attorney database SciLas to determine if the arrestee has submitted a DNA sample. Verification of DNA samples on file may also be determined by a DNA collection "flag" on the individual's criminal history record or, during regular business hours, by calling the Department of Justice.
- (b) Custody personnel are generally responsible for the DNA collection. If a custody officer is not available, the responsibility for DNA collection is transferred to the arresting/transporting officer. The collection process is outlined below:
 1. Prepare the Department's DNA Collection Report Form. The completed form will remain with the master report in the Records.
 2. Collect the DNA sample following the procedure illustrated on the California DOJ DNA Collection kit. Place the sealed envelope containing the sample into the property locker for processing by the Crime Scene Investigation Unit.
 3. Full palm print impressions shall be obtained on Department of Justice prescribed forms and forwarded to the Crime Scene Investigation Unit for processing (Penal Code §298(b) (4)).

906.4 BUCCAL SWABS

Buccal swab samples (taken from the inside of the mouth) may only be procured by employees who have successfully completed department approved training in the collection of buccal swabs. Only buccal swab collectors authorized by the Department of Justice shall be used (Penal Code §298(a) and (b) (3)). A right thumbprint shall be placed on both sides of the collector card along with other required identifying information. (Note: If an individual violently resists or presents other officer safety issues, employees may omit buccal swab samples upon approval of a supervisor.)

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Collection Kit Inventory: The department maintains a limited supply of DOJ DNA Collection kits. Spare kits are stored in CSI. It is the responsibility of the Crime Scene Investigation Unit to acquire additional kits as needed. Since they are in short supply, field personnel are discouraged from taking these kits for personal storage.

906.5 BLOOD SAMPLES

The withdrawal of blood may only be performed in a medically approved manner by health care providers trained and qualified to draw blood. Blood samples obtained for submission to the Department of Justice DNA lab shall be placed in Department of Justice blood vials (Penal Code §298(a) and (b) (2)). A right thumbprint shall be placed on the sample vial along with other required identifying information.

906.6 REFUSAL TO SUBMIT TO THE DNA SAMPLE COLLECTION PROCESS

In the event an arrestee refuses to submit to the collection process, booking personnel will advise him/her that such a refusal is a misdemeanor (Penal Code §298.1(a)). If the arrestee still refuses to provide a sample, the booking officer shall notify the watch commander or a field supervisor, who will then admonish the arrestee that a refusal shall result in the filing of an additional misdemeanor charge. This admonishment should be audio recorded for prosecution purposes.

If the arrestee still refuses to submit to the sample collection process, no further attempt will be made to collect the sample. Department personnel shall not use force to obtain a DNA sample from any resisting arrestee.

906.7 ORANGE COUNTY JAIL IRC BOOKING PROTOCOL

Arresting officers and custody personnel will need to complete a section on the OCJ Booking Form designated for DNA Collection documentation on all applicable bookings (see below).

- (a) The DNA COLLECTED BY OFFICER box will be checked if DNA was collected and the person completing the collection will enter their name on the line.
- (b) The PREVIOUSLY COLLECTED box will be checked if DNA was not collected because it was previously collected as verified by a SCILAS or DOJ database query.
- (c) The NOT COLLECTED box will be checked if DNA was not collected on an applicable booking where DNA was not previously collected. The officer will be required to enter an explanation on the line below anytime this box is checked on an applicable booking. If the reason for not collecting DNA is that the arrestee refused to provide a sample then the arresting agency will need to add CPC §298.1 (a) – Refusing to Provide Sample or Specimen as an additional booking charge and note the details in the Probable Cause Declaration.

During the booking process at the Orange County Jail Intake and Release Center, the arresting or transporting officers will submit the booking form to the Receiving Guard Station Deputy. The deputy will review the form. The IRC will accept any DNA Collection applicable booking if the arresting officer checks the DNA COLLECTED BY OFFICER or the PREVIOUSLY COLLECTED boxes.

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When the NOT COLLECTED box is checked on an applicable booking the IRC deputy will review the reason for the failure to collect. The IRC policy will be dictated by the reason for failing to collect, which would include, but not be limited to:

- (a) Arrestee is too combative to collect: The Receiving Deputy will delay the booking and notify the Operations Sergeant who will respond and assess the situation. The Operations Sergeant could decide to accept the booking or direct the arresting/transporting officer to collect DNA if the arrestee appears to be cooperative enough. The IRC will have DNA Sample Collection Kits available.
- (b) Arrestee refuses to provide sample and the agency chooses not to forcibly obtain a sample: The Receiving Deputy will ensure that CPC §298.1 (a) – Refusing to Provide Sample or Specimen has been added as an additional booking charge and if so, accept the booking. If the additional charge has not been added and the arresting or transporting officer does not add the charge, the Receiving Deputy will delay the booking and notify the Operations Sergeant who will respond, advise the officer of the policy, and refuse the booking if the charges are not added.
- (c) Any other reason: The Receiving Deputy will delay the booking and notify the Operations Sergeant who will respond and assess the situation. The Operations Sergeant will accept or reject the booking based on the circumstances.

906.8 PROCESSING DNA SAMPLES

The Crime Scene Investigation Unit shall manage the processing of DNA samples and the entry of data into the local database system SciLas. CSI shall ensure that all DNA samples and related materials are promptly mailed to the State DNA Lab as instructed on each collection pouch (Penal Code §298(a) and (b) (1)).

906.9 NOTICE OF REJECTED SAMPLE

In the event the Department of Justice notifies the Department that a DNA sample or print impression is not usable, the individual whose original sample or impression was provided is required to submit to collection of additional samples. The department shall thereafter take all reasonable steps to collect additional samples from any such individual and promptly transmit these to the Department of Justice (Penal Code §296.2(a)).

906.10 FOLLOW-UP NOTICE TO DOJ

Within two years of submitting any DNA specimen, sample or impression to the Department of Justice, this department shall notify DOJ whether the individual remains a suspect in a criminal investigation (Penal Code §297(b)(2)). It shall be the responsibility of the Department of Justice to thereafter purge samples of any individual(s) who are no longer a suspect in any criminal investigation from the DNA database.

906.11 RELATED STATUTES

It is a felony for any qualifying individual to knowingly facilitate the collection of a wrongfully attributed DNA sample or identification information, or to knowingly tamper with any DNA sample

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or collection container with the intent to deceive the government as to his or her identity (Penal Code §298.2). It is unlawful for any person to knowingly misuse or disclose to an unauthorized entity a DNA sample collected or profile obtained for DNA database purposes (Penal Code §299.5(i)(1)(A)).

Release or Transfer from Custody

907.1 DISPOSITION OF ARRESTEES

Once the arrestee has been properly booked, the process to either release the person from custody or transfer the person to another custodial facility will occur as soon as practicable. The arrestee may be:

- (a) Released to the custody of another agency.
- (b) Released on a Written Promise to Appear (cite and release).
- (c) Released under the Immediate Booking and Release (IBAR) program.
- (d) Released under the provisions of Penal Code (PC) §849 (a)(b (1-2)).
- (e) Released on his or her Own Recognizance.
- (f) Released after posting bail.
- (g) Transferred to another custody facility.
- (h) Released or transferred in a manner not indicated above, pursuant to applicable state law and upon the approval of the Watch Commander or field/unit supervisor.

907.2 RELEASE TO ANOTHER AGENCY

An Irvine police officer may have occasion to take into custody a person wanted by another law enforcement agency. Under most circumstances, our agency will process the arrestee using our standard booking protocol.

However, the agency investigating the initial crime for which the person was arrested may have further interest in the arrestee for any of a variety of reasons. Upon the investigating agency's request, the arresting Irvine police officer shall prepare a Certificate of Release from Custody Form (IPD 76-12). At the time of the custody transfer a copy of the Certificate of Release shall be presented to the representative of the agency receiving the arrestee.

The arresting officer of this agency will prepare and submit an arrest report containing all relevant factual information surrounding the incident. The officer preparing the arrest report will ensure that a copy of the report is routed to the receiving agency as soon as practical.

907.3 WRITTEN PROMISE TO APPEAR (CITE AND RELEASE)

Penal Code §853.6 requires law enforcement agencies to use written promise to appear procedures in lieu of arrest for misdemeanor offenses with certain exceptions. It shall be the policy of this Department to release all qualified misdemeanants from custody on a Written Promise to Appear or citation form (if released from the field). This release will be accomplished from the custody facility unless circumstances dictate a field release.

Accepted Forms of Personal Identification: The Orange County Jail Detention and Release Office has established guidelines to follow when determining what types of personal identification

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constitute satisfactory evidence of identity for releasing arrestees. All forms of identification must have the person's picture on it. The following are considered satisfactory evidence of identity:

- (a) All forms of military identification.
- (b) California Driver's License (even if expired).
- (c) California Identification Card
- (d) Out-of-State driver's license (if California residency can be verified).
- (e) Work identification cards (Any verifiable major company).

The fact that an arrestee has an expired California Driver License or other form of ID, or has many aliases, is not sufficient reason to refuse release, as long as it can be established that he/she is who they portray themselves to be.

When an arrestee is being released from custody, the officer issuing the Certificate of Release must witness the signature of the arrestee on the form. If the arresting officer completes the release form in advance, but cannot be present when the arrestee is released, the watch commander or other officer should witness the signature, give the appearance instructions, and include their name on the form as an issuing officer. (The need may arise later in court to be able to establish the defendant did sign the form and was given the instructions about the need to appear and the court date.)

The arresting officer is required to complete an arrest/crime report and complaint request and attach the certificate of release form. A complaint request shall not be filed when a citation has been issued and the suspect released. The citation shall bear the DR number when issued and the issuing officer will attach a supplemental report setting forth all pertinent facts. The citation is the complaint request in these cases. Included on the supplemental shall be the following information:

- (a) Listing of any evidence or property
- (b) Witnesses
- (c) Citation number
- (d) Appearance date

With either form of release, the arresting officer is required to complete a witness list, which shall accompany the complaint request or citation.

Violators of restraining or protective orders involving domestic violence shall not be released on a written promise to appear. They shall be booked, then bailed, taken before a magistrate or transferred to another facility.

907.4 DETENTION ONLY - PENAL CODE §849(B) 1 OR 2

Pursuant to PC §849(b) (1), an arrestee may be released from custody without charges if there are insufficient grounds for making a criminal complaint against the person. This incarceration shall be documented as a "detention only" as provided by Penal Code §851.6 PC. Officers will

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prepare the arrest report and will specify the "detention only" status in the involvement code box. In addition, the "849" box shall be checked.

PC §849(b) (2) authorizes the release of an arrestee taken into custody for intoxication only and no further proceedings are desired. This arrest shall be documented as an "arrest" and the appropriate involvement code and arrestee status box shall be completed.

In either case, a copy of the Certificate of Release is to be given to the person taken into custody when he/she is released. The original release form shall accompany the officer's primary report and be given to the watch commander.

907.5 OWN RECOGNIZANCE RELEASE (OR)

Subjects placed under arrest for felonies may be eligible for a release on their own recognizance (OR) after the booking process is completed. As a general rule, OR releases will be completed at the Orange County Jail by the on-duty detention-release officer.

To obtain an OR release an officer must complete a "Request for OR Release" and FAX it to the Detention and Release Officer at the Orange County Jail. A judge may initiate a release of a defendant on his own recognizance. Telephone calls to the on-call OR Judge on behalf of defendants held in local police Departments do not have to go through detention release. Watch commanders may verify a judge's call by using the judge's home or office private line. This list is available in the Watch Commander's Office.

907.6 BAIL

Bail will be accepted on all misdemeanor warrants, which have a specified amount and do not conflict with the provisions of Penal Code §827.1. Bail may be accepted by a sworn officer of any rank, custody officer, public safety assistant, community service officer or records supervisor.

- (a) A copy of the Orange County Bail Schedule is retained in the Watch Commander's Office. It is used to determine bail amounts for charges other than warrants. For bail schedule deviation, the officer shall contact the on-call judge through the detention-release officer at Orange County Jail.
- (b) For misdemeanors not listed in the Orange County Bail Schedule, the bail is \$500.00. The custody officer or other Department employee shall:
 1. Complete Bail Receipt (IPD Form 76-4).
 - (a) If an arrestee is being charged with more than one violation, and the court having jurisdiction is Harbor Court, the bail posted shall be for the charge with the highest bail amount.
 - (b) If an arrestee is being charged with more than one violation, relating to more than one court jurisdiction, separate bail must be posted for each jurisdiction.
 2. Receive any of the acceptable forms of bail, below:
 - (a) Personal Checks:

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1. Must be drawn on a California bank.
 2. Must be pre-printed with depositor's name and address.
 3. Must be made payable to court of issuance.
 4. May not exceed the amount of bail on the warrant.
 5. May not be post-dated.
 6. May not be accepted as bail on a §476(a) PC charge, if the defendant is the depositor.
 7. Depositor must provide satisfactory identification; A California Driver's License is preferred. The CDL number and initials of the person accepting the check shall be written on the check.
 8. The depositor must provide a valid check guarantee card or recognized major credit card.
 9. May not exceed \$2,500.00, unless endorsed by the watch commander.
 10. May not be accepted for charges or warrants from jurisdictions outside Orange County, unless the address of the court can be verified by records.
- (b) Traveler's Checks / Bank Cashier's Check / Money Orders
1. Must be made payable to the court of jurisdiction.
 2. May not exceed amount of bail.
- (c) Cash
- (d) Employees accepting bail bonds shall ensure the following:
1. The bonding agency must be approved by the Orange County Harbor Municipal Court and the agent must sign his/her name and authority to issue.
 2. Only one bond is required for arrestees charged with multiple crimes, if all charges are from one court case. If charges are from more than one court case, each separate court case requires a separate bond.
 3. If the arrestee is charged with a warrant and an additional charge, (two court cases) two separate bonds are required.

907.7 COMPLETION OF BAIL RECEIPT FORM

- (a) Service: Denote whether a walk-in to the Irvine PD or a field contact.
- (b) DR Number: Enter DR # assigned.
- (c) Date/Time: Date/time the receipt is written/the money is received.
- (d) Defendant: Furnish all requested information.

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- (e) Warrant Information:
 - 1. Warrant number cited on warrant.
 - 2. Charge(s) cited on warrant.
 - 3. Amount of bail cited on warrant.
 - 4. Cash, check/money order or bond.
 - 5. Enter total bail.
- (f) Appearance: Check the appropriate court or complete "other" by entering the jurisdiction and the address.
- (g) Depositor: If another individual is posting the bail monies for the defendant, enter the individual's name and address. If the defendant is posting his own bail monies, enter "Self."
 - 1. If the depositor (or defendant) wants the deposited monies to go toward any fine that might be imposed, check the box. By not checking the box, a depositor may get his deposited monies back through court procedures.
 - 2. Have the depositor (or defendant) sign if the box is checked.
- (h) Bail Accepted By: Signature and date. The watch commander shall approve and initial the bail receipt in the "approved" section.

907.8 CERTIFICATION SERVICE

- (a) Orange County Automated/MCAPS Warrants: A "Certification of Service" will be completed for each MCAPS Warrant abstract and affixed to the reverse side of the teletype (abstract).
- (b) Orange County Teletype Abstracts and Foreign Warrant Teletype Abstracts: A "Certification of Service" stamp will be affixed on the reverse side of each Orange County Teletype abstract or Foreign Warrant Teletype abstract, and will be completed by the responsible officer.
- (c) "Certification of Service" Stamp: Communications personnel usually affix certification stamps to the abstracts when abstracts are received, however, the service officer should verify and complete each certification.

907.9 COMPLIANCE WITH PENAL CODE (PC) §§821 & 822 PC

Penal Code §§821 and 822 provides that a person arrested under the authority of an out-of-county warrant has the right to go before a local magistrate for the purposes of setting bail.

- (a) Therefore, if a subject is arrested on an out-of-county warrant and is unable to post bail, the teletype warrant abstract(s) will be stamped with the "CERTIFICATION OF SERVICE", in addition to the "821 and 822 PC" admonishment stamp. This will be done prior to booking at Orange County Jail.

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- (b) "PC §821 & 822 Admonishment Stamp": Records personnel will usually affix certification stamps to the abstracts as they are received by the requesting jurisdiction. However, the service officer should verify and complete each certification.

907.10 RECEIPT AND PROCESSING OF BAIL MONIES

Separate bail monies and separate bail receipts are required for each court jurisdiction. All Department personnel depositing bail into the bail box shall:

- (a) Obtain a "pink," #10 size envelope from the supply placed next to the bail box.
- (b) Write the DR number on the face of the "pink" envelope.
- (c) Place inside the envelope:
 - 1. The bail monies.
 - 2. Warrant(s) and/or Teletype abstract(s) of the warrant.
 - 3. Bond cover sheet;
 - 4. Copy of the Bondsman's identification/license and business card, if applicable.
 - 5. Power of Attorney, if applicable.
 - 6. Canary copy of the bail receipt.
- (d) Seal the envelope, initial the seal and place scotch tape on the initials.
- (e) Write the following on the envelope:
 - 1. Write your name
 - 2. Time / Date
 - 3. DR Number
- (f) The watch commander/field supervisor shall check the accuracy and completeness of the original warrant (the warrant without the sticker on the back), the bond, Power of Attorney, and bail receipt for accuracy and completeness, prior to release of the arrestee.
- (g) Deposit the envelope into the bail box in Records. If you receive cash, the watch commander may put it in the safe. You will be required to notify records of the location of money, by putting a pink envelope in the bail box showing the location of the paperwork and the bail money.
- (h) Distribute the remaining copies as follows:
 - 1. White copy: Forward to the Records Division for inclusion in the Master Case File.
 - 2. Canary colored copy: Place inside the pink bail envelope. The pink envelope is deposited in the Bail Box.
 - 3. Goldenrod colored copy: This is the Depositor's copy (Bail bondsman or other entity making the actual bond payment). If the arrestee is also the Depositor, the arrestee receives this copy.

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4. Pink colored copy: This copy is presented to the arrestee.

907.11 DISCREPANCIES DISCOVERED AFTER DEPOSITING BAIL MONIES IN THE BAIL BOX

Bail monies deposited into the bail box are not accessible once the deposit has been made. Should a Department employee discover an error after the envelope has been placed into the bail box, that employee shall prepare and deposit into the bail box a second pink #10 size envelope denoting the Department Record Number on its face and containing a brief memorandum to the "court clerk," denoting the discrepancy.

907.12 WARRANT ARRESTS

An arrest of a warrant will require a DR number to be issued to that arrest. If the warrant is related to an Irvine case, then the original DR number should be used for booking. If the warrant is for a non-Irvine case, then a new DR number should be issued.

907.13 FAILURE TO APPEAR WARRANTS: CVC 40508A

Persons taken into custody on two or fewer outstanding warrants, for failure to appear on a citation for a parking offense or traffic infraction, shall be provided immediate opportunity to post bail at the station under the following guidelines:

- (a) If the person has sufficient cash or a check in their possession, allow the immediate opportunity to post bail.
- (b) If the person does not have cash or a check, they must be allowed to:
 1. Make not less than three completed telephone calls. All long-distance telephone calls must be made collect.
 2. Have a minimum of three hours in which to arrange bail.

Such persons shall not be booked, photographed, fingerprinted, nor shall an arrest record be made, unless and until all the above opportunities have been expired. Refer to California Vehicle Code (CVC) §40304.5. The arresting officer will document the occurrence in an incident report. The subject shall be referred to as a detainee (involvement code - "DET"), and not an arrestee, in the report.

- (a) This process is time consuming and detracts from field operations. As such, approval from a field supervisor or watch commander is advised prior to warrant service.
- (b) Persons with three or more outstanding warrants for failure to appear on infraction violations may be arrested, processed and ultimately booked at another Jail. The only exception to this is the combined bail amount on the warrants exceeds \$5,000.00 or the warrant is a bench warrant.

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907.14 VEHICLE CODE MISDEMEANOR WARRANTS

Persons with these warrants may be arrested, processed, photographed, fingerprinted and ultimately booked at another lodging facility. The Orange County Jail policy, however, is to immediately release the arrestee on a written Promise to Appear.

Penal Code §827.1 provides that a person who has a warrant of arrest for a misdemeanor offense (non-failure to appear) may be released upon issuance of a Certificate of Release form unless they meet one of the conditions listed in Penal Code §827.1. This course of action should be taken whenever possible, unless there is justification for physical arrest and the arresting officer receives endorsement from a field supervisor or the watch commander.

907.15 MISDEMEANOR WARRANTS: NON-TRAFFIC RELATED

Persons placed under arrest for misdemeanor warrants (non-traffic) may be released immediately upon an issuance of a Certificate of Release, if circumstances permit. These warrants are usually those generated by way of complaint via the District Attorney and the person may in fact not be aware such warrant has been issued. See Penal Code §827.1 for specific limitations. If the person is ineligible for release on a Certificate of Release form, the person may then attempt to make bail from the station.

907.16 FELONY WARRANTS

Persons arrested on felony warrants should be transported to the station for processing, fingerprinting, photographs and interviews, if necessary.

907.17 ARRESTEES WITH MEDICAL CONDITIONS - OCJ/IRC PROTOCOL

Arresting officers should make arrangements to obtain medical attention for arrestees with obvious medical conditions prior to bringing them to the Irvine Police Department or the Orange County Jail (OCJ) Intake Release Center (IRC) for booking. In the event an arrestee is brought to the Intake Release Center, but refused for booking due to medical reasons, the arrestee will need to be taken to a local area hospital to obtain medical treatment. The arresting officer may take the arrestee to a hospital outside the City with the approval of the watch commander/field supervisor. If the arrestee cannot be medically cleared for booking and is admitted to the hospital, the arresting agency will need to maintain physical custody of the arrestee until the arrestee is arraigned (subject to Orange County Jail policy), obtain an Own Recognizance Release, or arrange for bail.

Obtaining an Arrestee's Own Recognizance (OR) Release, Bail, or Bail Increase

Generally, this agency will attempt to secure an OR release for a hospitalized arrestee rather than maintain physical custody until the arraignment. Requests for an OR release will be made to the Pretrial Services Officer (PTSO) (formally known as the DRO), a court official assigned to the IRC. Prior to calling the PTSO the officer should complete and submit an electronic Probable Cause Declaration. If the online, electronic PC Dec system is down, officers or custody personnel will drive the declaration to the IRC along with booking paperwork and complete an absentee booking.

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If an arrestee is not released on his/her own recognizance and cannot be medically cleared for booking, the arresting agency will be required to have bail set prior to the arraignment, preferably as soon as possible after admittance to the hospital. This is done by submitting a package consisting of the Probable Cause Declaration and the booking form or arrest report face page to the PTSO. The cover sheet for the package needs to clearly indicate that this is a hospitalized arrestee and include the officer's name and phone number, along with the hospital name and phone number.

To request an OR release, set bail, request a bail increase or get clarification about any of these processes, call the Pretrial Services Unit at [\(714\) 647-4581](tel:7146474581) or FAX to [\(714\) 647-4815](tel:7146474815).

Submission of Probable Cause Declarations

It is the Department's responsibility to ensure that a Probable Cause Review is conducted by the on-call Duty Magistrate within 48 hours from the time of arrest. This Department sends its Probable Cause Declarations (PC DEC) electronically via the online PC DEC system (<https://portal.iljaoc.org/>). If the electronic PC DEC system is down, the arresting officer must type or handwritten the PC DEC and print a copy for inclusion with the booking paperwork turned in at IRC. It is important to note that the clock does not stop just because the arrestee is in the hospital; the Probable Cause Review still needs to be done within the mandated time frame. The approved electronic PC DEC is maintained on the electronic PC DEC system and in Records.

The Sheriff's Department will require the PC DEC to be electronically submitted if the arrestee is medically cleared for booking at the IRC or if the arresting agency transfers the arrestee to the Jail Ward at Anaheim Global Medical Center prior to arraignment. If the arrestee has been arraigned and the magistrate remands the arrestee into the custody of the Sheriff's Department, we will not need the approved PC DEC.

To schedule a review or get clarification about the Probable Cause Review Process, please call the Pretrial Services Unit at 714-647-4581.

Pre-arraignment Transfers to the Jail Ward at Anaheim Global MC

The Orange County Sheriff's Department maintains a small jail ward at AGMC. If the medical condition of the arrestee can be stabilized to meet the hospital admission guidelines established by Western Medical Center Anaheim Global MC and there is an available bed in the jail ward, then it is possible to transfer custody of the arrestee to the Sheriff's Department prior to the arraignment. To transfer an arrestee from a local area hospital to the custody of the Sheriff at the WMA AGMC Jail Ward, the arresting officer, watch commander or field supervisor should contact the OCJ Inmate Reception Center at [714-647-6040](tel:7146476040) to determine the current practice.

Requesting an emergency exemption to the OCSD Hospital Booking Policy

In certain circumstances emergency conditions could exist in the arresting agency's jurisdiction making it difficult or impossible for the agency to maintain custody of a hospitalized arrestee in addition to managing the emergency. In this type of situation the arresting agency Watch Commander should contact the IRC Watch Commander at [\(714\) 647-6015](tel:7146476015) and request

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assistance. If a mutual agreement can be reached the IRC Watch Commander will make arrangements for the Sheriff's Department to take custody of the arrestee.

The Arraignment Process

The statutory time limit for having a suspect arraigned does not become extended merely because the suspect is in the hospital and cannot go to court. The suspect still needs to be arraigned unless a judge finds cause to postpone the process. Every situation is different and will need to be evaluated by the Orange County District Attorney's Office (OCDA) and the Court to see how it should best be handled.

The protocol that follows is suggested by the IRC:

- (a) Take all of the necessary paperwork needed for a criminal filing to the Harbor OCDA.
- (b) Advise the Deputy DA that the suspect is hospitalized and seek his/her guidance on how to proceed with the arraignment.
- (c) If the OCDA and Court personnel decide to conduct an out of court or "bedside" arraignment, advanced notification to the IRC Receiving Deputy at (714) 647-6040 is necessary (See Transferring Custody of the Arrestee after the Arraignment below).

Contact the Department's court liaison officer or call the office of the Harbor Division District Attorney for clarification on the arraignment process.

Transferring Custody of the Arrestee after the Arraignment

If the arrestee is arraigned in court, the transfer process will be automatic. The judge orders that the arrestee be remanded to custody and the deputy takes custody immediately. If a remand order is issued while the arrestee is still in the hospital, the process is more complicated and requires the following protocol:

- (a) Notify the IRC Receiving Guard Station Deputy at (714) 647-6040 of your intent to schedule an out-of-court arraignment 24 hours in advance, if possible. Have the date, time, and location of the arraignment available. The IRC will make arrangements to have a deputy placed on standby to respond to the hospital if the suspect is remanded.
- (b) Obtain a copy of the Remand Order from the issuing Court official.
- (c) Deliver the booking slip or pre-booking form, a copy of the Remand Order, and the arrestee's personal property to the IRC Receiving Guard Station Deputy. The deputy will receive the arrestee's paperwork, return the officer's copy of the pre-booking form without a booking number, and confirm details about where to send the deputy who will take custody of the arrestee. The deputy will then notify the Theo Lacy Facility to dispatch a transport deputy to the appropriate hospital. When the deputy arrives, he or she will call the IRC and obtain a booking number to give the arresting agency. The deputy will make every effort to relieve the officer at the hospital within 4 hours from the time the booking paperwork is received at the IRC, provided the IRC has had advance notice 24 hours prior. Failure to provide advance notice could result in substantial delays.

To get clarification about the transfer process, contact the IRC Operations Sergeant at (714) 647-6043.

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Holding Facility Records

908.1 PURPOSE AND SCOPE

Appropriate and timely documentation of occurrences within the holding facility serves to facilitate employee accountability, provide consistency in the custodial process and keep supervisory and command personnel informed of day-to-day facility operations. This procedure outlines documentation guidelines for custody staff and other department personnel who use the custody facility.

908.2 BOOKING FORM REQUIREMENT

When any arrestee is brought into the custody facility, the arresting/transporting officer (or custody officer) shall prepare a department booking form. All relevant arrestee information shall be recorded, including notations of phone calls made, property inventoried, and medical screening.

908.3 IRVINE CUSTODY AUTOMATED BOOKING SYSTEM

The Automated Booking System is the department's primary processing system for arrestees who are brought to the temporary holding facility.

- (a) It is the responsibility of the on-duty custody officer to ensure each arrestee brought into the facility is thoroughly and accurately processed in accordance with the procedures outlined in this chapter. Further, it is the responsibility of the on-duty custody officer to complete each section of the Automated Booking System (or complete the process appropriately if a secondary system is used) for each arrestee processed.
- (b) If the Automated Booking System is rendered inoperative, custody staff is trained to process arrestees using a secondary information/booking system.

908.4 CRIMES WITHIN CUSTODY FACILITY

Criminal acts committed by an arrestee within the custody facility and not pertaining to his/her original charge shall be investigated by a sworn officer and documented on a crime report with a different Department Record (DR) number. The original report related to the arrestee's incarceration should be referenced by DR number in the narrative.

The discovery of contraband or weapons during the custody search may, however, be documented in the original report.

The custody officer shall not complete a crime report in these instances; however, he/she will complete a supplemental report as a witness or victim of the crime.

908.5 SUPPLEMENTAL INFORMATION

Though not responsible for the crime report, the custody officer may be required to prepare a supplemental report to document personal observations, conversations overheard, voluntary statements made by the arrestee or to provide other information relevant to the investigation.

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Unless otherwise directed by the watch commander or field supervisor, all supplemental reports requested of custodial staff shall be submitted for supervisor approval before the custody officer ends his/her shift.

908.6 INTERNAL MEMORANDUM

The following incidents will not only require formal documentation on a crime or incident report, but will also require the custody officer to prepare and forward a memorandum to the Business Services Administrator via the chain of command, detailing the incident. The custody officer shall complete and forward this memorandum to the custody supervisor before the end of his or her shift.

- (a) Violent contact between any arrestee and any City or contract employee.
- (b) An incident requiring a Fire Department or paramedic response to the custody facility.
- (c) Injury to an arrestee in custody as a result of being restrained by any department or contract employee.
- (d) An incident that results in physical harm, or serious threat of physical harm, to an employee, inmate or other person.
- (e) An incident where a chemical agent was used to subdue an arrestee.
- (f) Any incident that the custody officer believes warrants specific attention by any other specific member or members of the department.

908.7 DOCUMENTATION OF ROUTINE SAFETY CHECKS

Custody officers are responsible for preparing and maintaining a log within the automated booking system for each inmate housed in any of the secure holding areas within the custody facility. The custody officer conducting the checks shall make an entry on the booking system inmate record indicating the exact time of the check and his/her name.

Manual Cell Check Log: In the event the custody officer is not available, it shall be the arrest/transport officer's responsibility to prepare and maintain a manual log for each inmate housed within the holding facility. A form used to document the safety checks will be attached to the each of the holding cells in a clear, plastic sleeve.

The on-duty custody officer shall update the automated booking system with the pertinent information from the Manual Cell Check Log for each inmate housed within the holding facility, so that the automated booking system will accurately reflect every safety check conducted for each inmate.

Holding Facility Emergency Response and Evacuation

909.1 PURPOSE AND SCOPE

This policy establishes procedures for responding to emergency situations inside the temporary holding facility. Further, this policy provides the procedure for the management and evacuation of prisoners housed within the facilities. This policy articulates the notification and reporting procedures in the event of an unplanned emergency incident, including a panic or fire alarm activation. Finally, this policy outlines the required procedure for periodic testing of alarm systems and other related safety equipment.

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909.12 DISTURBANCES

If an arrestee disturbance occurs, the watch commander will immediately be notified. The watch commander will determine the number of officers required to control the disturbance and deploy them to the Custody Facility.

The tactical techniques utilized to quell the disturbance will be at the discretion of the watch commander, but may include any or all of the following:

- (a) Reasoning with the problem arrestee(s), either by the watch commander or a department negotiator.
- (b) Physical restraint of the arrestee(s).
- (c) Placement of the arrestee(s) into the safety cell or sobering cell.
- (d) Transfer of arrestee(s) to a medical institution or another detention facility.

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Holding Facility Emergency Response and Evacuation

909.15 ORANGE COUNTY FIRE AUTHORITY PRE-PLAN

A “Pre-Plan” diagram was established by the Orange County Fire Authority, with input from key department personnel. The Pre-Plan diagram is displayed in the holding facility office, visible to all employees. The plan shall be reviewed and updated each year by the Orange County Fire Authority, as an element of the facility’s annual inspection by personnel from the California Corrections Standards Authority (CSA).

Facility Sanitation and Maintenance

910.1 PRE-SHIFT INSPECTION

It is the responsibility of each Custody Officer reporting for duty to check the facility for any new damage, unsecured property and overall cleanliness.

910.1.1 DAILY CUSTODY OFFICER DUTIES

Each custody officer should inspect the Temporary Holding Facility at the beginning of his or her shift to ensure:

- (a) The facility is in a good state of repair.
- (b) That all prisoners present are properly secured and appear to be in a healthy state.
- (c) No flammable materials are stored in the detention area.
- (d) Fire extinguishers are serviceable.
- (e) Cell keys are available in the Watch Commander's Office and the Communications Center for emergency use.
- (f) First aid kits are readily available and completely stocked.
- (g) Smoke detectors are operational.

910.1.2 CUSTODY FACILITY SUPERVISOR DUTIES

The custody supervisor or his/her designee shall inspect the holding facility on or before the 10th day of each month to ensure that all fire and safety equipment is functioning properly.

- (a) A record of these inspections will be kept by the custody supervisor for a period of two years. These reports shall include any modifications or repairs to the fire and life safety equipment (Title 15, California Code of Regulations §1032).

910.2 SANITATION

Cleaning shall be done in accordance with the following schedule:

- (a) Daily: Empty trash cans and general clean-up.
- (b) Weekly: Sweep and mop facility. Sweep Sally Port and dispose of debris.
- (c) As Needed: If an inmate urinates, defecates or vomits in a cell, the cell shall be cleaned up immediately. If it is not feasible to do the cleanup immediately, the door shall be closed and a note posted indicating that the cell shall not be used until it is cleaned. The cell shall then be cleaned at the first opportunity.

910.3 BLOODBORNE PATHOGENS EXPOSURE CONTROL PLAN

Custody personnel shall comply with the General Industry Safety Orders, Section 5193, Title 8 of the California Code of Regulations.

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Facility Sanitation and Maintenance

910.4 SHOWER USE AND VERMIN CONTROL

Although the custody facility is equipped with a shower, it is not to be utilized without a supervisor's approval. It is intended for use by persons who vomit or defecate on themselves or other unusual situations.

In the event a prisoner needs the use of the shower, the custody officer shall:

- (a) Ensure that the prisoner will be supervised only by a Department employee of the same sex.
- (b) Ensure that the prisoner has privacy during the process.
- (c) Have the prisoner remove his/her clothing within the shower stall.
- (d) Ensure the contaminated clothing is sealed in a plastic bag.
- (e) Issue the prisoner a towel and a set of disposable custody facility clothing when the shower activity is complete.

Arrestees with obvious body vermin shall not be brought to the Irvine Police Department Custody Facility. The arrestee will be taken directly to the Orange County Jail.

If an area of the Custody Facility becomes contaminated with lice (pediculosis), it should be treated with a non-toxic pesticide (e.g., Pyrethrin). After treatment, the area should be thoroughly cleaned.

Temporary Holding Facility - Food Service

911.1 FREQUENCY OF SERVING

If an inmate is within the Custody Facility for six hours or more, then food shall be provided. If an inmate is held longer, food shall be served three times in any 24-hour period. At least one of these meals shall include hot food. If more than 14 hours pass between these meals, supplemental food must be served. Additionally, supplemental food must be served in less than the 14-hour period for inmates on therapeutic diets requiring more than three meals.

- (a) A minimum of fifteen minutes shall be allowed for the actual consumption of each meal except for those inmates on therapeutic diets where the responsible physician has prescribed additional time.
- (b) If the inmate misses a regularly scheduled facility meal, he or she shall be provided a sandwich and a beverage in lieu of that meal. Inmates on therapeutic diets shall be provided with a full diet meal.

911.2 FOOD AVAILABILITY

Food may either be the pre-packaged type, available from the vending machines located on the second floor of the civic center or deli-type meals purchased at local supermarkets.

Disbursement and Reimbursement for meal cost: Officers and custody personnel responsible for feeding an arrestee may receive a currency advance from the watch commander. In the event that no advanced disbursement is made, employees will be reimbursed for the cost of the meal through the Department's petty cash system.

911.3 FOOD SERVING

Food shall be served only under the immediate supervision of custody or police personnel.

In-Custody Injury or Death Procedures

912.1 PURPOSE AND SCOPE

The purpose of this policy is to establish guidelines for the following:

- Medical screening and care
- In-custody injury
- Suicide prevention
- In-custody deaths

912.2 IN-CUSTODY MEDICAL SCREENING/CARE

All arrestees brought into the custody facility will be interviewed concerning their medical/mental condition and the appropriate documentation shall be indicated on the back of the booking form. Arrestees who indicate they have a communicable disease (e.g., tuberculosis, AIDS, hepatitis, venereal disease, etc.) shall not be held in the facility and arrangements for transfer to Orange County Jail should be made as soon as practical, or another release method. Arrestees who indicate such medical conditions shall be housed separate from other inmates.

In addition to the screening questions found on the back of the booking form, the custody officer shall ask all questions found on the supplemental screening form developed by the department. This form shall be retained in the records bureau.

When an arrestee being held in the custody facility appears to be in need of medical attention, the custody officer will notify the watch commander or supervisor. The watch commander or responding supervisor will survey the situation and summon emergency medical services (EMS) if needed. The supervisor will ensure that appropriate first aid and/or basic life support efforts are rendered until EMS arrives.

Department personnel will not give arrestees medication of any kind.

912.3 EMERGENCY MEDICAL CARE

When immediate medical attention is required and cannot be administered by department personnel such as minimal care (bandaids or other similar treatment), the Orange County Fire Authority Paramedics shall respond for treatment.

Arrestees in need of emergency medical care should be treated at a facility determined by the Orange County Fire Authority Paramedics. Arrestees in need of hospital booking will be transported to the Orange County Jail ward at Western Medical Center, Anaheim.

An inmate, who by statements made or behavior exhibited, is believed to be a danger to himself or others, or to be gravely disabled, requires special consideration by those personnel responsible for his/her processing. Depending upon the nature of the offense for which the subject was originally arrested, options for disposition may include, but are not limited to the following:

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- (a) Arrange for a release from custody, either through the OR release or promise to appear process. Then transport the person to a local hospital for a psychiatric assessment, per Section §5150, Welfare and Institutions Code.
- (b) If release from custody is not an option, transport the inmate to the Orange County Jail Intake and Release Center. During the booking process, notify medical screening personnel of the inmate's mental condition.

If an arrestee develops a serious or life-threatening medical condition, the watch commander or field supervisor shall notify the next of kin.

912.4 FINANCIAL RESPONSIBILITY

If medical attention is needed at any time, the custody officer/officer will advise the arrestee that he/she is financially responsible for any medical fees incurred.

912.5 FIRST-AID KITS

In compliance with Corrections Standards Authority regulations, a first aid kit will be maintained in the custody facility. Custody officers shall routinely inspect the kit's contents and replace any items that are missing or have expired.

The facility administrator shall survey the placement of the first aid kit in the facility and the written procedures for its use. The administrator shall ensure the contents of the kit are adequate.

912.6 SUICIDE PREVENTION

Any subject arrested for a criminal offense and displaying "at risk" behavior or behavior that would cause a reasonable person to believe that the arrestee is at risk of harming himself/herself or others, should be transported to the Orange County Jail as soon as practical.

At the time of receiving, the custody officer shall be alert to any signs that may indicate than an arrestee is a suicide risk. The custody officer shall notify the watch commander. The watch commander will facilitate transfer of the arrestee to Orange County Jail, Orange County Juvenile Hall, or processed in accordance with the EMERGENCY MEDICAL CARE section above. Suicidal prisoners will not be detained at the custody facility longer than is necessary to arrange for transfer.

If it becomes necessary to confine the arrestee while awaiting transportation and the arrestee is exhibiting dangerous behavior, the arrestee should be placed in the safety cell.

The custody officer shall make an entry on the arrestee's booking form indicating that the arrestee is a "suicidal risk." The custody officer will make a physical check on adult suicidal arrestees at least twice every 30 minutes and indicate same on the booking form. Detained suicidal minors shall be constantly monitored while in the custody facility.

912.7 IN-CUSTODY DEATH DEFINED

The federal *Death in Custody Reporting Act* of 2000 (PL 106-297) requires all state and local agencies to report information to the U.S. Attorney General regarding the death of any person

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who is in the process of arrest, is en route to be incarcerated, or is incarcerated at a municipal or county jail, state prison, or other local or state correctional facility.

An in-custody death is a death of a person under any of the following circumstances:

- (a) In the physical custody, or under the physical restraint, of law enforcement officers, even if the person was not formally under arrest at the time.
- (b) Killed by any use of force by law enforcement officers prior to booking.
- (c) At the crime/arrest scene or medical facility prior to booking.
- (d) During transit of an arrestee to or from law enforcement facilities.
- (e) Confined in lockups or booking centers (facilities from which arrestees are usually transferred within 72 hours and not held beyond arraignment).

912.8 DEATHS WHILE IN CUSTODY

Except when an inmate is obviously deceased, emergency medical services shall be summoned and it shall be the responsibility of the paramedics or other competent medical personnel to determine if the inmate is deceased.

Upon discovering the death of an inmate, the custody officer shall notify the watch commander or field supervisor immediately. The watch commander or field supervisor shall notify the Chief of Police, Assistant Chief, Administrative Services Division Commander, Professional Standards Lieutenant, Business Services Administrator, and the Criminal Investigations Division Lieutenant. The Criminal Investigations Division Lieutenant shall be responsible for all other notifications.

In the event an inmate dies while in custody at the IPD custody facility, the following notifications and procedures will be adhered to pursuant to Penal Code §5021.

Any death that occurs in an IPD custody facility will be reported to the Orange County Sheriff/Coroner within a reasonable amount of time after discovery, not to exceed two (2) hours. The initial report of the death of a person in custody may be transmitted by telephone, direct contact, or written notification and shall outline all pertinent facts known at the time, all persons to contact, and any other pertinent information by the reporting officer. The death will also be reported to the Orange County District Attorney's Officer Involved Incident Investigation Team.

The initial death notification shall be supplemented by a written report submitted to the Chief of Police, the Orange County Sheriff/Coroner and the Orange County District Attorney within eight (8) hours of the discovery of the death. This written report shall include all circumstances and details of the death known at the time the report was prepared, and shall include the names of all persons with knowledge of the death circumstances. This conforms to Penal Code §§5021 (b) and (c). The Criminal Investigations Division Lieutenant shall be responsible for the completion of this report.

The completed report shall also be sent to the California Attorney General within ten (10) calendar days.

In custody death reports should be forwarded to:

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Bureau of Criminal Statistics
Statistical Data Center
P.O. Box 903427
Sacramento CA 7.05.0203-4270

After completing the initial investigation concerning the inmate's death, the Professional Standards Lieutenant or his/her designated representative will contact the Orange County Health Department to assist in conducting a medical review concerning the death. A thorough review of custody facility operation policies and procedures will follow to detect and correct any deficiencies. The Professional Standards Lieutenant will be responsible for the completion of the required report.

Whenever possible, notification to the next of kin of an inmate death shall not be made by employees of IPD, but shall be made by the Orange County Coroner's Office. Exceptions include circumstances wherein the relatives have already learned through other means of the death or when the relatives inquire of the Department regarding the condition of the deceased inmate. While employees of this Department shall take care not to assume the duties and authority of the Coroner's Office, they shall not deceive relatives of a decedent in a time of tragedy. When common decency requires that an employee of this agency make notification of death to the next of kin prior to notification by a member of the Orange County Coroner's Office, the next of kin shall be referred to the Orange County Coroner's Office following the notification.

Death of a Detained Minor

In any case in which a minor dies while detained, the administrator shall provide the Corrections Standards Authority a copy of the report submitted to the Attorney General under Government Code Section 12525. A copy of the report shall be submitted to the Corrections Standards Authority within ten (10) calendar days following the death.

Instructions for the Notification of the Death of a Minor

The notification and reporting protocol for the death of a minor in custody is the same as that for an adult.

Prison Rape Elimination

913.1 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 Irvine Police Department Temporary Holding Facility (28 CFR 115.111; 15 CCR 1029).

913.1.1 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

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- 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).

913.2 POLICY

The Irvine 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 Irvine 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).

913.3 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 Irvine 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).

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- (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).

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- (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).

913.4 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).

913.4.1 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:

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- (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.

913.4.2 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).

913.5 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).

913.5.1 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.

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- (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).

913.5.2 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 Irvine 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.

913.5.3 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).

913.5.4 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

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regardless of whether the victim names the abuser or cooperates with any investigation arising out of the incident (28 CFR 115.182).

913.5.5 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.

913.6 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.

913.7 REVIEWS AND AUDITS

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913.7.1 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).

913.7.2 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

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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 Irvine 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).

913.8 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).

913.9 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.

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- 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.

Holding Facility Employee Performance Standards

914.1 PURPOSE AND SCOPE

The Irvine Police Department maintains the right and responsibility to establish performance standards that govern how employees will perform their duties and treat the people whom they come in contact with. The standards are intended to:

- (a) Provide custody officers and Department employees with guidelines of acceptable performance and behavior;
- (b) Ensure a safe work environment;
- (c) Promote internal discipline within the facility and the Department;
- (d) Safeguard employee rights.

914.2 TREATMENT OF PRISONERS

Standards of conduct and performance of Department personnel and custody staff shall at all times be consistent with the provisions of the Department Policy Manual. All persons brought into the custody facility will be treated as human beings. They are not to be abused either physically or verbally. One of the custody officer's primary responsibilities is to ensure the safety and protect the civil rights of those in custody.

- (a) Discipline, either physical or emotional, shall not be administered in the custody facility by members of this agency or agency contract employees. Any physical or verbal abuse of prisoners/detainees by Department personnel or contract staff will not be tolerated. Violations of this order will be reported to the Business Services Administrator or watch commander as soon as possible.
- (b) Custody officers and Department personnel shall immediately contact the watch commander in the event a prisoner:
 - 1. Is injured, regardless of whether the injury was sustained during the arrest process or while inside the custody facility;
 - 2. Desires to file a complaint against Department employees or custody personnel;
 - 3. Experiences a medical emergency;
 - 4. Dies while in custody.
- (c) Custody officers are not expected to be subject to physical abuse by any prisoner. Custody officers are to obtain the assistance of a police officer or the watch commander before dealing with obviously hostile or combative prisoners.
- (d) Custody officers are accountable for the provisions of the Use of Force policy, and may use only that force necessary and reasonable to overcome the resistance of a prisoner.

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- (e) Custody officers and Department personnel are expressly prohibited from conducting business transactions of any nature with a person held in custody by this Department.

914.3 TREATMENT OF DEPARTMENT PERSONNEL AND THE PUBLIC

Custody officers will treat other members of this Department and the general public with courtesy and respect. In return, custody officers will be treated with courtesy and respect, and will not be verbally abused by any member of this Department. Actions contrary to this policy are to be reported to the Business Services Administrator or watch commander.

914.4 PERFORMANCE EXPECTATIONS

Custody officers are contract employees who shall, through their employer, maintain sufficient competency so as to properly perform their duties and assume the responsibilities of their position. Custody officers shall perform their duties in a manner that will maintain the highest standards of efficiency in carrying out the functions of their job assignment and the objectives of the Department.

Unsatisfactory performance may be demonstrated by a lack of knowledge or the improper application of regulations; unwillingness or inability to perform assigned tasks; the failure to conform to work standards established for the position; the failure to take appropriate action on a condition deserving attention; or absence without leave.