



PRESIDIO POLICE DEPARTMENT

501 E. O'Reilly Street, Presidio, Texas 79845 (432) 229-3527 FAX: (432) 229-2803

Presidio Police Department Standard Operating Policies and Procedures Adopted October 17, 2023

Mission Statement

The Presidio Police Department (PPD) is committed to protecting our community and crime victims, and to providing fair and unbiased enforcement of criminal justice laws.

Recognizing our responsibility as public servants to maintain order while affording dignity and respect to every individual, our objective is to improve the quality of life through a community partnership that promotes safe, secure neighborhoods.

The Presidio Police Department values people, leadership, service, performance, respect, and mutual understanding.

Objectives

The principal function of the PPD is the preservation of peace and order, the prevention and detection of crime, the apprehension of offenders, the protection of persons and property under the laws of the State of Texas, City of Presidio Ordinances, and the performance of a multitude of tasks relating to public welfare and safety. For these purposes, the Chief of Police (Chief) and Department are endowed with legal authority. In the exercise of this power, justice and equality should be the primary objectives. In performing their duties, good public relations shall be foremost in their minds.

The Chief and Department should remember that in the execution of their duties, they act not for themselves but for the public, and that their appointment is in no sense for their own advantage. The Chief and Department must bear in mind that they are public servants who represent and serve the City of Presidio and its inhabitants.

Purpose of Policies

In order to fulfill the PPD goal, it is necessary to create and maintain a system through which the department can be effectively directed, managed, and evaluated. This document establishes the policies and procedures necessary to carry out the everyday activities of the PPD.

Authority of Policies

These policies are compiled, adopted, and published on the authority of the Presidio City Council, as a guideline for the administration and performance expectations of the newly re-established PPD. **It is to be used in conjunction with the City of Presidio Employee Handbook, which covers policies/procedures/disciplinary actions for all city employees.** These initial Policies may be updated by the Chief, and supplemented by special or general orders and formal training which may not be currently reflected in these policies. Any violation of the provisions or intent of these policies, or the City of Presidio Employee Handbook, may result in disciplinary action against the personnel responsible for said violation. The PPD recognizes the fact that situations will occasionally arise which may mitigate such violations. Evidence of such mitigating circumstances may be considered on an individual basis when assessing the conduct of personnel in this department.

Law Enforcement Code of Ethics

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

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

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

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

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

Source: The International Association of Chiefs of Police

Presidio Police Department Policy and Procedures Organization Structure

I. Duties and Responsibilities

- A. The Presidio Police Department exists for the purpose of maintaining law and social order within the confines of prescribed ethical and constitutional limits. To achieve this the department has the power and duty to:
 - 1. Protect life and property
 - 2. Prevent crime
 - 3. Detect and apprehend offenders
 - 4. Preserve the public peace
 - 5. Enforce all laws and ordinances of City of Presidio, the State of Texas, and the Constitution of the United States of America.
- B. The PPD will establish and govern its own internal structure.

II. PPD Sworn Employees

All regular law enforcement Department, upon employment with the city, shall take an oath of department as prescribed by City of Presidio and the State of Texas. Such oath shall be administered by the Mayor or the Municipal Judge. **Sworn law enforcement officers shall render same policies on or off duty.**

III. Rank and Titles

- A. Positions
 - 1. Sworn Law Enforcement Department
 - a. Chief of Police
 - b. Sergeant
 - c. Full-time Officer(s)
 - d. Part-time Officer(s)
 - e. Reserve Officer(s)
 - 2. Other Personal (Civilian)
 - a. Administrative Support

Duties and Responsibilities

I. Common Responsibilities

- A. It shall be the duty of all personnel to familiarize themselves with the content of these policies, and the City of Presidio Employee Handbook, and conduct themselves in accordance with their principles. Ignorance or misunderstanding of any of the provisions will not be accepted as a defense against disciplinary action. The duties of each activity shall be made known to all throughout this organization.

- B. Common Responsibilities that shall be the concern of all employees are:
1. Keeping abreast of all developments affecting law enforcement work and making use of them to render maximum benefits to the department and the community.
 2. Cooperating actively with other law enforcement departments, agencies, and community members for the best attainment of department objectives and goals.
 3. Establishing, administering and executing approved policies, procedures, and city ordinances necessary for the operation of the department and the safety of the community.
 4. Participating in joint action with other law enforcement agencies (Local, State, Federal) where a concerted action is needed for the solution of a problem.
 5. Administering and controlling expenditures of manpower, materials and other cost elements which could materially affect the operations of the department.
 6. Maintaining transparency (to the extent legally allowed) regarding ongoing department activities.
 7. Remaining accountable to the city and the residents served by the Department.
- C. The conduct of Presidio Police Department employees in dealing with the general public is expected and required to be courteous and professional in accordance with the high level of public trust placed upon the law enforcement profession. Any public action, inaction, attitude, or opinion of department personnel which undermines or detracts from the public's respect of the department only complicates law enforcement in the community. Respect for law enforcement in general and the PPD in particular cannot be legislated by any authority, but must be earned by exemplary conduct in the performance of duty.

II. Duties and Responsibilities of the Chief

- A. The Chief is the executive head of the PPD. The Chief shall formulate and enforce department policies and shall exercise such powers connected with the department as may be provided by state law and city ordinance/policies. The Chief is responsible for proper, ethical, and efficient enforcement of all laws and ordinances which the PPD is authorized to enforce. The Chief shall have the authority to promulgate such to employees of the PPD as he may deem proper. All such orders shall remain in full force and effect until rescinded or otherwise amended or modified.
- B. As far as possible, the Chief shall anticipate emergencies and formulate procedures to be used in the event of such occurrence.

- C. The Chief shall be responsible for the preparation and execution of the PPD budget and shall administer the fiscal affairs of the department in a responsible and efficient matter.
- D. The Chief shall be responsible for and see that all PPD personnel receive the necessary training to enable them to effectively and efficiently perform their job duties and responsibilities.
- E. The Chief shall be responsible for all resources, manpower, material equipment and monies assigned to the PPD.
- F. The Chief shall supervise all full-time and part-time Officers and civilian staff, and shall maintain discipline throughout the entire PPD by enforcing existing policies, procedures, rules, regulations, and applicable laws. The Chief shall be responsible for the satisfactory conduct and general behavior of PPD employees and shall require them to give close attention to their duties.
- G. The Chief shall be responsible for the internal affairs and investigations of all charges, including but not limited to corruption, that are made against Departments and civilian employees, whether the accusation is made by other city employees or by citizens. The Chief shall assure that all evidence relating to alleged offenses is discovered and properly documented and shall take appropriate action as required. Any allegations against the Chief shall be referred to an appropriate investigative agency, such as the Texas Rangers.
- H. The Chief shall properly document and report damage which occurs in the course of official duties to city or civilian property as follows:
 - 1. Photographs will be taken any time city equipment is damaged.
 - 2. Provide a report if the incident causing the damage involved a criminal offense.
 - a. If necessary for an Officer to damage civilian property in the course of his official duties, such as forcible entries into buildings or vehicles to conduct searches or effect arrests, the following should be adhered to:
 - (1) Photograph the damage in detail before leaving the scene.
 - (2) Provide a report to the Chief detailing exact damage.
 - b. The Chief will coordinate with the City Administrator and the City Attorney regarding any possible civil liability.
 - c. If no criminal offense, the involved Officer will provide a brief letter to the Chief explaining the incident and photos.
- I. The Chief shall represent the PPD in all external relations including contact with other public officials, law enforcement agencies, and community groups.

- J. The Chief shall report to the City Administrator, City Council, City Attorney, Municipal Judge any of the following incidents:
 - 1. The suspension or termination of any officer or employee of the PPD;
 - 2. Any officer injury in the line of duty; or
 - 3. Any crime, incident, or occurrence of community significance.
- K. The Chief shall delegate to PPD Officers the authority commensurate with their responsibilities, such as supervising and coordinating other functions and activities of the PPD.
- L. The Chief shall outline in Standard Operating Procedures the duties of the Officers and civilian employees of the PPD. He shall formulate and publish PPD procedures, and shall revise the procedures and duty assignments as necessary. Any change in duties requiring a modification to any employee's job description shall be promptly reported to the City Administrator.
- M. The Chief shall organize his department so that in his or her absence it will be under the command of the Sergeant.
- N. The Chief shall establish control procedures as he may deem necessary, and organize personnel and equipment to meet current needs in order to insure the effective administration of the PPD.
- O. The Chief shall be responsible for the planning and execution of programs designed to suppress crime and accidents, to detect and apprehend criminal and traffic offenders, to protect and recover property, and to ensure a safe community.
- P. The Chief shall be responsible for the discipline, safety, conduct, work performance, assignment, selection, transfer, promotion and demotion of PPD Officers and employees in accordance with the City of Presidio Employee Manual.

III. Duties and Responsibilities of the Sergeant

- A. During the absence of the Chief, the Sergeant shall be the acting Chief and shall not interfere with, rescind or modify any general orders issued by the Chief, except in extreme emergency. The acting Sergeant shall:
 - 1. Exercise commands and perform duties as may be directed by the Chief;
 - 2. Maintain discipline and morale,
 - 3. Exercise control over all full-time and part-time employees to the end that the duties and responsibilities of the PPD shall be promptly and efficiently performed;
 - 4. Carry out general policies and orders of the Chief;
 - 5. May act in disciplinary cases, ordinarily handled by the Chief, when the Chief is out of the city, and the incident warrants a prompt response. The Sergeant shall attempt to coordinate with the Chief on all disciplinary matters requiring immediate attention;

6. Be in charge of, and the immediate supervisor of, all other Officers and their field operations; and
7. Act on behalf of PPD at City Hall, with other law enforcement agencies, and in the community; and
8. Document damage which occurs in the course of official duties to city or civilian property.

IV. Duties and Responsibilities of Full-time Officers, Part-time Officers, and Reserve Officers

- A. All Officers, whether full-time, part-time, or reserve, shall study and thoroughly understand the rules and regulations, standard operating procedures, and general orders and shall:
 1. Preserve the peace, protect life and property, prevent crime, apprehend criminals, recover lost or stolen property, enforce in a fair and impartial manner the city ordinances, laws of the State of Texas, and uphold the Constitution of the United States of America.
 2. Serve the public by consistently demonstrating their commitment to prompt response, unbiased treatment, community involvement, accountability, and transparency. They shall respect and protect the rights of **all** individuals and perform their services with honesty, zeal, courage, discretion, fidelity, and sound judgment.
 3. Timely investigate and report all crimes, suicides, and their attempts, important incidents or occurrences, and other information or concerns of the PPD that come to their attention.
 4. Not repress, conceal, or distort the facts of any incident. It shall be neglect of duty to withhold any information. Each Officer shall voluntarily and promptly comply with all legal mandates regarding discovery of evidence in the possession of the State.
 5. If, as a result of an Officer's action, a citizen is injured or if property damage occurs, the circumstances shall be reported immediately to the Chief and/or Sergeant, with a complete written report thereof made to the City Administrator, Mayor, and City Council.
 6. Make prompt reports in a manner prescribed by reporting procedures. Officers shall not make false reports orally or in writing. All reports shall be accurate and true to the best of the reporting Officer's knowledge.
 7. Immediately report any observation of any emergency to the dispatcher in as much detail as possible, to assist in the quick and proper dispatching of emergency equipment and personnel.
 8. Thoroughly acquaint themselves with their duties and responsibilities and perform them with the standard of care required of a reasonably trained Officer. Officers shall perform their duties properly, with care and attention. In cases of neglect, failure or inability to perform duties, the Officer may be subject to disciplinary action.
 9. Perform their duties with coolness, firmness and determination, and they shall cooperate, assist, and protect each other in the administration of peace,

order, and fairness in the enforcement of laws and apprehension of offenders.

10. Respond immediately and without delay to calls for service. No Officer shall refuse to respond to a call, nor engage in a discussion with the dispatcher concerning the appropriateness of the call.
11. Maintain order and crowd control at fire, medical emergency, traffic, or other scenes.
12. Cooperate with and assist the District Attorney, County Attorney, City Attorney, and all other appropriate prosecutors as requested.
13. Execute and return all writs and process (civil and criminal) as directed by the courts.
14. Suppress all riots, disturbances, and breaches of peace within the city.
15. As appropriate and only in compliance with state law and these policies, Officers shall pursue, apprehend, and/or arrest any person accused of violating state law, or who is fleeing from justice, and bring him or her before competent authority for examination and trial.
16. Be attentive to and take suitable action on reports and complaints of citizens, including making referrals to another agency if appropriate (e.g. Child Protective Services, Adult Protective Services). Officers shall provide general information and assistance to citizens as requested and as appropriate. Any formal requests for information under the Texas Public Information Act must be made in writing by the requestor and directed to the Chief.
17. Officers shall avoid any impression of evading the performance of their duties, or that they are not interested in the problems of citizens. Officers shall not belittle a seemingly trivial request, complaint, complainant, or informant, regardless of the value of any report or information received.
18. Act promptly with energy, firmness, and decisiveness at crime scenes, disorders, accidents, disasters, or any situation requiring law enforcement attention.
19. Assist other law enforcement agencies, including local, state, and federal agencies.
20. Any Officer receiving a complaint regarding PPD personnel shall immediately inform the Chief.
21. Attend trainings as required by the Chief in order to maintain proper TCOLE credentials.
22. Duties set forth herein shall not be all-inclusive. Officers may be required to perform other duties as deemed necessary by the Chief or City Council, from time to time.

V. Duties of Administrative / Civilian Staff

- A. Perform duties, such as reports, and other paperwork.

- B. Be honest, diligent, competent, and exercise due care and confidentiality in the performance of the duties.
- C. Be courteous and polite to the public, city personnel, complainants, victims of crime, other law enforcement agencies, defendants, and their respective family members.
- D. Attend training as deemed necessary by the Chief.

VI. Written Directive System

- A. General Orders
 - 1. General orders shall be issued in writing by the Chief. The Chief may amend general orders by cancellations or revisions. Copies of revised pages and cancelled orders will be maintained when signed and dated by the Chief.
 - 2. Proper subjects of general orders included the institution of and changes in policies and procedures, and personnel rules.
- B. Special Orders
 - 1. Special orders shall be issued by the Chief. Special orders are issued to announce policies or procedures concerning changes in the PPD structure, specific circumstances or events, or policies or procedures which are temporary or time-limited in nature. Special orders shall specify the effective and cancellation dates.
- C. Cancellations/Incorporations
 - 1. All written directives which are not time-limited shall be reviewed annually by the Chief after the original date of issuance to determine if they should be cancelled, incorporated into the Standard Operating Procedures, revised, or continued in their present form.
 - 2. Cancellations shall be effected by Special orders. Incorporations shall be effected into these Policies.

Presidio Police Department Policy #1: Body-Worn Video Equipment Adopted October 17,2023

I. Purpose

The purpose of this policy is to provide Officers with the guidelines for the use of body-worn video equipment.

The use of a video system can provide powerful evidence of criminal activity.

The system has also proven to be a valuable tool for law enforcement practitioners by documenting their honesty, integrity, and professionalism.

II. Policy

It is policy of this law enforcement agency to use body worn video recording equipment to record traffic and criminal violations. In order to maximize the use of this equipment, all employees shall use the procedures set forth in this policy.

III. Officer Responsibilities

- A. After being trained; it is the responsibility of the Officer to use the video system in accordance with this policy.
- B. Prior to the beginning of each shift, the Officer shall perform a pre-operational inspection to ensure the video system is operating correctly, and that it has a fully charged battery.
 - 1. Any malfunctions should be reported to the Chief.
- C. The system is to be turned on for all traffic stops, and all citizen contacts / calls for service that could possibly result in an arrest or some type of confrontation or incident. An Officer may choose not to activate a camera, or may choose to discontinue a recording for any **non-confrontational** encounter with a person, including an interview of a witness or victim. The Officer must document the reason for such a decision, and the justification will be based on whether another Officer/department would have made the same decision under the same circumstances.
- D. Officers may not erase/delete any recordings. They will make their systems available to the Chief weekly or more frequently if circumstances dictate, so that the videos can be downloaded and reviewed. The recordings will be saved for 90 days, on computer and/or external hard drive, and/or on DVD. Any recording that is tied to an ongoing investigation or court case will be saved until said investigation / court case is completed.

- E. The Chief may review videos of any Officer at any time for the purpose of employee evaluation, to ensure the system is working correctly, and to identify issues for training.
- F. In cases when an arrest, any criminal activity, or any recording related to a criminal investigation is done, the Officer will advise the Chief. Copies of the video will immediately be made, in accordance with the policy of the prosecutor handling the case.
- G. Minor infractions (not criminal or ethical in nature) discovered during the routine review of the videos should be viewed as training opportunities and not as routine disciplinary actions. The equipment is to be used solely for law enforcement purposes, and may not be used for personal reasons.
- H. No Officer may release any video recording to the public without permission of the Chief and the City Attorney. To do so is a Class A Misdemeanor, as outlined in Occupations Code Sec. 1701.659.

Policy #1 Continued: Mobile Audio/Video-Recording System

I. PURPOSE

It is the purpose of this policy to establish guidelines for all Presidio Police Department officers assigned to or operating a city vehicle equipped with a mobile audio/video recording system.

The mobile audio/video recording systems are to be used for documenting criminal activity, evidence of criminal activity, traffic stops, law enforcement related citizen contacts and identifying training needs, evaluating officer performance, and protecting officers from false allegations of misconduct or impropriety.

Officers will use the mobile audio video recording systems to record in both audio and video and in their entirety, the interactions between officers and the public as described in this procedure.

II. SCOPE

This applies to all sworn and non-sworn police department personnel assigned to or operating a city vehicle equipped with a mobile video camera.

III. RESPONSIBILITIES

It shall be the responsibility of the officer/employee operating any city vehicle equipment with a mobile video & audio recording system to ensure the system is in proper working order prior to operating the vehicle.

It shall be the officer/employee's immediate supervisors' responsibility to ensure this policy is strictly enforced at all times.

It shall be the Chief of Police's responsibility to ensure city vehicles equipped with a mobile video & audio recording system's repairs are accomplished in a timely manner.

IV. OBJECTIVES

The Department has adopted the use of in-car video/audio recording systems in order to meet several objectives, including but limited to:

1. Accurate documentation of events, actions, conditions, and statements made during arrests and critical incidents, so as to enhance officer/employee reports, collection of evidence and testimony in court.
2. The enhancement of this Department's ability to review probable cause for arrest, arrest procedures, officer/employee and suspect interaction and evidence for investigative purposes, as well as for officer/employee evaluation and training.

V. PROCEDURES

1. At the beginning of each watch, officers operating a city vehicle equipped with a mobile video recording system shall ensure that the system is working properly.
2. Each day and prior to making law enforcement contacts, officers will log into the mobile video camera software and enter their district assignment, radio ID and watch.
3. At the beginning of each watch, officers will activate the mobile video recording system and use the playback function to ensure the system is recording both audio and video.
4. Employees will immediately report to a supervisor any recording problems with the mobile video recording system.
5. Officers will activate the mobile video recording system and record all law enforcement related citizen contacts or potential citizen contacts as well as all calls

for service in their entirety on the mobile video recording system. This includes any law enforcement related telephone calls.

6. The mobile video camera system will be manually activated at the time the officer receives any call for service from any source.
7. Officers conducting any shift training, to include but not limited to building searches and traffic stops, shall record the training using the mobile video/audio camera system.
8. Officers shall not de-activate any portion of the mobile video camera system including the audio recording portion until the law enforcement contact or training has been terminated. The audio recording system shall not be deactivated while the mobile video recording system is in use.
9. Officers and employees shall not tamper with nor modify any electronically captured or stored video or audio recordings.
10. Prior to leaving for the day, officers shall ensure that all the mobile digital video and body camera video from the day's activities has been uploaded to the system server.

Presidio Police Department Policy #2: Use of Force Adopted October 17, 2023

I. Purpose

The purpose of this policy is to provide Officers of this agency with the guidelines for the use of deadly and non- deadly force.

II. Policy

It is the policy of this law enforcement agency that Officers use only the force that reasonably appears necessary to effectively bring an incident under control, while protecting the lives of law enforcement and others.

Officers of the Presidio Police Department will exhaust all other means of apprehension and control before resorting to the use of force. This will be in accordance with the training and equipment that each Officer has received.

All City of Presidio Officers will follow and use these “use of force” guidelines in their prescribed duties for the City of Presidio Police Department.

III. Definitions

- A. Deadly Force: Any use of force that is reasonably likely to cause death.
- B Non- Deadly Force: Any use of force other than that which is considered deadly force. This includes any physical effort used to control or restrain another, or to overcome the resistance of another.
- C. Objectively Reasonable: This term means that, in determining the necessity for force and the appropriate level of force, Department shall evaluate each situation in light of the known circumstances, including, but not limited to the seriousness of the crime, the level of threat or resistance presented by the subject, and the danger to the community.

IV. Use of Deadly Force

- A. PPD Officers are authorized to use deadly force to:
 - 1. Protect the Officer or others from what is reasonably believed to be a threat of death or serious bodily harm.

V. Deadly Force Restrictions

- A. Officers may use deadly force to destroy an animal that represents a threat to public safety, or as a humanitarian measure where the animal is seriously injured when the

Officer reasonably believes that deadly force can be used without harm to the Officer or others.

- B. Decisions to discharge a firearm at or from a moving vehicle shall be governed by this use-of-force policy and are prohibited if they present an unreasonable risk to the Officer or others.

VI. Use of Non-Deadly Force

- A. Where deadly force is not authorized; Officers may use only that level of force that is objectively reasonable to bring an incident under control.
- B. Officers are authorized to use department-approved, non-deadly force techniques and issued equipment that the Officer has received approved training for, to:
 - 1. Protect the Officer or others from physical harm;
 - 2. Restrain or subdue a resistant individual; and / or
 - 3. Bring an unlawful situation safety and effectively under control.

VII Training

In addition to training required for firearms qualifications, Officers shall receive agency-authorized training designed to simulate actual shooting situations and conditions and, as otherwise necessary, to enhance each Officer's discretion and judgment in using deadly and non-deadly force in accordance with this policy.

Reporting use of Force

I. Purpose

It is the purpose of this policy to provide the Chief with guidelines for reporting the use of force.

II. Policy

The authority to use force carries with it the need for accountability in order to safeguard the rights of the public and preserve the integrity of the PPD and the City of Presidio. As such, it is the policy of this law enforcement agency that the use of force, as designated herein, shall be reported in a timely, complete, and accurate manner by involved Officers and as prescribed by this policy.

III. Definitions

- A. Use of Force:

For purposes of this document, use of force is the amount of effort required by law enforcement to compel compliance from a person. Except as noted below, this

includes any use of force occurring while the Officer is acting in official law enforcement capacity. This includes undercover, plainclothes, or uniform assignments whether on or off duty. Law Enforcement use of force is recognized in the following categories:

1. Physical Force: Use of any part of the body, or the use of law enforcement horses or canines to compel compliance.
 - a. Horses and canines must be trained and certified, and the Officer must be trained and certified. Even then, law enforcement animals may be utilized by the Department only with the approval of the Chief. Personal animals may not be carried in PPD vehicles.
2. Chemical Force: Use of any CN, CS, Mace, or OC aerosol or foam spray to compel compliance.
3. Impact Force: Use of any object (nightstick, baton, body-shield, other) as a less-lethal weapon to compel compliance.
4. Electronic Force: Use of any electronic equipment (taser, stun gun, or similar device) to compel compliance.
5. Firearms Force: The discharge of a firearm of any type to compel compliance. Any suspect who has been injured or who reports being injured shall be reported in the incident report.
6. Exceptions: Law Enforcement actions not included in the above definition are:
 - a. handcuffs when used as a restraint in arrest and transport activities; transport by vehicle;
 - b. physical removal of peacefully resisting demonstrators;
 - c. displays of weapon (un holstering or brandishing of firearm);
 - d. presence of law enforcement, horses or canines;
 - e. or police issuance of tactical commands (verbal judo).

IV. Responsibilities for Reporting

- A. Officers shall make an immediate verbal report to the Chief following any use of force, and document the use of force in the incident report.
 1. Each Officer who uses force in an incident shall submit a supplementary report documenting the use of force using the PPD Use of Force Report, as it may be updated from time to time.
- B. Any Officer who witnesses a use of force shall advise a supervisor and shall submit a use of force supplementary report.
 2. All use-of-force reports shall specify the actions of the suspect that necessitated the use of force, the reasons why the Officer used force, as well as any suspect complaints of injury, medical treatment received, or refusal of medical treatment.
 3. The arresting Officer shall notify transporting law enforcement or emergency medical personnel if force was used on the arrestee, or if the arrestee has an injury or complaint of pain.

4. The Chief shall investigate and report on uses of force as directed in section VI of this policy.

V. Referral/ Transport for Medical Attention

- A. Arresting and transporting Officer(s) shall ask prisoners whether they are injured or ill.
- B. A suspect shall be examined by an appropriate health care provider prior to interrogation or prisoner processing for purposes of detention when suffering from or complaining of injury or illness or when, among other instances, the individual
 1. is struck on the head with an impact weapon or other hard object;
 2. is restrained about the neck or throat;
 3. is struck with a less-lethal weapon projectile;
 4. is bitten by a law enforcement canine.
- C. An injured prisoner shall not be admitted to or held in detention without being examined and released by a physician or qualified health care provider.
 1. Whenever there is doubt concerning the need for medical attention, it should be resolved through examination of the subject by an appropriate health care provider.
 2. Refusal of treatment shall be documented and verified by the Officer and attending physician or health care provider.

VI. Supervisory Responsibilities

- A. The Chief or Sergeant shall be summoned and shall respond to any incident of use of force on a priority basis. In any instance of use of force, the Chief or Sergeant shall:
 1. document the Officer's and suspect's statements of actions taken, injuries sustained, and medical treatment needed or desired;
 2. identify/ interview witnesses as appropriate;
 3. document, as necessary the scene of the incident;
 4. interview any health care provider concerning the injuries sustained and their consistency with uses of force; and
 5. complete a supervisor's use-of-force supplementary report to incident.
- B. The Sergeant shall notify the Chief in cases involving injury or complaint of injury, hospitalization, or death of a person resulting or allegedly resulting from an Officer's use of force.
- C. In all cases involving a subject's hospitalization or death, the Chief shall immediately be notified.

- D. The supervisor shall prepare a complete review of any use of force investigated. That report shall include but shall not necessarily be limited to the following:
 - 1. a full explanation of the incident;
 - 2. statements (including recordings) of witnesses, suspects, and medical personnel;
 - 3. copies of medical reports; and
 - 4. any other information or material pertinent to a complete understanding of the incident.

- E. The Chief shall review all use-of-force reports to determine adherence to policy and procedures, and completeness of the report. Where further documentation or investigation is warranted, appropriate personnel shall be notified by the Chief.

Policy #2 Continued: Non-Lethal and Less Than Lethal Weapons

I. POLICY

In the interest of public safety, the department provides officers with a range of non-lethal and less than lethal options. The department's policy ensures that officers are properly trained in the use of these weapons and the appropriate circumstances of their use. Supervisors shall rigorously enforce departmental weapons standards.

All sworn personnel shall qualify at least annually with departmental non-lethal and less than lethal weapons. Officers shall not carry or use any non-lethal or less than lethal weapon where they have not received training and been qualified.

II. PURPOSE

To establish policy and procedures governing the issuance, training, maintenance, and qualification of non-lethal and less than lethal weapon systems.

III. GENERAL PROCEDURES

A. Approved Weapons

- 1. **Non-lethal and less than lethal weapons currently approved by the department include:**
 - a. **Expandable baton**
 - b. **Oleo capsicum pepper spray**
 - c. **Electro-muscular disruption device**

2. **Department non-lethal or less than lethal weapons are determined by the Chief of Police based on the needs of the agency. Officers will not carry or use any weapon for which they are not qualified by the department to use.**

B. Security of Weapons

Officers are responsible for the care and security of departmental weapons issued to them. Officers shall report any weapon loss or malfunction to the Chief of Police or their supervisor.

C. Modification and Maintenance of Weapons

1. **Departmental weapons shall not be modified or altered without written approval of the Chief of Police.**
2. **Officers are responsible for cleaning and maintenance of non-lethal or less lethal weapons that are issued to them.**

D. Weapon Inspections

1. **Officers shall inspect issued weapons at the beginning of each duty assignment to ensure they are in proper working order.**
2. **Supervisors shall inspect issued weapons at least monthly and shall document the inspections in a memorandum to the Chief of Police indicating the officers inspected and the results of the inspection.**

IV. QUALIFICATION REQUIREMENTS

A. Required Instruction

1. **All department personnel shall have received training with any non-lethal and less lethal weapons that they will carry. The Training Shall Have covered the mechanics of the weapon, sound safety practices, Personal will have reviewed departmental policy governing the use of the weapon and the use of force.**

B. Qualification Requirements

1. **The Presidio Police department will maintain records of each officer's qualifications with non-lethal and less lethal weapons including:**
 - a. **The officer's name and identification number**

b. The date of qualification and weapon system qualified.

V. EXPANDABLE BATON

A. The department authorizes the carrying and use of the expandable baton as the only striking weapon for officers. All other forms of striking or punching weapons are prohibited. Flashlights carried by officers are not to be used as striking instruments, except as a last resort to protect the officer from injury.

B. Officers who carry the expandable baton shall have been or be trained and demonstrate proficiency in its use. The weapon may be used in confrontations involving physical violence where higher levels of force are unnecessary or inappropriate and lesser levels are inappropriate or ineffective.

C. The use of the expandable baton will be documented in an incident report as well as a use of force report.

VI. OLEORESIN CAPSICUM SPRAY

A. Authorization

1. Only officers who have completed the prescribed course of instruction on the use of oleoresin capsicum (OC) spray are authorized to carry the device.

2. Officers whose normal duties/assignments may require them to make arrests or supervise arrestees shall be required to carry departmentally authorized OC while on duty.

B. Uniformed officers shall carry only departmentally authorized OC canisters in the prescribed manner on the duty belt. Non-uniformed officers may carry OC in alternative devices as authorized by the agency.

C. Usage Criteria

1. OC spray is considered a use of force and shall be employed in a manner consistent with this department's use of force policy.

2. OC spray may be used when:

a. Verbal dialogue has failed to bring about the subject's compliance; and

b. The subject is verbally and/or physically resisting or has signaled his intention to resist the officer's efforts to exercise control.

3. Whenever practical and reasonable, officers should issue a verbal warning prior to employing OC spray against a subject.

4. Once a subject is incapacitated or restrained, use of OC is no longer justified.

D. Usage Procedures

1. Whenever possible, officers should be upwind from the suspect before using OC spray and should avoid entering the spray area.
2. Officers should maintain a safe distance from the suspect of between two and ten feet.
3. A single spray burst of between one and three seconds should be directed above the suspect's eyes, nose and mouth. Additional burst(s) may be used if the initial or subsequent burst proves ineffective.
4. Use of OC spray should be avoided, if possible, under conditions where it may affect innocent bystanders or contaminate a public facility.

E. Effects of OC and Officer Response

1. Within several seconds of being sprayed by OC, a suspect will normally display symptoms of temporary impairment of vision, have difficulty breathing, burning sensation in the throat, nausea, lung pain and/or impaired thought processes.
2. The effectiveness of OC spray varies among individuals. Therefore, all subjects shall be handcuffed as soon as possible after being sprayed. Officers should also be prepared to employ other force options consistent with agency policy to control the subject.
3. Immediately after spraying a subject, officers shall be alert to any indications that the individual requires medical care. This includes, but is not necessarily limited to, breathing difficulties, gagging, profuse sweating and loss of consciousness. Upon observing these or other medical problems or if the suspect requests medical assistance, the officer shall immediately summon emergency medical aid.
4. Suspects that have been sprayed shall be monitored continuously for indications of medical problems and shall not be left alone while in police custody.
5. Officers should provide assurance to suspects who have been sprayed that the effects are temporary and encourage them to relax.
6. Fresh air will normally begin reducing the effects of OC spray within 15 minutes of exposure. However, once the subject has been restrained, officers shall assist by rinsing and drying the exposed areas, when practical.
7. Assistance shall be offered to any individuals accidentally exposed to OC spray who feel the effects of the agent.

F. Reporting Procedures

1. **Accidental discharges as well as intentional uses of OC spray against an individual in an enforcement capacity shall be reported to the officer's immediate supervisor as soon as possible.**
 2. **A use of force report shall be completed following all discharges of OC spray except during testing, training, malfunction or accidental discharge.**
- G. Replacement**
1. **All OC spray devices shall be maintained in an operational and charged state by assigned personnel. Replacements for damaged, inoperable or empty devices are the responsibility of officers to whom they are issued.**
 2. **Replacements of OC spray canisters shall occur when the unit becomes less than half full, as determined by weighing the canister.**
 3. **Unexplained depletion of OC canisters shall require an investigation and written report by the officer's supervisor to the commanding officer.**

VII. ELECTRO-MUSCULAR DISRUPTION DEVICE

A. Electro-muscular Disruption Device

1. **An electro-muscular disruption device (EDD) is used to electrically disrupt muscular control and allow officers to quickly subdue a resisting subject without having to resort to the use of deadly force. The EDD is considered a less than lethal weapon.**
2. **There are precautions that must be observed as in the use of any weapon and it is our responsibility to monitor subject who have been controlled with the EDD for any medical problems.**
3. **The use of the EDD affords officers the opportunity of controlling individuals who are actively resisting without endangering themselves, the suspect, or the public.**
4. **It shall be the responsibility of the Chief of Police and Supervisors of officers issued the EDD to ensure proper supervision, managerial controls, and compliance with this order.**

B. Training and Qualification Procedures

1. **Only personnel, who have successfully completed an ADD training course and demonstrate the required proficiency in the use of the EDD, and Certified will be allowed to carry the EDD. All training and qualification for the EDD shall be conducted by certified instructors.**

2. **The Chief of Police or Supervisors shall be responsible for compiling and analyzing data from incidents involving the use of the EDD to identify training related needs and issues.**

3. **In order to maintain proficiency in the use of the EDD, all officers certified to carry the weapon shall receive mandatory training at least every two years.**

C. Carrying the EDD

1. **Certified officers shall carry the EDD on their duty belts. The EDD shall never be left unsecured. Only approved holsters will be utilized. The EDD shall always be carried on the side opposite of the duty handgun.**

2. **Personnel issued the EDD shall be responsible for the proper maintenance and care of the weapon. This shall include periodically checking battery life and expiration date of air cartridges, wiping away dirt and dust, and insuring the rubber stopper is secured on the data port.**

D. Authorized Use of the EDD

1. **The EDD may be utilized in situations when necessary to subdue a noncompliant subject when verbal direction has not been successful and the suspect is verbally and/or physically resisting the officers; or has signaled his intention to resist the officer's efforts to exercise control.**

2. **The EDD may be utilized to debilitate a subject who poses an immediate threat of serious bodily injury or death to himself/herself, the officer, or others.**

E. Prohibited Use

1. **Use of the EDD is strictly prohibited under the following circumstances:**

a. **When flammable gases or liquids are known to be in close proximity to the subject.**

b. **Where the suspect is at an elevated location and there exists risk of serious injury or death from a fall. This includes proximity to deep water or other similar locations.**

c. **On visibly pregnant females, children who appear to be under the age of 14 or less than 100 pounds, the visibly frail or elderly persons over 65 or less than 100 pounds, unless deadly force is otherwise justified and the EDD is used as an attempt to avoid the use of deadly force.**

d. **On handcuffed prisoners, without the expressed authority of a supervisor. Exigent circumstances must exist (such as to prevent the subject from injuring himself or others and other means of control are ineffective or unavailable).**

- e. **On a subject who is visibly confined to a wheelchair unless it is objectively clear to prevent serious injury to himself/herself and/or if deadly force is justified.**
 - f. **On a subject in control of and operating a vehicle.**
2. **No more than one officer should activate an EDD against an individual at a time.**

F. Electro-Muscular Disruption Device Deployment

1. **Prior to deploying the EDD, whenever reasonable and practical, verbal warnings shall be issued to the subject, to allow the subject the opportunity to comply with the officer's commands.**
2. **Prior to deploying the EDD, the deploying officer shall, when practical, announce the word "TASER" to alert others of the impending use of the weapon.**
3. **When activating an EDD, the officers should use it for one standard cycle and stop to evaluate the situation (a standard cycle is five seconds). If subsequent cycles are necessary, only the number and duration of cycles necessary to place the subject in custody will be used. Officers will be particularly alert for medical distress of the subject.**
4. **Officers should make every effort to avoid firing darts or directing the contact stun method at a subject's head, neck, front chest area or genitalia. Preferred targeting is the center mass of the subject's body.**
5. **The EDD direct contact/drive stun method may be utilized as an alternative deployment method. This method may be utilized when probe deployment is not necessary or practical and/or simple pain compliance is deemed reasonable and necessary to bring a subject under control.**

G. Post Deployment

1. **Immediate Restraint. The subject will be restrained immediately to prevent additional resistance or injury. The subject will not be restrained in a manner that impairs respiration. If other restraints are unavailable, the subject may be handcuffed in front using a belt or strap to secure the cuffs to the body.**
2. **Medical Monitoring. Emergency Medical Services shall be requested to respond to all instances where the EDD has been deployed. The requesting officer shall monitor the subject until EMS personnel have arrived. In situations where EDD use is a possibility, officers should consider requesting EMS before deployment.**

3. **Supervisor Response.** The on-duty supervisor will immediately respond to the scene of any EDD use. The supervisor will review the circumstances of the use and conduct a preliminary inquiry.
4. **Removal of Probes.** EDD probes shall be removed as soon as possible. EDD probes that are imbedded in a subject's skin (as opposed to just clothing) shall only be removed by medical personnel or police personnel who are trained in the removal of the probes. Police personnel shall not remove EDD probes that have struck a subject's head, throat, groin or any other sensitive area. EDD probes that have penetrated a person's skin shall be considered a biological hazard and should be handled with the appropriate care.
5. **All persons who have been subjected to an EDD activation should be monitored regularly while in police custody even if they received medical care. Anyone subject to EDD deployment showing any signs of physical distress shall be transported immediately to a medical facility.**

H. Reporting and Investigation

1. **A Use of Force Report shall be completed on all EDD deployment incidents. Personnel must clearly articulate the reasons for the initial use and all subsequent cycle(s) in the Use of Force Report.**
2. **The supervisor responding to the scene shall conduct an immediate preliminary investigation which should include:**
 - a. **Location and interview of witnesses (including other officers);**
 - b. **Photographs of subject and officer injuries;**
 - c. **Photographs of cartridges/darts;**
 - d. **Collection of EDD cartridges, darts/prongs, data downloads, car video, confetti ID tags; and copies of the device data download.**
3. **Photographs of the subject shall be taken, when practical, when a subject is injured or complains of being of injured as a result of the use of the EDD. Photographs should depict the subject after immediate deployment, after probe removal, and reflect the overall condition of the suspect, any injuries and the locations where the probes made contact. If there is no injury, photographs are discretionary.**
4. **The Chief of Police may request an outside investigation by the Sheriff's Department or Department of Public Safety when any of the following factors are involved:**
 - a. **A subject experiences death or serious injury;**
 - b. **A person experiences prolonged EDD activation;**
 - c. **The EDD appears to have been used in a punitive or abusive manner;**

- d. There appears to be a substantial deviation from training; and**
- e. A person in an at-risk category has been subjected to activation (e.g., young children; persons who are elderly/frail, pregnant women, and any other activation as determined by a supervisor).**

I. General Considerations

- 1. Officers should be aware that multiple activations and continuous cycling of an EDD appear to increase the risk of death or serious injury and should be avoided where practical.**
- 2. Officers must be aware of the limitations of the EDD and be prepared to transition to other force options as needed.**
- 3. Officers should be aware that there is a higher risk of sudden death in people under the influence of drugs and/or symptoms associated with excited delirium.**
- 4. Officers should also be aware that EDD cartridges have experienced firing problems in extremely cold weather.**

Presidio Police Department Policy #3: Vehicle Pursuit Policy

Adopted October 17, 2023

Subchapter A: General Pursuit Policies

I. Purpose

The Presidio Police Department understands that Officers are trained to drive and control police units at high speeds. However, in the interest of public safety, this policy is created so that Officers understand that they need to utilize the utmost caution and discretion when engaging in a pursuit.

II. Policy

It is the policy of this department that Officers shall pursue known wanted criminal offenders. However, good judgment and common sense shall be used in every vehicle pursuit engaged in by any Officer.

It is of the utmost importance that the Officer not endanger the public, himself, or other Officers. Officers shall never be indifferent to the safety of the public, and every endeavor should be made to keep hazards to a minimum.

This policy also applies when responding to calls for service.

III. Procedures

- A. When the operator of a pursued vehicle increases speed or drives in such a manner as to endanger the safety of others, the Officer shall immediately turn on his siren and emergency lights.
- B. The pursuing Officer shall establish communications with dispatch, relaying his call number, location, direction of travel, reason for the pursuit, and other details enabling other PPD officers and/or law enforcement in the area to assist with the pursuit.
 - 1. The Officer will attempt to provide a detailed description of the pursued vehicle and its number of occupants.
 - 2. The dispatcher will keep detailed notes of all information relayed to them by Department in pursuit.
- C. During pursuit, Officers shall maintain a safe distance between vehicles to lessen the possibility of collision in case the pursued vehicle suddenly stops.
- D. Deliberate physical contact between vehicles at any time will not be justified, except when in pursuit of an extremely dangerous felon, who if allowed to escape, creates a substantial risk to another person being killed or seriously injured.

- E. Because of the potential dangers involved, pursuing Officers will not pull alongside a fleeing vehicle in an attempt to pass, force the vehicle off the road, or force the vehicle into any obstacle.
- F. During a pursuit, no more than two law enforcement vehicles will be operated in close pursuit.
- G. Any unmarked vehicle involved in pursuit will relinquish close pursuit to a marked vehicle as soon as possible.
- H. If a violator should abandon his vehicle in favor of escaping on foot, the PPD Officer will notify dispatch of the location, check the violator's vehicle for other occupants who may have hidden, and remove the keys prior to further pursuit.
- I. Officers shall not engage in vehicle pursuits for the purpose of apprehending traffic violators. As soon as it is reasonably determined that a traffic violator who is or should be aware of police emergency lights and siren refuses to stop, then efforts to apprehend should immediately cease. At this point, other law enforcement agencies in the area should be notified of the presence of a traffic violator refusing to stop. If another agency makes a stop of the violator, reasonable travel to the location within reasonable time limits may be permitted in order to allow the Officer an opportunity to:
 - 1. cite the violator for the traffic offense; and
 - 2. execute proper affidavits and reports for the arrest and prosecution of the violator for Evading Arrest or Detention.

PART B. Initiation of Pursuit

I. Purpose:

It is the purpose of this policy to give PPD Officers guidelines as to when a pursuit can be initiated.

II. Policy:

It shall be the policy of the Presidio Police Department to pursue a driver and/ or occupant (s) of a vehicle when an Officer has prior knowledge that they pose a grave and serious threat to the public safety unless immediately apprehended.

III. Procedures:

- A. Officers will attempt to balance the gravity of the public threat posed by the person sought with that of the threat to public safety caused by the pursuit itself. When the threat of the pursuit itself is deemed a greater hazard to the public welfare than is the continued freedom of the person being sought, then the pursuit shall not be initiated, or if already begun, shall be terminated immediately.

- B. A pursuit may be initiated in a reasonable attempt to apprehend, and later be terminated as risks to the public welfare increasingly escalate. Whenever risks to the public welfare from pursuit seem to outweigh the necessity of an individual's capture, then the Officer shall immediately terminate the pursuit. Cessation of a vehicle pursuit means a return to normal driving, i.e. without activation of emergency equipment and with an observation of all traffic laws, disengage from the offender.
- C. Pursuit driving is one of the most dangerous tasks Officers are asked to perform. Death or permanent injury to Officers or citizens can result without warning. The seriousness of possible consequences of a pursuit requires that an Officer weigh many factors when deciding whether or not to pursue.
- D. Some of the specific questions Officers must ask themselves when deciding whether or not to pursue include:
 - 1. Does the seriousness of the crime warrant pursuit at unsafe speeds?
 - 2. What is the possibility of apprehension?
 - 3. Will the pursuit take place on residential streets, a business district, or a highway?
 - 4. What are the traffic conditions?
 - 5. What are the weather conditions?
 - 6. What is the condition of the police vehicle?
 - 7. Is the pursuing Officer alone, or does he have the assistance of another Officers or law enforcement agencies?
- E. If at all possible, it is recommended that an Officer try to avoid any pursuit that indicates danger to himself or to the public, and attempt to apprehend the vehicle pursued through radio contact to other PPD Officers or other law enforcement agencies in the area which are able to assist in the vehicle's apprehension.

PART C: Continuance or Discontinuance of Pursuits

I. Purpose:

It is the purpose of this policy to provide PPD Officers with guidelines to follow when it comes to making the decision to either continue or discontinue a pursuit.

II. Policy:

It is the policy of this agency that a pursuing Officer must at all times use the best judgment in evaluating the pursuit, continuously considering whether the pursuit should be continued. Never should the element of personal challenge to the Officer enter into the decision.

III. Procedure:

- A. Officers shall discontinue the pursuit when:
 - 1. The risk of exposing the Officer or the public to unnecessary danger is significant.
 - 2. The environmental conditions indicate the futility of continued pursuit.
 - 3. The offense is a misdemeanor and the identity of the violator is known.
 - 4. The Officer is directed to do so by the Chief, Sergeant, or another Officer with more Seniority.
 - 5. The pursuing Officer knows, or is almost certain, that the fleeing vehicle is operated by a juvenile, and the offense constitutes a misdemeanor or a felony that did not involve an actual or threatened attack (examples include unauthorized use of the vehicle, or no driver's license), and the hazardous factors involved are obviously greater than those with which a juvenile can cope.
- B. When the pursued vehicle leaves the roadway, containment rather than pursuit should be initiated, unless a felony involving death or serious bodily injury has occurred.
- C. The department expects the pursuit to be terminated whenever the risks to the public and to the Officer clearly outweigh the present danger to the public if the violator is not apprehended.

PART D: Pursuits Originated by Other Jurisdictions

I. Purpose:

It is the purpose of this policy to provide PPD Officers with guidelines as far as their duties when a pursuit originates in another jurisdiction and is initiated by that jurisdiction's law enforcement agency.

II. Policy:

It shall be the policy of this agency that Officers of the Presidio Police Department shall not engage in pursuit of vehicles already being pursued by other law enforcement agencies.

III. Procedure:

- A. When a pursuing agency is engaged in pursuit within the City of Presidio, an Officer may follow the general direction of the pursuit, in order to be of assistance should the pursuit be terminated within the city. Officers may follow the pursuit in a safe and reasonable manner, allowing safe distance from the fleeing vehicle/violator. If speed and other traffic laws are violated, then the Officer must use emergency lights and siren.

- B. Officers will not leave the city limits to follow a pursuit. A single exception exists: when the pursuing agency has been the target of deadly force emanating from the pursued vehicle. In this situation, an Officer may follow the pursuit at a safe and discreet distance, in order to be of assistance should the pursuit terminate. As soon as another unit arrives from the local jurisdiction where the pursuit is now engaged, then the Officer will cease following and return to the city limits.
- C. Every possible method (by pursuing or following) will be employed to keep a vehicle within sight, when such vehicle is believed to be occupied by a hostage or a victim of kidnapping.
- D. Officers operating department vehicles with passenger(s) other than commissioned law enforcement officers shall not become engaged in pursuit situations or respond to emergency calls without first dropping off their passenger(s) at a safe place and notifying dispatch. The Officer shall be responsible for having the dropped rider picked up soon as possible.

PART E: Use of Firearms During Pursuit

I. Purpose:

It is the purpose of this policy to give PPD Officers guidance as to when NOT to use firearms during a pursuit.

II. Policy:

Deadly force will not be directed toward a moving vehicle or the occupants thereof, unless deemed immediately necessary under the same criteria indicated in the use of Deadly Force section of these policies.

III. Procedure:

Experience reveals that shooting at a fleeing vehicle is generally ineffective and that the hazards are great. A decision to fire on a moving vehicle must be based on the most compelling circumstances. Officers shall be guided by the following:

- A. An Officer, under most circumstances, will not fire upon a pursued vehicle.
- B. If fired upon, an Officer may return fire only when appropriate.
- C. Firing to disable a vehicle will be the last resort, and done only when failure to do so will result in a high degree of probability of serious bodily injury or death to innocent persons.
- D. An Officer shall take into account the location, amount of pedestrians and traffic, other hazards, and any conditions present before firing at a fleeing vehicle.

**Presidio Police Department Policy #4:
Radio/ Communication/Cellphone Policy & Procedures
Adopted October 17,2023**

The Presidio Police Department will coordinate the delivery of police services, including requests from citizens and other PPD personnel, utilizing radio and telephone equipment. Law enforcement communication equipment are to be used for official business only. The following are guidelines that all agency personnel should follow:

- A. All calls from dispatch shall be considered official orders, being subject to review only after the call has been responded to and handled. The exception would be if the call was outside the jurisdiction of the Presidio Police Department, then the Officer would advise dispatch which agency to contact. The Chief and/ or Sergeant may countermand a dispatched call for justifiable reasons.
- B. An Officer will respond immediately to any dispatched call for service, regardless of the hour or impending shift change. The exception would be if an Officer just coming on duty volunteers to take the call, so the Officer going off duty can do so.
- C. An Officer taking a call, or initiating a call, will give his call number, location, event/call type, and any pertinent information. This includes advising Dispatch when he is on scene, and when he is clear from the scene, and what action was taken.
- D. The Officer and dispatch may use the “Ten Code”, at their option. However, in the event of an emergency or if communicating with another agency, plain speech/language may be used to avoid any confusion. The Officer shall use the standardized “Law Enforcement Phonetic Alphabet Code” for letters of the alphabet.
- E. All references to time shall be in military (24) hour time.
- F. All radio communication shall be short and relevant.
- G. A business-like/professional voice shall be use when transmitting on the radio. Jokes, wisecracks, profanities, or voice inflections that reflect or indicate irritation, disrespect, or sarcasm shall not be used.
- H. When feasible, lengthy messages between an Officer and Dispatch should be done by telephone.
- I. Radio transmissions should not be acknowledged unless they are completely understood.
- J. The dispatcher will be requested to do “status checks” of the Officer while the Officer is involved with a call. The “status checks” will be done approximately

every 10 to 15 minutes, unless the Officer advises dispatch that the “status checks” aren’t necessary.

- K. If an Officer is patrolling after dark, dispatch will be asked to do a “status check” on the Officer approximately once per hour.
- L. Should an Officer fail to respond to a “status check”, Dispatch will alert another PPD Officer to begin heading toward the non-responding Officer’s last known location.
- M. Should an Officer have a grievance or a complaint concerning dispatch, or an individual dispatcher, then the Officer shall make his grievance or complaint in writing to the Chief, who shall forward the grievance or complaint to the appropriate supervisor (Sheriff or Chief of Police) of the dispatching agency. Reciprocal procedures should be followed if Dispatch has a grievance concerning an individual PPD Officer. If a citizen has a complaint regarding how a PPD call was dispatched by another agency, then the citizen will be referred to the appropriate dispatching agency. A written log shall be kept of all PPD Officer and citizen complaints related to dispatch for transparency and training purposes.
- N. An Officer may not drive while talking or texting on his cellphone. The only exception would be if the cellphone has the ability to be used “hands-free”, and such ability is enabled. Even when stopped on the side of the road, to use his cellphone, an Officer shouldn’t be “looking down” at his cellphone, but should instead be staying aware of his or her surroundings. An Officer may not use his/her cellphone while in the middle of law enforcement activity (examples: traffic stop, call for service, stationary radar, surveillance) unless it is directly related to said activity.
- O. An Officer shall not utilize his or her department cell phone for personal reasons, including but not limited to personal calls, business, photography, texting, or email. The Chief may inspect any Officer’s cell phones in order to ensure that they are being utilized for law enforcement use only.

**Presidio Police Department Policy #5:
Professional Conduct Policy
Adopted October 17, 2023**

I. Basic Tenets

PPD officers shall be dedicated to the highest ideals of honor and integrity to maintain the respect and confidence of their municipal officials and officers, the public, and their fellow law enforcement officers. In addition to adhering to the Law Enforcement Code of Ethics contained herein, all PPD Officers shall lead their communities by example, including but not limited to the following:

- A. Officers should conduct themselves in a manner that maintains public confidence in their profession, their department, and in their performance of the public trust.
- B. Officers should conduct their official and personal affairs in such manner to give the clear impression they cannot be improperly influenced in the performance of their official duties.

II. PPD officers shall adhere to the highest standards in application and maintenance of employment.

- A. At all times, officers shall completely and accurately represent their credentials, including prior employment, education, certifications and personal history.
- B. Officers seeking a Chief's position should demonstrate professional respect for incumbents and those seeking the same position. Professional respect does not preclude honest differences of opinion. It does preclude attacking a person's motives and integrity in order to be appointed to a position. Officers should not seek employment in a community having an incumbent chief who has not resigned, retired, or been officially notified of termination.
- C. Any officer who officially accept an appointment as Chief of Police should not fail to report to that position. This does not preclude the possibility of a member considering several offers or seeking several positions at the same time; but, once a bona fide offer has been accepted, that commitment should be honored.
- D. Officers should commit to at least three years of service in any position barring any unforeseen actions by the governing body or severe personal problems. This minimum period permits time for implementation of programs and the opportunity for their effectiveness to be realized.

III. The primary function of PPD is to enforce the law fairly and impartially and to serve the best interests of the community and the law enforcement profession.

- A. The officers of the PPD are committed to fair and impartial enforcement of laws and ordinances.

- B. The officers of PPD are dedicated to community protection and responsiveness, to transparency, accountability, increased productivity, and department improvement.
- C. The Chief and all officers of PPD shall continually strive to improve their personal knowledge and abilities through training, independent study, courses, meetings, and seminars.
- D. The Chief should stand for the proposition that all supervision and management should be fair and equitable for all levels of employees, and that all statutes and personnel regulations should be honored. All actions relating to selection, retention, promotion, and transfers should be based on ability and equal opportunity.
- E. All policies and procedures regulating conduct of officers should be in writing and available to all personnel. This includes disciplinary, grievance policies, and operating procedures of the Department. Officers shall receive and sign for a copy of same upon being selected for employment.
- F. Officers of PPD shall provide friendly and courteous service, and strive to improve communications with all residents and leaders of the community. Officers of PPD shall at all times seek improvement in the quality and image of law enforcement as a public service.
- G. Officers of PPD recognize that they should refrain from all partisan political activities which would impair their ability to serve all segments of their community. This standard is not to be construed to prevent any member from voting, running for office, or expressing his/her personal opinion where appropriate.
- H. The officers of PPD recognize that their position requires them to provide leadership by example, to include adherence to state and federal law, as well as all city and department written directives, as applicable.
- I. The officers of PPD represent that their function is to administer the law as written and to enforce city ordinances as passed by the Presidio City Council. All actions directed toward change in those laws or policies, including lobbying for said changes, shall be conducted in an open and constructive manner, with the knowledge of their employers.
- J. The officers of the PPD believe that professional standards include the regulation of personal and financial conduct.
 - 1. Officers shall not seek favor or personal gain through misuse of confidential information or their public time or facilities.
 - 2. Officers shall not directly or indirectly solicit any gift, or accept or receive any gift of greater than \$50.00, whether in the form of money, services, loan, travel, entertainment, hospitality, promise, or in any other form, under circumstances in which it could reasonably be inferred the gift was intended

to influence them in the performance of their duties, or was intended as a reward for any official action on their part.

3. Officers shall not invest or hold any investment, directly or indirectly in any business, commercial, or other private transaction with any business entity or individual which creates a conflict of interest with their official duties. Any Officer or Chief, upon realizing a conflict of interest in police or city business under Chapter 171 of the Texas Local Government Code, shall immediately file a Conflict of Interest Affidavit disclosing the conflict, and shall thereafter not engage in any law enforcement activities related to the conflicted business entity or individual, including but not limited to not participating in any investigation of the conflicted business entity or individual, nor engaging in any official discussions regarding the conflicted business entity or individual. The conflicted officer shall in no way attempt to influence any investigation related to the conflicted business entity or individual, either directly or indirectly.
- K. Officers shall not disclose confidential information acquired by them in the course of their official duties to others, or use such confidential information to further the personal interest of themselves or others.
- L. Officers shall not engage in, solicit, negotiate for, or promise to accept private employment or render services for private interests or conduct a private business when such employment, service, or business creates a conflict with or impairs the proper discharge of their official duties. An officer wishing to accept outside employment must get the written approval in advance by the Chief.
- M. Officers shall not endorse commercial products, while acting in their official capacity, by agreeing to the use of their picture, endorsement or quotation in paid advertisements, whether for compensation or not. Officers further should not permit any endorsement of commercial products by employees of their department acting in their official capacity, whether for compensation or not.

CODE OF ETHICS INVESTIGATIONS

- I. Any alleged violation of the Law Enforcement Code of Ethics or this Professional Conduct Policy shall be promptly investigated by the Chief. Any allegation against the Chief shall be promptly investigated by the City Administrator who may, if appropriate and warranted, seek the assistance of the Texas Rangers. A determination regarding any ethics investigation shall be made in writing and submitted to the Officer who was investigated, with a copy to be placed in the Officer's personnel file. Any disciplinary action shall be carried out in accordance with PPD procedures and the City of Presidio Employee Manual.**
- II. The intent of the adoption of the Law Enforcement Code of Ethics and the Presidio Police Department Professional Conduct Policy is to ensure the highest ethical standards apply to all PPD personnel.**

**Presidio Police Department Policy #6:
Family Violence, Protective Orders, and Civil Standby
Adopted October 17, 2023**

I. Communications

- A. Communications dispatch personnel should get as much of the following information as possible, which shall be communicated to the responding officer:
 - 1. The nature of the incident and whether it is in progress;
 - 2. The address, including apartment number or business name;
 - 3. Call-back number for the complainant;
 - 4. Whether weapons are involved;
 - 5. Whether an ambulance is needed;
 - 6. Suspect's name and whether or not the suspect is present;
 - 7. Whether the suspect is under the influence of drugs or alcohol;
 - 8. If not present, the suspect's description, direction of flight and mode of travel;
 - 9. Whether children are at the scene; and
 - 10. Complaint history at that location.
- B. If the caller is the victim, communications personnel should attempt to keep the caller on the phone as long as possible, telling them when they can expect the police to arrive and relaying ongoing information to the responding officers.
- C. If the caller is a witness to family violence in progress, dispatch should keep the caller on the phone and relay ongoing information to the responding Officer(s).
- D. As soon as possible, dispatch should try to determine if the parties have been involved in any previous domestic violence incidents, or if there is a Protective Order (PO) involving the parties in effect. Any relevant information should be relayed to the responding Officer(s).
- E. Dispatch shall not cancel a domestic abuse call for service based solely on a follow-up call from the residence requesting such cancellation. Responding officer(s) shall be advised of the complainant's request, but shall continue to respond.

II. Response

- A. Officers responding to incidents involving family violence shall adhere to the procedures defined in Texas Code of Criminal Procedure, Article 14.03(a)(4) Authority of Peace Officers (to make arrest without warrant in family violence incidents).
- B. An arrest is expected if the Officer has probable cause to believe that an assault has occurred and the victim and offender are family or household members and any of the following circumstances exist:

1. Visible signs of injury; or
2. The officer's belief that violence will continue.

III. Reporting

- A. If the officer discovers that a crime has occurred and that the perpetrator and the victim fall within the definition of “family” as set out in Texas Family Code §71.001, then the report shall allege the proper criminal charge and shall be followed by the phrase "Family Violence" in parenthesis.
- B. An Officer investigating family violence shall provide the victim with a copy of the Victim’s Bill of Rights, the appropriate Victim Assistant contact information, and a referral to the Family Crisis Center of the Big Bend.
- C. An Officer who responds to an incident involving family violence or who is dispatched to a disturbance that may involve family violence shall make a written report. The written report shall include:
 1. Names of the suspect and complainant;
 2. Date, time, and location of the incident;
 3. Any visible or reported injuries; and
 4. A description of the incident and a statement of its disposition.
- D. In addition to the report required in C. above, an Officer who investigates a family violence incident or who responds to a disturbance call that may involve family violence shall make a report to Child Protective Services and a referral to the Children’s Advocacy Center of the Big Bend if children are witness to the violence or reside in a hostile environment.
- E. In the event that an arrest is not made, a written report will be prepared documenting the circumstances and Officer’s decision.

IV. Protective Order Procedures

- A. If family violence has occurred and is likely to occur in the future, then the responding officer shall request a Magistrate’s Order of Emergency Protection on behalf of the victim, while the Defendant is in custody.
- B. The responding officer shall notify the victim of the right to seek a permanent Protective Order, and shall provide the victim with contact information for the Victim Assistance Coordinator, the Family Crisis Center of the Big Bend, the Presidio County Attorney’s Office, and Rio Grande Legal Aid.
- C. Within twenty-four hours, the responding officer shall notify the Victim Assistance Coordinator and the Presidio County Attorney’s Office of the existence of a Magistrate’s Order of Emergency Protection.

- D. Safekeeping and dissemination of Family Violence Protective Orders and Magistrates Order of Emergency Protection (MOEPS) shall be the primary responsibility of the Chief or the Victim Assistance Coordinator.
- E. Upon issuance, the existence of the Protective Order (Magistrate's, Ex Parte, or Permanent) shall promptly be entered into TCIC/NCIC by the Presidio Police Department.

V. Procedures for Officers responding to Incidents of Family Violence where there is a Protective Order

- A. Officers who respond to calls for service and are informed that any person involved is subject to a protective order shall, without leaving the scene, attempt to verify the information and investigate to discover whether or not an offense has taken place. Verification can be made by:
 - 1. Examining a certified copy at the scene, if available; and/or
 - 2. Contacting the Presidio Police Department or other appropriate agency and obtaining the information from the copy on file.
- B. If an officer is presented with a certified copy of an order that has not yet been processed, he shall examine the order with the assistance of a supervisor to determine exactly what provisions are criminally enforceable, then process the order as appropriate. (Texas Code of Criminal Procedure, Article 5.05. (d). Reports and Records, [acceptance of certified copy and verifying validity]). The Officer/supervisor shall consider the following guidelines in making that determination:
 - 1. The spelling of the names of the applicant and respondent should be checked against the identities of the parties alleged to have been involved.
 - 2. The order may prohibit the Respondent from engaging in numerous activities, however, the only actions that constitute violations that are criminally enforceable are those described in Texas Penal Code, Section 25.07, Violation of Protective Order or Magistrate's Order. The order must state that one or more of these acts is prohibited (please see TPC §25.07 for full text):
 - a. Commits family violence;
 - b. engages in prohibited communication with the victim or other protected household member;
 - c. violates distance requirement;
 - d. possesses a firearm;
 - e. interferes with a protected pet or service animal; or
 - f. tampers or attempts to tamper with a global positioning monitoring system.
 - 3. If the order prohibits the Respondent from going to or near the residence, place of employment, business, child care facility, or school of a person protected by the order, the officer/supervisor should check to make sure that

the order does not contain a provision allowing such approach for child visitation reasons.

4. The order must contain the four warnings described in the Texas Family Code, Section 85.026(a). (Warning on Protective Order) in the same or similar language.
 5. Unless a longer time is specified, the Officer/supervisor shall check to see that the order has not expired according to its terms, and that the order's date of issuance is not more than two (2) years prior to the date of the most recent reported incident, as provided in the Texas Family Code, Section 85.025.
- C. If a Defendant/Respondent has violated one of the six (6) criminal provisions in a Protective Order, a criminal offense has been committed and action shall be taken by the responding officer as follows:
1. Offense in the officer's presence: An arrest shall be made and a complete report shall be written including the taking of witness statements when appropriate.
 2. Offense not in officer's presence: Refer to Texas Code of Criminal Procedure, Article 14.03 (a)(3) Authority of peace officers (to make arrest without warrant when probable cause exists to believe that a protective order has been violated.)
 - a. A complete report shall be written including the taking of witness statements when appropriate.
 - b. An attempt to locate shall be broadcast and enforcement action shall be taken if the Respondent is located within a reasonable amount of time. A "reasonable amount of time" will vary according to the circumstances and will rely on normal standards of probable cause and the ability to procure a warrant.
- D. An officer shall consult with his/her supervisor in any case in which there is some doubt as to whether an arrest is appropriate and shall, as soon as practical, inform a supervisor when an arrest has been made for Violation of a Protective Order.

VI. Types of Protective Orders

- A. There are four (4) types of Protective Orders that are criminally enforceable:
1. PROTECTIVE ORDER - Texas Family Code, Sections 85.021 and 85.022. A Protective Order is valid for up to 2 years, unless the Order specifies otherwise.
 2. AGREED ORDER - Texas Family Code, Section 85.005. The Court may approve a Protective Order as agreed by the parties, so long as it is in the best interest of the applicant, the family or household, or a member of the family or household.

3. TEMPORARY EX PARTE PROTECTIVE ORDER – Texas Family Code. Chapter 83. A Temporary Ex Parte Order is an immediate order that may be granted without notice to the Respondent. It is valid for up to 20 days, with the possibility of additional 20-day extensions. **A Temporary Ex Parte Order is enforceable only if it has been served on the Respondent.**
 4. MAGISTRATE'S ORDER FOR EMERGENCY PROTECTION (MOEP) - Texas Code of Criminal Procedure, Chapter 17, Article 17.292.
 - a. An application for a "Magistrate's Order for Emergency Protection" shall be made on an approved application form.
 - b. Officers shall make victims, or the guardian(s) of victims, aware that applications for this type of order exist when an arrest involving family violence occurs, and there is reason to believe that further violence will occur upon the release of the defendant on bond
 - c. Officers shall also make the victims, or the guardian(s) of victims, aware that once the "Magistrate's Order for Emergency Protection" has been issued, it cannot be rescinded for any reason.
 - d. A MOEP is valid for up to SIXTY (60) days, unless otherwise specified.
- B. In the event the victim, or the guardian(s) of the victim, decline to personally apply for the "Magistrate's Order for Emergency Protection" the Officer, after having made an arrest involving family violence and having reason to believe that the violence will continue upon his release on bond, may apply for the Magistrate's Protective Order. The officer must have personal knowledge of recent violence involving the same family or household or verbal threats of assault made by the defendant to the victim, or sufficient documentation to support such a reasonable belief. In addition, the Defendant must be in custody.
- C. When an officer applies for a "Magistrate's Order for Emergency Protection", he/she should appear and testify in support of the MOEP. If unable to testify personally, the Officer shall submit an affidavit of fact along with all documentation supporting his/her belief that family violence will continue upon the defendant's release from jail, and attach it to the MOEP Application. The Probable Cause for the initial arrest will suffice as documentation if it contains a statement of the victim's desire for an Emergency Protective Order or if it contains facts sufficient to support the Officer's Application for a MOEP. The victim's name, address and phone number must be included in the probable cause. A copy of the Incident/Arrest Report must also be attached.
- D. It must be remembered that the issuance of this type of order has significant ramifications for all persons involved. It will not be requested without sufficient cause.
- E. The Officer will review the case and attached documentation to ensure that all available information concerning the Defendant, the Victim, and call history

involving the family is attached. He will then contact the Municipal Court or the Justice Court to inform the judge that a request for a "Magistrate's Order for Emergency Protection" has been filed and to coordinate consideration of the Application.

- F. Upon the issuance of a "Magistrate's Order for Emergency Protection" it is the responsibility of the Officer to disseminate the Order that has been issued to the appropriate County or City Attorney and other necessary parties, to report it to the Chief, and to enter the information promptly in TCIC/NCIC.

VII. Family violence incidents involving Department officers/employees

- A. Whenever dispatch receives a call about an incident of family violence involving an officer/employee of the department (victim or suspect), communications will immediately notify the Chief of Police. The Chief of Police or Sergeant shall immediately respond to the scene to handle the initial investigation.
- B. If PPD does not receive prior notification by dispatch, then any Officer responding to an incident of family violence involving a current officer/employee of the department (victim or suspect) shall immediately notify the Chief of Police. The Chief of Police or the Sergeant shall immediately respond to the scene to handle the initial investigation.
- C. If the officer/employee is a victim of family violence, the incident will be investigated and handled in accordance with state law and this Family Violence Policy. Officers are reminded that investigative information must be kept confidential.
- D. If the officer/employee is a suspect in the incident:
 - 1. The responding PPD Officer will secure the scene and provide emergency medical aid to the victim, as appropriate;
 - 2. The responding Officer will take control of the scene;
 - 3. If the officer/employee who is a suspect is still on the scene, the responding Officer(s) will take appropriate action to prevent any violence and to safe guard all parties. This includes the arrest of the officer/employee if necessary. Otherwise, the officer/employee will be detained by the responding Officer pending the arrival of the Chief of Police or Sergeant;
 - 4. The Chief will assume responsibility for the initial investigation. This includes obtaining statements from any witnesses and the victim(s) at the scene.
 - 5. The Chief of Police or Sergeant will inform the officer/employee that a criminal investigation is being conducted, will read the employee his *Miranda* rights and, if the employee waives those rights, take a statement from the officer/employee.

6. After the initial investigation, if probable cause exists to make an arrest in accordance with the mandates of state law and this policy, an arrest will be made by the Chief of Police or Sergeant.
 7. All evidence, reports and photographs generated as part of the investigation will be secured consistent with standard operating procedures.
 8. Once the initial investigation is complete, the investigation will be referred to the Texas Rangers in order that an impartial third-party may review the initial investigation, complete the investigation, and submit the case to the appropriate prosecutor for review.
- D. Any employee that is the subject of an active criminal investigation of family violence will immediately be placed on administrative leave with pay, pending the completion of the investigation by the Texas Rangers. All department-issued equipment will be secured in the Chief's Office during the leave period. This includes: all department issued firearms, weapons, badges and identification.
- E. Once the criminal investigation is completed by the Texas Rangers, it will be reviewed by the Chief, who will make a determination regarding the employment status of the officer/employee, in accordance with PPD policies and the City of Presidio Employee Handbook.
- F. Family violence incidents involving employees as suspects or victims that occur outside of jurisdiction shall be handled as follows:
1. Any department officer/employee, upon learning of a family violence incident involving any employee of the PPD occurring outside the jurisdiction, either as the suspect or victim, shall immediately notify the Chief of Police.
 2. Upon notification, the Chief shall interface with the arresting agency in the sister jurisdiction and keep apprised of the criminal investigation.
 3. Any officer/employee that is the subject of an active criminal investigation of family violence in another jurisdiction will immediately be placed on administrative leave with pay, pending the completion of the investigation in that jurisdiction. All department-issued equipment will be secured in the Chief's Office during the leave period. This includes: all department issued firearms, weapons, badges and identification.
 4. Once the criminal investigation in that jurisdiction is completed, it will be reviewed by the Chief, who will make a determination regarding the employment status of the officer/employee, in accordance with PPD policies and the City of Presidio Employee Handbook.
- G. Service of Protective Orders on PPD officer/employee
1. Whenever the Department is asked to serve a protective order in which a Department officer/employee is a named defendant, the Chief of Police or designee shall be notified prior to service. The Chief of Police shall review the protective order and will meet with the employee to effect service of the Protective Order.

2. Based upon his review of the protective order and other related information, the Chief of Police will make a determination whether immediate administrative leave with pay is recommended (for example, pending final hearing on a Protective Order), or whether disciplinary action is warranted, up to and including termination.
3. An officer/employee who has been served with a protective order, through some means other than by PPD, must immediately notify the Chief of Police about the order. The Chief of Police will investigate the matter and make a determination regarding the employment status of the officer/employee, in accordance with PPD policies and the City of Presidio Employee Handbook.

VIII. Civil Stand-By

- A. Civil Stand-By is a situation where a police officer stands by to keep the peace in a situation involving a civil dispute.
- B. A Civil Stand-By may be requested by a party to the civil dispute or directed by court order.
- C. Unless specifically addressed or awarded in an enforceable Court Order, the PPD Officer will not take sides on any issue.
- D. In all Civil Stand-By situations, the role of the PPD Officer in a civil standby is only to keep the peace, not to address unresolved civil issues between the parties. PPD Officer(s) shall advise the parties to call their attorneys and/or go back to court to resolve any disputed civil issues.

Presidio Police Department Policy #7: Missing Persons Adopted October 17, 2023

I. Purpose

The purpose of this policy is to establish responsibilities and guidelines for the investigation of reported missing persons (adults and juveniles).

II. Policy

It is the policy of the PPD to treat all reports of missing persons with full consideration and attention by carefully recording and investigating all circumstances surrounding the disappearance, and to exercise particular care in instances involving missing children and those persons who may be mentally or physically impaired, or others who are insufficiently prepared to care for themselves.

III. Definitions

- A. **Child:** a person under 18 years of age.
- B. **Missing Person:** a person 18 years of age or older whose disappearance is possible not voluntary.
- C. **Missing Child:** a child whose whereabouts are unknown to the child's legal custodian, the circumstances of whose absence indicate that:
 - 1. The child did not voluntarily leave the care and control of the custodian, and the taking of the child was not authorized by law; or
 - 2. the child voluntarily left the care and control of the legal custodian without the custodian's consent and without intent to return; or
 - 3. the child was taken or retained in violation of the terms of a court order for possession of or access to the child.
- D. **Missing Child or Missing Person:** Also includes a person of any age which is missing and:
 - 1. is under proven physical or mental disability or is senile, and because of one or more of these conditions is subject to immediate danger or is a danger to others;
 - 2. is in the company of another person or is in a situation the circumstances of which indicate that the missing child's or missing person's safety is in doubt; or
 - 3. is emancipated as defined by the laws of this state.
- E. **Missing Child or Missing Person Report:** "Missing Child or Missing Person Report" or "Report" means information that is:
 - 1. given to a law enforcement agency on a form used for sending information to a national crime information center; and

2. about a missing child or missing person whose whereabouts are unknown to the reporter and who is alleged in the form by the reporter to be missing.
- F. Legal Custodian of a Child:
1. A parent of a child if no managing conservator, or guardian of the person of the child has been appointed;
 2. the managing conservator of a child or a guardian of a child if a managing conservator or guardian has been appointed for the child;
 3. a possessory conservator of a child, if the child is absent from the possessory conservator of the child at a time when the possessory conservator is entitled to possession of the child and the child is not believed to be with the managing conservator;
 4. a joint managing conservator of a child if the parents share joint custody; or
 5. any other person who has assumed temporary care and control of a child if at the time of disappearance, the child was not living with his/her parent, guardian, managing conservator, possessory conservator, or joint managing conservator.
- G. Clearinghouse: The Missing Children and Missing Persons Information Clearinghouse as established by the Texas Department of Public Safety.
- H. Alzheimer’s Safe Return Program: A nationwide identification, support, and registration program to reunite persons with Alzheimer’s with their family.
- I. Texas Amber Alert: a statewide early warning system to aid in the safe return of abducted children.
- J. Texas Silver Alert: A statewide early warning system to aid in the safe return of Sergeant citizens with mental impairment.
- K. Missing-Critical: An individual may be considered “missing-critical” who meets the following criteria:
1. May be the subject of foul play;
 2. Because of age, may be unable to properly safeguard of care for himself/herself;
 3. Suffers from diminished mental capacity or medical conditions that are potentially life-threatening if left untreated/unattended;
 4. Is a patient of a mental institution or is considered potentially dangerous to himself or others;
 5. Has demonstrated the potential for suicide;
 6. May have been involved in a boating, swimming, or other sporting accident or natural disaster; or
 7. Is a “High-Risk Missing Person” who, as defined in the Texas Education Code for purposes of submitting samples to the Missing Person DNA Database, is a person who is missing:
 - a. as a result of an abduction by a stranger; or

- b. under suspicious circumstances; or
- c. for more than thirty (30) days, or less than thirty (30) days at the discretion of the investigating agency, if there is reason to believe that the person is in danger or deceased.

IV. Procedures

A. REPORTING/CLASSIFICATION

1. There is not a waiting period for reporting a missing person. Officers shall prepare a report unless there is immediate evidence that the person's disappearance is voluntary.
2. Reports of juveniles who have voluntarily left home (i.e., runaways) should be classified as such only after thorough investigation.
3. A person may be declared "missing" when their whereabouts is unknown and unexplainable for a period of time that is regarded by knowledgeable parties as highly unusual or suspicious in consideration of subject's behavior patterns, plans, or routine. Based on the outcome of initial inquiries by the responding officer, a decision should be made concerning the potential danger posed to the missing person and the urgency of police response.
4. The initial report taken must gather as much pertinent information as possible in order to properly classify a missing person report and initiate a proper response. This includes the following information:
 - a. Name, age, and physical description of the subject and relationship of the reporting party to the missing person.
 - b. Time and places of last known location and the identity of anyone accompanying the subject.
 - c. Whether the subject has been missing on prior occasions and if this disappearance departs from established behavior patterns, habits, or plans.
 - d. Whether the individual has recently been involved in domestic incidents, suffered emotional trauma or life crisis, demonstrated unusual, uncharacteristic, or bizarre behavior, is dependent on drugs or alcohol, or has a history of mental illness.
 - e. The current physical condition of the subject and whether the person is currently on prescription medication, or suffers from any particular disease or defect.
 - f. The extent of any search by family members or friends for the subject.
5. If the missing person is a child, an inquiry should also determine:
 - a. if the child may be with any adult who may cause harm to the child;
 - b. if the child may have been the subject of a parental abduction;
 - c. if the child has previously run away, has threatened to do so, or has a history of explainable or unexplainable absences for extended periods of time.

B. STATUTORY AND POLICY REQUIREMENTS

1. Article 63 of the Texas Code of Criminal Procedure mandates certain actions by the responding agency in connection with missing persons.
2. At the time that a report is made for a missing adult or child, the officer taking the report shall give a medical and dental records release form to the parent, spouse, adult child, or legal guardian who is making the report.
3. The officer shall endorse this form with a notation that a missing child or missing adult report has been completed. The Complaint Control Number should be placed at the top of this form.
4. The release must be signed by the missing person's spouse, adult child who is reasonably available, parent, or legal guardian.
5. The medical and dental records release shall be made a part of the permanent report. The original records release will be submitted to the Central Records Center with the original Offense Report, but must then be forwarded to the investigator.
6. A supervisor shall be verbally notified immediately upon classification of a report designated as "missing-critical". The supervisor shall then notify Investigative Services supervisors and the Public Information Officer.
7. A supervisor shall initiate an immediate search for a person designated as "missing-critical".
8. The supervisor should determine if additional resources (CID, Emergency Management, K-9, etc.) are needed for an immediate search.
9. A supervisor shall notify a Division Commander and CRC Dispatch supervisor of any request to activate the CODE RED alert system if in his opinion the alert system would be beneficial in locating the missing person or child.

C. PRELIMINARY INVESTIGATION

1. The preliminary investigation is intended to gather additional information and to take steps that will aid in the search for and locating a missing person. This includes gathering the following types of information and materials:
 - a. Complete description of the subject and a current photograph.
 - b. Details of any physical or emotional problems.
 - c. Identity of the last person(s) to have been in the company of, or have seen, the subject, in addition to friends, relatives, coworkers, or associates who were or may have been in contact with the subject prior to disappearance.
 - d. Plans, habits, routines, or personal interests of the subject, including places frequented or locations of particular personal significance.
 - e. Indications of missing personal belongings, particularly money or other valuables.
 - f. Any evidence or suggestion of foul play.
 - g. In the case of a missing child, officers shall be particularly cognizant of information that may suggest the potential for parental abduction or the possibility of a stranger abduction, as well as:
2. The presence of behavioral problems;

3. Past instances of running away. If the child has been reported missing 4 or more times in the past 24 months; or the child has been reported missing 2 or more times in the last 24 months and the child is in a Department of Family and Protective Services foster home; the officer shall designate the child as “Endangered” and provide relevant evidence in the prior incidents;
4. Signs of an abusive home environment or dysfunctional family situation;
5. Whether the child is believed to be with adults who may pose a danger; and
6. The name and location of the school attended by the child and any persons who may be responsible for private transportation to and from the location.
 - a. If appropriate, officers should gain permission to search the missing child’s home and/or school locker.
 - b. Upon verification of a missing person, after the Offense Report is prepared, appropriate entries shall be made in NCIC, National Center for Missing and Exploited Children, and TCIC. This shall be accomplished by submission of a Central Records request form, with Missing Persons Clearinghouse Report Form attached, to Records personnel immediately after necessary and appropriate information is obtained.
 - c. If the missing person is reported to be suffering from chronic dementia, including Alzheimer’s dementia, officers shall contact the Alzheimer’s Association Safe Return Crisis Number with all appropriate information. This shall be accomplished by submission of a Central Records request form. The toll free hotline number is 1-888-572-8566.
 - d. Any person under the age of 21 who is reported as missing shall be immediately entered into NCIC/TCIC and the Texas Missing Persons Clearinghouse.
 - e. In case of a suspected parental abduction, a copy of the custody order stating that the reporting parent has custody must be received by the officer and forwarded to the Missing Persons Clearinghouse.
 - f. Upon receiving a report of an attempted child abduction, the officer shall as soon as practical, but not later than eight hours after receiving the report, provide any relevant information regarding the attempted child abduction to the Missing Persons Clearinghouse.

D. FOLLOW-UP INVESTIGATION

1. Once an investigator or investigative supervisor is aware of a missing person, contact should be made with the shift supervisor to determine any additional information.
2. The assigned investigator should obtain the original medical and dental records release forms, present them to the appropriate parties, obtain the necessary files or information, and submit these, along with the Department of Public Safety Missing Children and Missing Person report form, to the Missing Children and Missing Person Information Clearinghouse.
3. Thoroughly check the location at which the missing person was last seen and conduct interviews with persons who were with the individual or who

- may work in or frequent the area.
4. Conduct interviews with any additional family, friends, work associates, schoolmates and teachers, as well as school counselors and social case workers, as appropriate, to explore the potential for foul play, voluntary flight, or, in the case of juveniles, parental kidnapping or runaway.
 5. Provide all possible information and identification means to this and neighboring agencies, all necessary clearinghouses, and, if parental or stranger-to-stranger abduction is suspected, the Federal Bureau of Investigation (FBI).
 6. Contact hospitals and coroner's offices, as appropriate, for injured or deceased persons fitting the description of the missing person.
 7. The decision to use the local media to assist in locating missing persons shall be made with the approval of the missing person's family.
 8. If the missing person is reported to be suffering from chronic dementia, including Alzheimer's dementia, the investigator shall contact the Alzheimer's Association Safe Return Crisis Number with all appropriate follow-up identifying information not reported in the preliminary investigation. The toll free hotline number is 1-888-572-8566.
 9. If an arrest warrant is issued for a person accused of taking or retaining a missing child or missing person, and the person cannot be readily located, the investigator shall ensure that the name and other descriptive information of the suspect is entered in NCIC and other appropriate databases.
 10. The lead investigator shall maintain routine ongoing contact with the missing person's closest relative or reporting party concerning progress of the investigation. These and other relevant individuals shall be informed that they must notify the lead investigator as soon as any contact is made with the missing person.
 11. No later than the 30th day after a report has been filed on a "high risk" missing person, the lead investigator shall notify the parent or any other person considered appropriate that: they may provide:
 - a. DNA sample for forensic DNA analysis; or
 - b. For purposes of DNA sampling, a personal article belonging to the high-risk missing person.
 - c. If a DNA sample is to be submitted, the lead investigator will coordinate with Crime Scene personnel, who will collect the sample using a kit developed by the University of North Texas. The person providing the sample must sign the release form included in the kit. The sample will be submitted to the Missing Persons DNA Database maintained by the University of North Texas Health Science Center in Fort Worth along with a copy of the missing person report.
 12. Upon location of the missing person or missing child, the investigator shall ensure that the entry in all databases has been cancelled.
 13. A child who has been recovered shall be returned as soon as practical to the person who is entitled to possession of the child. If such person cannot be located, the child shall be delivered to the Texas Department of Protective and Regulatory Services.

E. CENTRAL RECORDS AND COMMUNICATIONS RESPONSIBILITY

1. It is the responsibility of the Sergeant to enter information concerning a missing person into NCIC immediately upon receipt of notice.
2. Should the records submission form not contain appropriate or detailed information to allow entry into the required databases, the Sergeant should immediately notify the reporting officer of the information lacking.
3. The reporting officer will ensure that the information lacking is obtained and submitted in an expedient manner.
4. Information submitted to Central Records during the investigative process should be entered as soon as possible.
5. NCIC regulations require the verification and updating of missing person's entries with additional information within 60 days of initial entry.

F. RECOVERY OF MISSING PERSONS OR MISSING CHILD AND CASE CLOSURE

1. Competent adults, having left home for personal reasons, cannot be forced to return home. Officers locating such individuals shall:
 - a. advise them that they are the subject of a missing person investigation;
 - b. asks if they desire the reporting party or next-of-kin to be notified of their whereabouts; and
 - c. makes provisions to transmit this information to the reporting party or next-of-kin, if permitted, by the missing person.
2. In all cases, reporting parties shall be informed of the wellbeing of located missing persons. Unless criminal matters necessitate other action, desires of missing persons not to reveal their whereabouts shall be honored.
3. Missing persons shall be questioned to establish the circumstances surrounding their disappearance and whether criminal activity was involved.
4. In cases involving juveniles, officers shall ensure that:
 - a. the juvenile receives medical attention, if necessary, in a timely manner;
 - b. initial questioning of the youth identifies the circumstances surrounding the child's disappearance, any individuals who may be criminally responsible and/or whether an abusive or negligent home environment was a contributory factor; and
 - c. parents, guardians, and/or the person reporting the missing youth are notified in a timely manner.
5. Those individuals who are seventeen years of age and are reported as missing or runaway, upon being located, shall be transported to the parents or guardians in a timely manner. If the parents or guardians cannot be located, the subject shall be released to the Texas Department of Protective and Regulatory Services.
6. Upon location of a missing person, all agencies and information systems previously contacted for assistance will be notified or updated.

7. Where indicated, follow-up action shall include filing of an abuse and neglect report with the Texas Department of Protective and Regulatory Services.
8. The case report shall include a complete report on the whereabouts, actions, and activities of children while missing.
9. Where indicated, criminal charges shall be filed with the prosecutor's office.

G. CHILD CUSTODY DISPUTES

Officers who are requested to take missing persons reports concerning disputes over child custody shall:

1. Take an Incident Report titled Child Custody Dispute.
2. Attempt to locate the child and ensure the welfare and safety of the child.
3. Not remove the child from the custody of either party unless the welfare or safety of the child is in jeopardy.
4. Advise the complainant that a report is being made and the complainant should contact his/her attorney whereby the court of competent jurisdiction may be notified.

H. TEXAS AMBER ALERT NETWORK

The Texas Amber Alert Network is designed to help facilitate the rapid dissemination of specific information concerning abducted children.

1. There are specific criteria that must be met before an Amber Alert will be activated. These criteria are:
 - a. Is this child 17 years of age or younger, whose whereabouts are unknown, and whose disappearance law enforcement has determined to be unwilling which poses a credible threat to the child's safety and health; and if abducted by a parent or legal guardian, was the abduction in the course of an attempted murder or murder? OR
 - b. Is this child 13 years of age or younger, who was taken (willingly or unwillingly) without permission from the care and custody of a parent or legal guardian by:
 - i someone unrelated and more than three years older, or
 - ii another parent or legal guardian who attempted or committed murder at the time of the abduction?
 - c. Is this child in immediate danger of sexual assault, death or serious bodily injury?
 - d. Has a preliminary investigation verified the abduction and eliminated the alternative explanations for the child's disappearance?
 - e. Is there sufficient information available to disseminate to the public to help locate the child, a suspect, or the vehicle used in the abduction?

2. Any officer who receives information concerning a missing child and the investigation reveals that all the above criteria are met for an Amber Alert shall immediately contact their supervisor.
3. The supervisor will ensure that the Texas Department of Public Safety Amber Alert Information Form is completed and this information is delivered or relayed to Central Records as soon as possible.
4. Central Records personnel receiving Amber Alert information shall immediately notify the Amber Alert Hotline by telephone or fax. CRC personnel shall utilize the provided password to authenticate the information.
5. The CRC personnel shall notify the on-duty Patrol supervisor when the Amber Alert is sent.
6. The on-duty Patrol supervisor shall notify the appropriate resources to assist in the investigation.
7. The Amber Alert form shall be made part of the permanent file and submitted to Central Records with the Offense Report.
8. Should a child who has been entered into the Amber Alert Network be located, it shall be the responsibility of the assigned investigator to immediately complete another Amber Alert Information Form, indicating that the child has been located, and submit this form to CRC for immediate transmittal to the Amber Alert Network.
9. If the child is located prior to the involvement of investigators, the reporting officer shall immediately submit the form to CRC.
10. The CRC personnel shall notify the investigator or reporting officer that the Amber Alert cancellation has been sent

I. TEXAS SILVER ALERT NETWORK

The Texas Silver Alert Network is used to assist in the recovery of missing Sergeant citizens with a documented mental impairment. Silver Alerts typically resemble those alerts issued for abducted children (Amber Alerts), using similar notification technologies (with the exception of EAS) to alert the public. The maximum activation for a Silver Alert is 24 hours.

1. There are specific criteria that must all be met before a Silver Alert will be activated. These criteria are:
 - a. Is this missing person 65 years of age or older?
 - b. Does the Sergeant citizen have a diagnosed impaired mental condition, and does the Sergeant citizen's disappearance pose a credible threat to their health and safety? The officer shall require the family or legal guardian of the missing Sergeant citizen to provide documentation from a medical or mental health professional of the person's condition. The medical documentation should appear on physician's letterhead, indicating the impaired mental condition, date of diagnosis, patient's name, and include the physician's signature.
 - c. Is it confirmed that an investigation has taken place verifying that

the Sergeant citizen's disappearance is due to their impaired mental condition, and alternative reasons for their disappearance have been ruled out?

- d. Is the Silver Alert request within 72 hours of their disappearance?
 - e. Is there sufficient information available to disseminate to the public that could assist in locating the Sergeant citizen? (Highway signs will only be activated if accurate vehicle information is available AND it is confirmed that the Sergeant citizen was driving the vehicle at the time of their disappearance.)
2. Any officer who receives information concerning a missing Sergeant citizen and the investigation reveals that all the above criteria are met for a Silver Alert shall immediately contact their supervisor.
 3. The supervisor will ensure that the Texas Department of Public Safety Silver Alert Request Form is completed and submitted to DPS as soon as possible.
 4. The on-duty Patrol supervisor shall notify the appropriate resources to assist in the investigation.
 5. The Silver Alert Request Form shall be made part of the permanent file and submitted to Central Records with the Offense Report.
 6. Should a Sergeant citizen who has been entered into the Silver Alert Network be located, it shall be the responsibility of the assigned investigator to immediately complete and submit an updated Silver Alert Request Form to DPS, indicating that the person has been located.
 7. If the Sergeant citizen is located prior to the involvement of investigators, the reporting officer shall immediately submit the updated Silver Alert Request Form to DPS.

J. RESPONSIBILITY

1. All members of the Department shall know and comply with all aspects of this directive.
2. All Division Commanders and supervisory personnel are responsible for ensuring compliance with the provisions and intent of this directive.

Presidio Police Department Policy #8: Impartial Policing Adopted October 17, 2023

I. PURPOSE

The purpose of this policy is to reaffirm the Department's commitment to unbiased policing in all of its encounters between Officers and any person; to reinforce procedures that serve to ensure public confidence and mutual trust through the provision of services in a fair and equitable fashion; and to protect our officers from unwarranted accusations of misconduct when they act within the parameters of departmental policy and the law.

II. POLICY

- A. It is the policy of the Department to protect the constitutional rights of all persons. Allegations of racial profiling or discriminatory practices, real or perceived, are detrimental to the relationship between police and the communities they protect and serve because they strike at the basic foundation of public trust. This trust is essential to effective community-based policing. Racial profiling is considered misuse of valuable police resources; such improper methods violate the civil rights of members of the public and may lead to increased exposure to liability for the officer and the department. This Department does not endorse, train, teach, support, or condone any type of bias, stereotyping, or racial profiling by its officers. While recognizing that most officers perform their duties in a professional, ethical, and impartial manner, this Department is committed to identifying and eliminating any instances of racial profiling.
- B. It is the policy of the Department to:
1. Provide all people within the City of Presidio fair and impartial police services consistent with constitutional and statutory mandates;
 2. Assure the highest standard of integrity and ethics among PPD officers/employees;
 3. Respect the diversity and the lawful cultural practices of all people;
 4. Take positive steps to identify, prevent, and eliminate any instances of racial profiling by PPD; and
 5. Continue our commitment to community-based policing and problem solving, including vigorous, lawful, and nondiscriminatory traffic enforcement that promotes public safety and strengthens public trust, confidence, and awareness.
- C. It is the policy of the Presidio Police Department to police in a proactive manner and to thoroughly investigate suspected violations of law. Officers shall actively enforce local, state and federal laws in a responsible and professional manner without regard to an individual's race, gender, age, ethnicity, ethnic background,

sexual orientation, religion, economic status, cultural group, national origin or any other identifiable group. Officers are strictly prohibited from engaging in racial profiling as defined in this policy. This policy shall be applicable to all persons, whether drivers, passengers, or pedestrians.

- D. Officers shall conduct themselves in a dignified and respectful manner at all times when dealing with the public. The Department will honor the right of all persons to be treated equally and to be free from unreasonable searches and seizures.

III. Definitions

- A. **Racial Profiling** is defined as a law enforcement-initiated action based on an individual's race, gender, age, ethnicity, ethnic background, sexual orientation, religion, economic status, cultural group, national origin or any other identifiable group rather than on the individual's behavior or on information identifying the individual as having engaged in criminal activity. The term is not relevant as it pertains to witnesses, complainants, persons needing assistance, or other citizen contacts.

Examples of racial profiling include, but are not limited to, the following:

1. Citing a driver because of the cited driver's race, ethnicity, or national origin; or
2. Detaining the driver of a vehicle based on the determination that a person of that race, ethnicity, or national origin is unlikely to own or possess that specific make or model of vehicle; or
3. Detaining an individual based upon the determination that a person of that race, ethnicity, or national origin does not belong in a specific part of town or a specific place.

- B. **Gender Profiling** is defined as a law enforcement-initiated action based on an individual's gender rather than on the individual's behavior or involvement in criminal activity.

- C. **Race or Ethnicity** is defined as a particular descent, including Caucasian, African, Hispanic, Asian, or Native American.

- D. **Pedestrian Stop** is defined as an interaction between a peace officer and an individual traveling on foot who is being detained for the purpose of a criminal investigation in which the individual is not under arrest.

- E. **Traffic Stop** is defined as a vehicle stop where a peace officer stops a motor vehicle for an alleged violation of law or ordinance regulating traffic.

- F. **Probable Cause** is defined as more than bare suspicion; it exists when the facts and circumstances within the officer's knowledge and of which they have reasonably trustworthy information are sufficient in themselves to warrant a person of reasonable caution to believe that an offense has been or is being committed.

- G. **Reasonable Suspicion** is defined as specific, articulable facts leading a reasonable police officer to believe a crime might be occurring. Reasonable suspicion is less than probable cause, but more than a mere hunch. Reasonable grounds for suspicion depend on the circumstances in each case. There must be an objective basis for that suspicion based on facts, information, and/or intelligence.
- H. **Search** is an examination or exploration of an individual's house, premises, vehicle or person to discover stolen property, contraband or other items that may be evidence of a crime.
- I. **Search incident to arrest** is a full search of an arrested person and of the vicinity around him or her. The search is conducted for officer safety and to prevent the destruction of evidence.
- J. **Consent search** is a search permitted by a person with apparent authority to allow the search. To be valid, consent must be voluntary and intelligent, based on a totality of circumstances. Voluntary means that the consent was not forced or coerced. Intelligent means the person giving consent must know what he or she is doing.
- K. **Frisk** is defined as a limited search or patting down of a suspect's outer clothing for the purpose of officer safety. A frisk must be based on reasonable suspicion that the suspect is armed with a deadly weapon, and that if he is not searched and disarmed, harm will come to the officer or another person. A limited search or frisk of an automobile after a valid stop is permissible if the officer has reasonable suspicion the suspect is dangerous and might gain immediate control of a weapon. The search is limited to the areas in which a weapon may be placed or hidden.
- L. **Inventory** is an administrative process by which items of property in an impounded vehicle are listed and secured. An inventory is not a search and should not be used as a substitute for a search. The specific objectives of an inventory are to protect the property of the defendant, to protect the police against any claim of lost property, and to protect police personnel and others from any dangerous instruments.

IV. Procedures

- A. Complaints
 - 1. Any person may file a complaint with the PPD if they believe they have been stopped or searched on the basis of their race, ethnicity, national origin, or gender. No person shall be discouraged, intimidated, or coerced from filing such a complaint, or discriminated against because they have filed such a complaint.
 - 2. A complaint from a citizen regarding racial profiling may be made in writing to the Chief of Police.

3. Written citizen complaints shall result in an internal police department investigation by the Chief.
4. After receiving a written citizen complaint, the Chief or Sergeant shall copy and review the video recording from the Officer's vehicle. A copy of video of all incidents in which racial or gender profiling is alleged shall be retained with the investigative file. The Chief shall supply the video to the Officer prior to taking any statements from the Officer.
5. The Chief's determination and recommendation on a complaint must be submitted to the complainant within thirty (30) days of the date the complaint was filed via certified mail, return receipt requested. A copy of said determination shall be sent or hand delivered to the Presidio City Administrator.
6. The citizen or the Officer may appeal the Chief's determination in writing within ten (10) days after receipt. Upon timely appeal, the Presidio City Administrator shall review the claim and the Chief's determination/recommendation, and shall issue a final written memo on the matter.
7. Information regarding the complaint process shall be available at City Hall and on the Department's web site.

B. Racial Profiling Training

1. Officers are responsible to adhere to all Texas Commission on Law Enforcement (TCOLE) training and the Law Enforcement Management Institute of Texas (LEMIT) requirements as mandated by law.
2. All officers shall complete a TCOLE training and education program on racial profiling not later than the second anniversary of the date the officer is licensed under Chapter 1701 of the Texas Occupations Code, or the date the officer applies for an intermediate proficiency certificate, whichever date is earlier. At the discretion of the Chief of Police, additional diversity and sensitivity training may be required for officers with sustained racial profiling or other discrimination complaints filed against them.
3. The Chief of Police, as part of the initial training and continued education for such appointment, will be required to attend the LEMIT program on racial profiling.

C. Internal Monitoring

1. Random Reviews: The Chief or Sergeant shall conduct reviews of the video files recorded by officers under their supervision to:
 - a. Assess performance and safety practices;
 - b. Ensure compliance with departmental policy;
 - c. Ensure proper use of equipment; and,
 - d. Identify appropriate training video.

The Chief shall conduct a review of video files randomly each month, ensuring that each Officer is reviewed at least twice during each month. The Chief will review one traffic stop and one other video of their choosing of

each officer. A report containing the dates each officer was reviewed shall be prepared, as well as a log of the videos and the reviews.

2. Mandatory reviews shall occur whenever:
 - a. An officer is involved in a pursuit;
 - b. An officer is involved in a use of force recorded by the system;
 - c. A complaint is lodged against an officer; or
 - d. A supervisor articulates a reason to suspect an Officer is involved in activity contrary to the mandates of these Policies or the City of Presidio Employee Handbook.
3. Video events which may be evidentiary in nature should be reviewed and properly documented and preserved.

D. Corrective Action

1. Failure to report any observed or known violations of this policy by any Department officer/employee shall result in corrective action being taken against the officer/employee.
2. Officers found in violation of this policy or who have a sustained racial profiling complaint shall be subject to corrective action which may include: diversity, sensitivity, or other appropriate training, informal counseling, formal counseling, written reprimand, suspension from duty with or without pay, indefinite suspension, termination, or other appropriate action as determined by the Chief of Police.

E. Mandated Digital Mobile Video Recorder Operation

Unless the delivery of emergency police services would be prevented, an officer's personal safety would be jeopardized, or police strategy is being discussed, officers will ensure the operation of the digital mobile video recorder is conducted in accordance with PPD Policy #1.

F. Citation Data Collection and Reporting

1. Each officer shall be required to collect information relating to traffic stops that result in a written warning, citation or custody arrest. The written warning and citation will document the necessary information as described in Section F (2) below by using the proper notations found on the citation. In the case of a custody arrest, it shall be necessary to complete a Data Collection Form to record the information required by the racial profiling statute. In the event that a citation is issued to an individual that is ultimately arrested, the citation will record the necessary data and eliminate the need to complete a Data Collection Form.
2. The officer will document the following on the citation, written warning, or Data Collection Form:
 - a. The violator's race or ethnicity;
 - b. Whether a search was conducted;
 - c. Whether the search was consensual;
 - d. Whether the race or ethnicity of driver known prior to stop;

- e. Reason for arrest, if any, resulting from the stop.
3. Any paper citation issued will be forwarded to the Chief or Sergeant for review prior to sending to the court.
4. By March of each year, the Department shall submit a written report to the City Council that includes the information gathered from the traffic stops in the preceding calendar year. The report will include:
 - a. A breakdown of traffic stops by race and ethnicity;
 - b. The number of traffic stops that resulted in a search and the basis for the searches; and
 - c. The number of searches that resulted in contraband being discovered and, if so, the type of contraband; and
 - d. The number of traffic stops that resulted in custodial arrests.
5. The Sergeant shall be responsible for providing a report to the Chief of Police that contains this information.

G. Responsibility

1. All members of the Department shall know and comply with all aspects of this policy.
2. All supervisory personnel are responsible for ensuring compliance with the provisions and intent of this directive.

**Presidio Police Department Policy #9:
Handling and Disposition of Entrusted Properties
(Based upon the protocols adopted by the Texas Department of Public Safety)
Adopted October 17, 2023**

I. Seizures

1.01 Regulations

1. Members of the Presidio Police Department (hereinafter “Department”) shall not make any arrest, search, or seizure which they know or should know is not in accordance with law and established Department procedures or policies.
2. Police power to seize the personal property of citizens is the exercise of authority that should never be taken lightly or capriciously. Citizens are ordinarily under no obligation to prove ownership of any property found in their possession. Conversely, the burden is upon the officer to prove that property is not legally in possession of the citizen. Unless investigation can establish otherwise, it should be presumed that property found in the possession of any citizen is that citizen's property and, if such property is seized for any reason, the citizen is entitled to recover that property when there is no longer a bona fide reason for the Department to retain it. (This policy includes weapons; it excludes any contraband.) It is, therefore, the policy of this Department to seize and impound property only when a legitimate need so requires and to retain such property only so long as that need is served.

1.02 Policy.

1. **Definitions.** The following definitions will apply throughout this chapter:
 - a. **CARE** - constitutes the watchful attention or supervision of something.
 - b. **CUSTODY** - is the immediate possession, charge, or control exercised by someone having authority.
 - c. **CONTROL** - is having the authority or power to act, guide, or exercise authority over.
 - d. **MANAGEMENT** - is the act of overseeing or supervising.
 - e. **POSSESSION** - the act of holding or taking something into care, custody, control, or management.
 - f. **AFO** - means the Asset Forfeiture Officer designated by the Chief.
 - g. **SEIZED ASSET or ASSET SEIZURE** - means any property lawfully seized which is subject to state or federal forfeiture. This term does not include controlled substances, weapons, or items seized solely for evidentiary purposes, unless ordered forfeited by a court with proper jurisdiction.
 - h. **FINANCIAL INSTRUMENT** - means currency, checks, money orders, certificates of deposit, regulated financial institution accounts, securities, stocks, bonds, and other forms of investment or retirement accounts.

- i. **CASE INVESTIGATOR** – means the officer with primary responsibilities for all forfeiture-related matters of an individual case. This person may be either the seizing officer or another officer involved in the investigation or assigned to the investigation, as designated by the Presidio Chief of Police.
2. It is the policy of this Department that all property which comes into the possession of an officer of the Department, for any reason, will be inventoried as soon as practicable and a written record of the inventory will be made on the HQ-109 form (or equivalent PPD form) with a copy provided to the person from whom it is taken. An accurate accounting of all property will be made including a notation of where the property was located when inventoried and, if so, where it was placed for safekeeping. In the case of a closed container (briefcase, suitcase, shipping crate, etc.) or a closed compartment of a vehicle (trunk, glove box, console, camper, etc.), the container or compartment will be opened, inventoried, and the contents noted on the HQ-109.
 - a. An exception to this policy is a container or compartment that cannot be opened without using force that results in physical damage to the container or compartment that is significant and permanent because, for example, a key, combination, or appropriate opening tool is not available. In such cases, consent is required to force open the container or compartment for the purpose of inventory. If consent is not forthcoming or if the closed container or compartment is not opened or inventoried for any other reason, an entry will be made on the HQ-109 noting that the particular container or compartment was not inventoried and why.
 - b. This policy does not preclude, forbid, or control the forced opening of any container or compartment under some other legal authority independent of an inventory purpose, such as consent, warrant, probable cause, etc.
 - c. An exception to this policy is in investigations arising under Article 179e, V.T.C.S. (Texas Racing Act). Warrantless seizures of contraband or evidence, pursuant to this Act or its rules, may be documented utilizing Texas Racing Commission (TRC) inventory/receipt form in lieu of agency forms HQ-109 and HQ-109b. Dispositions of such property may be documented in the “chain of custody” section on the TRC document in lieu of HQ-109b. All other policy provisions of this chapter (HQ-109a - property logs, property tags, storage, etc.) remain applicable. (For details, refer to the Criminal Law Enforcement Division Manual.)
3. **Controlled Substances and Dangerous Drugs.** Contraband that comes into a DPS officer’s possession, for any reason, shall be submitted to a crime laboratory for analysis and/or destruction as soon as practical and not later than three (3) working days of the seizure unless authorized additional time by the employee’s supervisor. The only other exceptions will be large seizures that are to be destroyed by court order.
4. **Drug Paraphernalia.** Items subject to seizure shall be stored in either central or resident storage until disposed of in accordance with the provisions of the Controlled Substances Act.

5. **UNDER NO CIRCUMSTANCES WILL ANY ENTRUSTED PROPERTY BE APPROPRIATED FOR PERSONAL USE.**
6. **Non-Evidentiary Items.** When it becomes the responsibility of an officer of the Department to take care of the property of a citizen, as in the case of an accident, the officer shall make an itemized list of all items removed from the vehicle or person and identify them with the vehicle make, vehicle identification number, and license number and/or information as necessary to properly identify from whom the items were taken. (HQ-109 or PPD equivalent.)
 - a. Depending upon location and circumstances, he may turn the valuables over to a responsible official such as a judge, police chief, or sheriff, or remove them to the station or district office.
 - b. If the officer should deliver the property to another person, the officer must have the official or other person receipt the list of items on the form used to inventory the items.
 - c. If the officer retains the articles, he shall keep them under lock and key until they can be delivered to the rightful owner, from whom he must obtain a receipt.
 - d. The officer shall file all property inventories and receipts as a Department record.
7. **Evidentiary Items.** All articles or items of evidence seized by an officer of the Department of Public Safety shall be inventoried and properly identified, marked, labeled, stored, and secured until such time as legal disposition or proper adjudication of the case, or cases, has been made. The officer shall file a property inventory, HQ-109 or PPD equivalent, and enter the property in the entrusted property log, HQ-108 or PPD equivalent, as a Department record in addition to the following:
 - a. **STOLEN PROPERTY.** Code of Criminal Procedure, Article 47.03, Schedule. When an officer seizes property alleged to have been stolen, he shall immediately file a schedule of the same, and its value, with a magistrate or court having jurisdiction of the case, certifying that the property has been seized by him, and the reason therefore. (See HQ-106, striking through the non-applicable sections.)
 - b. **MOTOR VEHICLES.** Transportation Code Section 501.158 applies to motor vehicles where the serial number, the motor number, or the manufacturer's permanent vehicle identification number or derivative number thereof has been removed, changed, or obliterated. If the seizure under this Subsection is not made pursuant to a search warrant, the arresting officer shall prepare and deliver to a magistrate a written inventory of each motor vehicle or part of a motor vehicle seized. (See HQ-106 or equivalent PPD document, striking through the non-applicable sections.)
 - c. **WEAPONS.** (Code of Criminal Procedure, Article 18.19.) When weapons are seized in connection with an offense involving the use of a weapon or an offense under Penal Code Chapter 46 and the seizure is not made pursuant to a search or arrest warrant, the person seizing the same shall prepare and deliver to a magistrate a written inventory of each weapon seized. (See HQ-114 or equivalent PPD form.)

8. **Seized Assets.** State and federal laws provide for the seizure and forfeiture of assets in certain narrow circumstances. The main purpose of asset seizure and forfeiture is to deprive criminals of the proceeds of their criminal acts.

The Asset Forfeiture Officer (AFO) will be responsible for recording and tracking all assets seized by the Department through the forfeiture process and final disposition. This includes assets seized by another government entity if the Department retains an interest in the disposition of the property, regardless of the physical location of the assets.

All assets seized by an officer of the Department for forfeiture purposes under applicable state or Federal statute shall be inventoried and properly identified, marked, labeled, stored, and secured until such time as final disposition of the case, or cases, has been made. The officer shall file a property inventory (HQ-109 or PPD equivalent) and enter the property in the entrusted property log (HQ-108 or PPD equivalent), as a Department record in addition to the required documentation necessary to make the forfeiture. **NO ASSET SHALL BE PUT INTO USE UNTIL IT IS PROPERLY AWARDED TO THE DEPARTMENT AND AUTHORIZED BY THE DIRECTOR OR HIS DESIGNEE.**

1.03 Inventory of Property

1. **HQ-109.** HQ-109 or an PPD equivalent will be utilized for all evidentiary and non-evidentiary items when property comes into possession of an officer pursuant to an arrest or other legal means, except when seized pursuant to a search warrant or as provided for in 24.05.02-2c concerning items seized pursuant to the Texas Racing Act.
 - a. It will not be necessary to complete form HQ-109 for open alcoholic beverage containers or for controlled substances and other items that are seized without a search warrant and are submitted to DPS crime laboratories for storage and final disposition.
 - b. The original and at least three copies will be made, with additional copies made as needed. The original will be retained with the property until final disposition is made. The copies will be routed as follows:
 - 1) One copy retained by the officer making the seizure.
 - 2) One copy provided to the person from whom the property is taken.
 - 3) One copy retained at the local level as a permanent Department record.
2. **HQ-109a.**
 - a. This form or an PPD equivalent must be used for all items seized pursuant to a search warrant. It may also be used for all items seized pursuant to a consent search and searches incident to arrest. The original and at least three copies will be made, with additional copies made as needed. The original will be returned to the court issuing the search warrant. The copies will be routed as follows:
 - 1) One copy retained by the officer making the seizure.

- 2) One copy provided to the person from whom the property is taken or left at the scene as required by law.
 - 3) One copy retained at the local level as a permanent Department record.
- b. The HQ-109a will also be utilized to document and report all seizures that are subject to forfeiture under applicable state and Federal statutes. If the seized asset is subject to forfeiture, a completed copy of the HQ-109a will be submitted to the Asset Forfeiture Unit within five (5) working days of the date of seizure.
3. **Mandatory Inventory Files.** File documents will be maintained at the district, company, sub district, or sergeant area office. Inventory files may not be closed until all necessary receipts and/or dispositions are attached.

Closed files may not be disposed of for a period of three years after closing date. This length of time is necessary because of the two-year statute of limitations in Section 16.003, Civil Practice and Remedies Code, and the provisions of Section 16.062, Civil Practice and Remedies Code, which allow up to a one-year extension in certain cases if the claimant has died.

If seized property is not sold or destroyed but placed into use by the Department, the title documents and court orders relating to title must be kept until the property is taken out of service. For example, if a vehicle is placed into service or retained, the files relating to the acquisition and forfeiture of that property must be retained as long as the property is retained.

1.04 Identification of Property

1. **Property Tag.** In addition to traditional court approved marking techniques, all personnel will utilize the PPD property tag.

All property seized, impounded, or taken into custody that is to be placed in a storage facility, other than a crime lab, will be properly tagged by the impounding officer. It is his/her responsibility to properly fill out the tag, secure it to the item, and initiate the protection of chain-of-evidence events.

The officer assuming original custody of the property will sign and complete line #1 (impounding officer) on the back of the property tag.

Each person who later assumes custody of the item will follow the same procedure using the next available line. Property tags will not be removed until a lawful disposition of the property is made.

Seized property that is submitted to a DPS crime lab for analysis which is returned to the officer will require tagging, when returned to PPD custody.

1.05 Entrusted Property Storage

1. **DPS Investigations.** When PPD is involved in an investigation with DPS personnel, PPD should be utilized for the storage of evidence when practicable.
2. **PPD Storage, Minimum Security Requirements**
 - a. Closet or room with a secure ceiling, single door, without windows, and equipped with a deadbolt lock.
 - b. Large metal gun safe bolted to the ground, inside the evidence locker.
 - c. Jewelry, gemstones, financial instruments, and precious metals will be stored in a safe (including but not limited to drawer or imprest) or a safety deposit box, unless disposition is imminent. (See 05.13 for regulations concerning money items seized under the provisions of the Texas Penal Code, Texas Transportation Code, and the Code of Criminal Procedure.)

1.06 Property Officer

1. **Qualifications.** Person designated by the Chief. May be the same person as the AFO.
2. **Duties**
 - a. Central custodian of all entrusted property.
 - b. Maintain a log on all property checked into and out of central storage (See HQ-108 or equivalent PPD form.)
 - c. The property officer will conduct and submit an annual inventory of all entrusted property to the Chief by the end of each fiscal year.
 - d. Require personnel to update property that has remained in PPD storage for more than one year and document on the log when the item was last checked under remarks.
 - e. Report damaged, altered, or missing property by memorandum through channels to the division chief.
 - f. Comply with all court orders for destruction. The evidence or property will be rendered useless by the most feasible and effective means available. A supervisor shall witness destruction of the evidence, and both officers will sign the court order.
 - g. When a property officer leaves the Department, an inventory shall be conducted prior to the officer's departure.

In the event of the death of an employee, the inventory will be conducted within 15 days of the date of death.

1.07 Disposition of Property Not Returned to Owner or Responsible Person. Members of the Department will familiarize themselves with, and be directed by, provisions of the Code of Criminal Procedure (CCP) and Texas Penal Code (PC), as amended, concerning disposition of property.

1. **Abandoned or Unclaimed Property.** Article 18.17, CCP. A receipt for the property will be obtained and placed in the inventory file.
2. **Stolen Property.** Chapter 47, CCP.
3. **Gambling Paraphernalia, Prohibited Weapon, Criminal Instrument.** Article 18.18, CCP.
4. **Certain Weapons.** Article 18.19, CCP, and Chapter 46, PC.

1.08 Weapons

1. **Firearms and Other Weapons (knives, blackjack, club, etc.).** When a firearm comes into the care, custody, and control of a DPS officer, the officer will check with NCIC for a possible stolen report.
 - a. A firearm seized and held for any reason will have a copy of NCIC check attached to the HQ-106 or HQ-114.
 - b. The proper inventory form, HQ-109 or HQ-109a, will be completed describing the weapon seized with a copy provided to the person or responsible party from whom it is taken.
 - c. The proper court order HQ-106 or HQ-114 will be completed.
 - d. The weapon will be tagged using the HQ-113.
 - e. After all documentation is secured the weapon will be logged and placed into entrusted property storage.
 - f. When disposition of any weapon falls within the scope of Article 18.18 or Article 18.19, PPD personnel will seek a court order awarding the weapon to the Department for destruction or for educational purposes. (See HQ-26 for Prohibited Weapons and HQ-27 for weapons seized for offenses under Chapter 46, Penal Code.)
 - g. PPD officers should request National Integrated Ballistic Information Network (NIBIN) testing when the officer reasonably believes the firearm was discharged in the criminal incident under investigation or was discharged in a previous criminal incident. Applicable firearms may be submitted to any DPS Firearms laboratory. The chain of custody shall be properly documented and the weapon logged in and out of entrusted property storage during this process.
 - h. All documentation pertaining to the seized weapon will be maintained in a single folder or binder and retained for a period of three years beyond the date that the weapon is ordered disposed.

05.11 Reference Chart

TYPE OF ITEM	SEIZURE REQUIREMENT	REQUIRED DOCUMENTATION	RETENTION OF DOCUMENTATION
NON-EVIDENTIARY	Abandonment, or Possession through exercise of official duty	HQ-109	3 years beyond the date the item is destroyed or disposed of.
		AFTER DISPOSITION	
		Destroy Turn over to county purchasing agent or sheriff	
EVIDENTIARY	Abandonment, or Possession through exercise of official duty, or Seized as evidence or fruit of criminal offense, or Seized pursuant to a search warrant	HQ-108 (ALL-except drugs and currency) HQ-109 (ALL) HQ-109a (SEARCH WARRANT) HQ-106 (STOLEN ITEMS) HQ-113 (ALL) HQ-114 (ALL WEAPONS) THP-1/CLE-1	3 years beyond the date that the evidence is ordered disposed of by the court.
		AFTER DISPOSITION	
		County/District Court Order, or HQ-26 (PROHIBITED WEAPONS) HQ-27 (WEAPONS SEIZED AS OFFENSES OF PC, CHAPTER 46) JP order of destruction (ALL OTHER ITEMS)	
ASSET FORFEITURE	Probable cause to believe that item was used in the commission of, or proceeds from, an offense enumerated in Code of Criminal Procedure Chapter 59. Seized pursuant to a search warrant	HQ-108 (ALL-except drugs and currency) HQ-109 (ALL) HQ-109A (SEARCH WARRANT) HQ-83 (CURRENCY) DAG-71 (FEDERAL SEIZURE) Affidavit Filed with DA within five days of seizure (or Federal Agency) HQ-35 THP-1/CLE-1	3 years beyond the date that the evidence is ordered disposed of by the court.
		AFTER DISPOSITION	
		Judgment from court having jurisdiction	

01.10 Asset Seizure and Forfeiture

1. **Asset Seizures.** When a PPD officer seizes assets other than financial instruments subject to state or federal forfeiture proceedings, the case investigator shall photograph each item in color and enter all seized assets into the Entrusted Property Log unless an asset is immediately turned over to another agency. Any asset maintained by department personnel shall be properly sealed and secured for evidentiary purposes.

The AFO will maintain a record of all seizures and dispositions. Separate records will be kept of monies deposited and other items which are maintained intact as seized.

- a. **Disposition Recommendations.** The case investigator shall recommend a disposition of each asset which is not a financial instrument. The disposition categories are:
 - 1) Release interest to another government entity (pre-forfeiture filing)
 - 2) Return asset to owner (pre-forfeiture filing)
 - 3) Place into Service (after awarded to PPD)
 - 4) Sell at Auction (after awarded to PPD)
 - 5) Transfer to another government entity (after awarded to PPD)
 - 6) Destroy (after awarded to PPD)

The disposition recommendation should include justification for the proposed disposition, and be sent to the AFO via electronic or printed memorandum within 30 days of the seizure. The final court order declaring property forfeited to the Department must allow for the recommended disposition. If the order does not provide for the recommendation, a modified disposition recommendation should be submitted to the AFO within five working days of receipt of the court order.

- b. **Asset Sharing Requests.** The Department maintains formalized sharing agreements with many local, state, and federal agencies for the disbursement of proceeds of forfeited assets. Should special circumstances require a departure from the standard agreement or if an agency not covered by a sharing agreement participates in an investigation which results in asset seizure and forfeiture, the AFO shall submit an alternative sharing request to the Chief for chain-of-command review. The request should make a recommendation for a division of the shares and contain sufficient documentation to justify the share.

2. **Currency/Financial Instruments Seizures.** Seized currency may only be handled in one of five (5) methods:
 - a. transfers to a state prosecuting official or their representative for proper deposit into an interest-bearing account;
 - b. transfers to cooperating federal agency acting as a representative of a federal prosecuting official;

- c. transport to the Department for deposit to an account held by PPD for asset seizure/forfeiture purposes;
- d. release PPD interest in the asset to another government entity; or
- e. returns to the owner or attorney representing the owner prior to filing for forfeiture.

Upon seizure of currency or other financial instruments that are subject to asset forfeiture, the AFO shall complete a copy of the HQ-83 or equivalent PPD form along with the HQ-109a or equivalent PPD form.

If currency is seized and conditions are not ideal to obtain an exact amount of the currency immediately, the case investigator should provide a description of the amount of currency seized, e.g. size and number of bundles, denominations, and weight of currency on the HQ-109a. In this circumstance, the currency should be packaged and secured with an evidentiary seal until it can be transported to a regulated financial institution for a certified count. Investigators may develop information through witness statements, ledgers, and other sources to determine an estimate of the currency amount. The currency shall be counted as soon as practical after it is determined that it possesses no additional evidentiary value. A revised HQ-109a should then be completed in a timely manner.

3. **Conveyance Seizures.** Within three (3) business days of asset seizure of a conveyance, the case investigator shall have an appropriate agent complete a "Vehicle Examination Report" to determine if the conveyance seized is reported stolen or not subject to forfeiture under other criteria. The case investigator shall also determine an estimated value of the conveyance.

Any contraband in the form of conveyances which are seized pending forfeiture proceedings will be stored in a secure (fenced and locked) Department storage compound in Presidio County.

No seized conveyance shall be placed into use until properly awarded to the Department and authorized by the Chief.

No member of this Department will knowingly acquire title to any conveyance or other property acquired by the Department under state or federal statute except through public government surplus property sales.

4. **Seized Assets Returned to Defendant.** If the seized items were maintained intact, the actual items will be returned. The seized items will not be released by PPD until the "Certificate of Seizure", HQ-83 or PPD equivalent, has been signed by the defendant or his/her legal representative. All money seized in connection with a law violation and placed in an interest-bearing bank account shall be distributed according to applicable law with any interest being distributed in the same manner and used for the same purpose as the principal.

5. **Asset Forfeiture.** The case investigator who oversees the investigation, with supervisory approval, shall be the person responsible for determining the appropriate jurisdiction to pursue an asset forfeiture case. If an asset is seized pursuant to a state search warrant, the asset is under the jurisdiction of the authorizing court until an order is issued relinquishing that jurisdiction to federal court. Because state law only allows 30 days from the date of seizure to file a forfeiture case in district court, the case investigator shall maintain contact with the office of the prosecuting attorney to ensure a timely filing.

At the end of each fiscal year, the AFO shall prepare updated information regarding the status of each seized asset until a court orders forfeiture of the property. At the first of these intervals, the case investigator shall confirm that a forfeiture case has been filed in either state or federal court. If no such forfeiture case has been filed and the seized asset has no further evidentiary value, the case investigator will begin the process to return the seized asset to the owner.

6. **Disposition of Awarded Assets.** When the case investigator is notified that an asset has been forfeited, the AFO shall complete the Awarded Assets Memo for each asset and attach it to a certified copy of the court order forfeiting the asset to PPD. These documents and other documentation necessary for disposal of the forfeited asset shall be submitted to the Chief for approval.
7. **Disposition of Awarded Financial Instruments.** When a case investigator receives a forfeited financial instrument from the prosecutor's office, he/she shall submit the financial instrument to the AFO for proper disposition or disposal as required.
8. **Disposition of Awarded Conveyances.** It will be the responsibility of the AFO to arrange for transfer of title to the Department and to register the vehicle in the Department's name. If a vehicle is awarded to the Department but is not placed into service, it shall be the responsibility of the AFO to arrange for and handle the sale of such surplus vehicle.

Proceeds from the sale of vehicles acquired by the Department as the result of a forfeiture and subsequent court order under the authority of applicable state or federal statute will be deposited in an account from which the operation of this program will be administered. Authorized expenditures from this account will include storage costs, handling costs, payments to lienholders, and cost of preparation for sale or use and like expenses but will not include cost of operation of the vehicle once assigned for Department use. This vehicle operation cost will be borne by the Department.

At all times, all seized assets and all records of seized assets will be available for audit as appropriate.

II. DISPOSAL OF ABANDONED MOTOR VEHICLES

The term “abandoned motor vehicle,” when used herein, has the meaning ascribed to the term in the Texas Transportation Code, Chapter 683, and no other.

2.01 Doctrine

1. The Texas Transportation Code, Chapter 683, provides a legal means of making final disposition of abandoned vehicles and clearing the titles of these vehicles at the same time. This Department has a legal and moral responsibility to participate in the procedure outlined in this Code to the end that the intent of the Legislature will be carried out.
2. The services of the Department of Public Safety shall be requested as necessary in matters involving in the handling of abandoned motor vehicles.

2.02 Policy

1. The Department will process abandoned motor vehicles reported or found within the territorial limits of the City of Presidio, Presidio County, Texas.
2. There is a difference between a motor vehicle left beside the road because the owner no longer considers it worthwhile to remove it and one of substantial apparent value. The Department will, therefore, continue to attempt to notify the owner and lienholder through presently prescribed channels in the event the circumstances seem to warrant it.
3. No vehicle will be considered to be an “abandoned motor vehicle” until the time requirements have definitely been met.
4. No member of this Department will knowingly acquire any interest in or benefit from the use of any motor vehicle which is being held or is being sold as an abandoned motor vehicle by this Department or any other police agency.
5. This instruction in no way attempts to discourage the normal processing of vehicles which appear to have been stolen, left temporarily on the right-of-way for the owner’s convenience, or involved in an accident, nor does it discourage the removal of vehicles from the highways by statutory authority prior to the time limitations contained in the Act.

2.03 Responsibility for Originating Forms and Completing Sale. The officer who first acts to have an abandoned motor vehicle impounded will be responsible for completing the prescribed forms and for the conduct of any subsequent sale. In the event the services of an auctioneer are employed, a Department member will complete the prescribed forms.

2.04 Placarding of Vehicles Believed to Have Been Abandoned. An officer who observes a vehicle under circumstances justifying a belief that it will be processed as an abandoned motor vehicle in the near future by the Department will complete form THP-9 or PPD equivalent and attach it to that vehicle in a conspicuous place.

2.05 Removal of Abandoned Vehicles

1. An officer who has knowledge of an abandoned motor vehicle in his assigned area will first determine that the vehicle is not stolen.
2. The officer will then proceed as follows:
 - a. Have the vehicle removed to PPD storage.
 - b. Report the removal and storage of the vehicle to the Department, and request title information.
 - c. Notify all owner(s) and lienholder(s) of the removal and storage of the abandoned vehicle.
 - d. Record an account or log of the abandoned vehicle(s). Include the make, model, and VIN of the abandoned motor vehicle, the location from which it was removed, and the place of storage.

2.06 Notification by Mail

1. The officer or person having the vehicle stored will determine, if possible, the name and address of the last known registered owner and all known lienholders of record. If mailing addresses can be obtained, he will notify the owner and lienholders by certified mail, return receipt requested.

2.07 Notification by Publication

1. In cases where no mail address of owners and lienholders has been found, or the certified letter is returned unclaimed, the person responsible for the effort to notify by mail will make the required notification by one publication in one newspaper of general circulation in the area where the vehicle was abandoned. Form THP-3 will be used as a guide in preparing the notice to be published. Multiple listings may be published but if this is done, the costs of publication must be prorated among the vehicles listed and the cost to be charged against each vehicle must be indicated in the billing procedure to be described later.
2. The person responsible for the notification by publication will obtain the page of the newspaper on which the notice appears and a purchase voucher properly executed and signed by the publisher and a publisher's affidavit. The purchase voucher may be notarized in lieu of submitting the publisher's affidavit. The delivery date requested on the purchase voucher will be the date of publication. The completed voucher and the printed notice taken from the newspaper will be delivered to the coordinator as soon as practicable after publication.
3. The voucher must identify the vehicle the published notice concerns. If the voucher covers publication for more than one vehicle, the prorated cost chargeable to each vehicle must be itemized.
4. If the coordinator arranges for notice by publication, he will secure the voucher, the publisher's affidavit, and the printed notice as required above. The coordinator will file these with other documents related to the vehicle in question until some final disposition has been made of the vehicle.

2.08 Authority to Dispose of a Motor Vehicle to a Demolisher

1. The Texas Abandoned Motor Vehicle Act names the Texas Department of Transportation (TXDOT) as the agency responsible for granting permission to dispose of a vehicle to a demolisher.
2. The officer who originally had the vehicle towed in, or an officer acting in his behalf, may submit the appropriate forms to TXDOT, and shall follow all legal requirements set out in Texas Transportation Code Chapter 683, Subchapter D.

2.09 Sale of Vehicles

1. As soon as practicable after the expiration of 20 days from the date of mailing notices to owners and lienholders or publication of the prescribed notice, vehicles not reclaimed will be sold at public auction. A notice announcing each sale will be posted not less than five days prior to the sale at the courthouse in the county where the sale will take place. Such notice will describe each vehicle to be sold and specify the date, time, and place of the sale. In addition, if the vehicle was reported by a garagekeeper, he must be notified of the time and place of the sale.
2. Each vehicle to be sold will be checked for a stolen report within the five days immediately prior to its sale.
3. Several vehicles may be sold at the same time but each vehicle must be bid on separately. Each public auction will be conducted in such a manner that each bidder will submit an oral bid and will have an opportunity to raise his bid as often as he desires until no further bids are forthcoming.
4. It will be to the best interest of the legal owner or lienholder and the Department to ensure, as far as practicable, that public notice of a pending sale has been given. We are both morally and legally obligated to avoid private sales.
5. It is permissible to employ the services of an auctioneer if it appears that this will materially increase the receipts from these sales. The Department will be responsible for the fee charged by the auctioneer. It will be paid from the proceeds of the sale upon submission of a voucher properly executed by the auctioneer identifying each vehicle sold, its sale price, and the fee for that vehicle.
6. All vehicles sold at public auction must be paid for by certified check, cashier's check, or U.S. Postal Money Order made payable to the City of Presidio Police Department.

2.10 Final Reporting on Vehicles Sold

1. The AFO will be responsible for maintaining a file for each abandoned motor vehicle reported, and a log of all abandoned motor vehicles stored and the disposition of each.
2. Persons who identify themselves as having an equity in a vehicle which has already been sold should be given the available facts concerning the impoundment and sale of the vehicle as well as the expenses incurred in disposing of the vehicle. These persons should be advised that they may submit a claim for any balance remaining from the proceeds of the sale of the vehicle. To be valid, this claim must be initiated within 90 days after the date of the sale.

10.16 Records and Fiscal Control

1. The Department is obligated to keep records and exercise fiscal control on any transaction involving disbursement or receipt of funds by the Department.
2. These records are subject to audit as appropriate.

10.17 Destruction of Controlled Substances

Controlled substances seized by Department officers may be legally destroyed. Statutory authority for destruction is provided in the Health and Safety Code, Chapter 481, Subchapter E.

In cases involving controlled substances, where charges were filed, it shall be the responsibility of every Department officer to find out from the prosecutor or court when the case is closed, and to notify the crime laboratory in writing, at the earliest possible date, that the drug evidence may be destroyed.

**Presidio Police Department Policy #10:
Eyewitness Identification (LEMIT Model Policy)
Adopted October 17, 2023**

I. Purpose

The purpose of this model policy is to outline proper protocol for eyewitness identification procedures for photographic, show-up, and live lineup identifications which maximize the reliability of identifications, protect innocent persons, and establish evidence that is reliable and conforms to established legal requirements.

II. Policy

Eyewitness identifications are a significant component of many criminal investigations. The identification process must be carefully administered to minimize the likelihood of misidentifications. Moreover, constitutional safeguards must be observed in the process. The goal of reducing erroneous convictions can be furthered in many ways. Employing the most rigorous eyewitness identification methods is one way of doing this, but there are others. The eyewitness identification process is only one step in the criminal investigative process, albeit an important one. Corroborative evidence, for example, will lessen the impact of an erroneous eyewitness identification. The more other evidence that is available, the less risk there is of conviction based solely on erroneous eyewitness identification. There is no substitute for a competent and thorough criminal investigation.

This model policy was written to provide guidance on eyewitness identification procedures based on credible research on eyewitness memory and best practices designed not only to reduce erroneous eyewitness identification but also to enhance the reliability and objectivity of eyewitness identifications.

Evidence-based and best practices surrounding the collection and preservation of eyewitness evidence are addressed as are procedures to be employed where witnesses or victims are unable to read or write, are non-English speaking, or possess limited English language proficiency.

III. Procedural Guidelines

A. Definitions

1. **Blind Procedure** – A procedure wherein the person administering the live lineup or photo array does not know who the suspect is.
2. **Blinded Photo Array Procedure** – A procedure wherein the person who administers the photo array knows who the suspect is, but each photo is presented so that the administrator cannot see or track which photograph is being presented to the witness.
3. **Folder Shuffle Method** – A method of administering a photo array such that the administrator cannot see or track which photograph is being presented to the witness until after the procedure is completed. This method is employed when a blind procedure is not possible.

4. **Fillers** – Non-suspect photographs or persons. Fillers are selected to both fit the description of the perpetrator provided by the witness and to ensure that no individual or photo stands out.
5. **Illiterate Person** – An individual who speaks and understands English but cannot read and write in English.
6. **Interpreter** – An interpreter is a person who is fluent in English and the language of the witness or victim and who facilitates communication between two parties in two different languages. The term includes persons who facilitate communication with persons who are deaf, hearing impaired, or speaking impaired.
7. **Live lineup** – An identification procedure in which a group of persons is displayed to the witness or victim in order to identify or exclude the suspect.
8. **Person with Limited English Proficiency** – An individual who is unable to communicate effectively in English with a level of fluency that is typical of native English speakers. Such a person may have difficulty speaking, reading, or writing in English and includes persons who can comprehend English, but are physically unable to talk or write.
9. **Photo Array** – An identification procedure in which a series of photographs is displayed to the witness or victim in order to identify or exclude the suspect.
10. **Sequential Live Lineup or Photo Array** – An identification procedure in which the persons in the live lineup or the photographs in the photo array are displayed one by one (sequentially).
11. **Show-up** – An identification procedure in which a single suspect is shown to a victim or witness soon after the commission of a crime for the purpose of identifying or eliminating the suspect as the perpetrator.
12. **Witness Certification Statement** – A written statement that is read out loud to the witness or victim describing the procedures of the identification process.

B. Selecting the Best Identification Method

1. Photo arrays are preferred over other techniques because: (a) they can be controlled better, (b) nervousness can be minimized, and (c) they are easier to manage logistically.
2. Because they involve multiple persons under relatively controlled circumstances, a properly conducted live lineup, like a properly conducted photo array, is preferable to a show-up.
3. Because they are highly suggestive, show-ups are vulnerable to challenges to their validity. Consequently, a show-up should be employed only where other indicia of guilt are present (e.g., suspect located relatively close in time and place to the crime).
4. Because witnesses may be influenced, however unintentionally, by cues from the person administering the procedure, a blind administrator should be used. This can be achieved through the use of a blind procedure or a blinded photo array procedure (e.g. the folder shuffle method).

5. Because research shows the sequential presentation of live lineups and photo arrays is less likely to result in misidentification and carry very little risk of increasing the likelihood of failure to identify the suspect, a sequential presentation should be used.

C. Selecting Fillers

All persons in the photo array or live lineup should be of the same sex and race and should be reasonably similar in age, height, weight, and general appearance. Ideally, the characteristics of the filler should be consistent with the description of the perpetrator provided by the witness(es). Where there is a limited or inadequate description of the perpetrator provided by the witness(es), where the description of the perpetrator differs significantly from the appearance of the suspect, where a witness has provided a highly detailed description, or where the witness's description of the perpetrator or the suspect has a highly distinctive feature, fillers should be chosen so that no person stands out in the live lineup or photo array.

D. Explaining that the Perpetrator May or May Not Be Present

Because witnesses may be under pressure to identify a suspect, they should be informed that the suspect may or may not be present in a live lineup or photo array and that the person presented in a show-up may or may not be the perpetrator.

E. Explaining that the Investigation will Continue

The administrator should also explain to the witness that the investigation will continue, regardless of whether an identification is made, as another way of alleviating pressure on the witness to identify a suspect.

F. Witness Contamination

Precautions must be taken to ensure that witnesses do not encounter suspects or fillers at any time before or after the identification procedure. Avoid multiple identification procedures in which the same witness views the same suspect more than once. When showing a different suspect to the same witness, do not reuse the same fillers from a previous live lineup or photo array shown to that witness. Witnesses should not be allowed to confer with each other before, during, or after the identification procedure. Ensure that no one who knows the suspect's identity is present during live lineup or photo array procedure. In some live lineups, exceptions must be made to allow for the presence of defense counsel.

G. Documenting the Procedure

In order to strengthen the evidentiary value of the identification procedure, it should be documented in full. Video documentation is the preferred method. Audio

recording is the preferred alternative. If neither method is employed, then the reason for not video or audio recording should be documented.

IV. Sample Standard Operating Procedures

The procedures which follow have been designed to: (a) reduce erroneous eyewitness identifications, (b) enhance the reliability and objectivity of eyewitness identifications, (c) collect and preserve eyewitness evidence properly, (d) respect the needs and wishes of victims and witnesses, and (d) address the needs of witnesses with limited English proficiency, where applicable.

In order to choose among the various identification methods, a brief description of each method follows in order of most preferred method to least preferred. Once the appropriate method is selected, the administrator should go directly to the Sample Standard Operating Procedures for that particular method. In any given situation only set of Sample Standard Operating Procedures applies.

A. Descriptions of Eyewitness Identification Methods

1. Sequential, Blind Photo Array – photo arrays where the photographs are presented one at a time to the witness or victim by a person who does not know who the suspect is. This method requires a preparer who may be familiar with the case and an administrator who does not know the identity of the suspect.
2. Sequential, Blinded Photo Array – photo arrays where the photographs are presented one at a time to the witness or victim by a person who knows who the suspect is, but who takes steps (putting the photographs in folders and shuffling them) to avoid knowledge of which person the witness or victim is looking at. This method typically involves an administrator who is familiar with the case and knows who the suspect is.
3. Sequential Live Lineup – live lineups where the persons in the live lineup are presented one at a time to the witness or victim. This method requires a preparer who may be familiar with the case and an administrator who does not know the identity of the suspect.
4. Show-up – procedure where the witness or victim is presented with a single suspect and asked to identify whether that suspect is the perpetrator. This procedure can be carried out by any officer.

B. Sample Standard Operating Procedures for Sequential, Blind Photo Array Administrations

1. Preparation
 - a. Designating a Preparer
Preparing the photo array should be undertaken by someone other than the person who will administer the photo array. Ideally, the investigating officer will prepare the photo array as this ensures that others who might be involved in the case are not used as fillers. Moreover, because the investigating officer knows who the suspect

is, he or she should not be conducting the actual administration of the photo array.

b. Selecting Suspect Photograph

If multiple photos of the suspect are available, choose the photo that most resembles the suspect's appearance at the time of the crime. Do not include more than one photograph of the same suspect. If you do not know what the suspect looked like at the time of the crime, choose the photo that most resembles the victim's or witness's description of the perpetrator. If there are multiple suspects, include only one suspect's photo in the array.

c. Selecting Fillers

All persons in the photo array should be of the same sex and race and should be reasonably similar in age, height, weight, and general appearance. Ideally, the characteristics of the filler should be consistent with the description of the perpetrator provided by the witness(es). Where there is a limited or inadequate description of the perpetrator provided by the witness(es), where the description of the perpetrator differs significantly from the appearance of the suspect, fillers should be chosen so that no person stands out in the photo array. Do not mix color and black and white photos. Use photos of the same size and basic composition. Never mix mug shots with other types of photographs.

d. Choosing Number of Fillers

Wherever possible, include a minimum of five fillers. Because increasing the number of fillers tends to increase the reliability of the procedure, one may have more than the minimum number of fillers.

e. Ensuring Similarity

Assess the array to ensure that no person stands out from the rest. Cover any portions of the photographs that provide identifying information on the suspect and similarly cover other photographs used in the array.

f. Placing Subject Photographs in Order

- 1) Place a filler in the lead position.
- 2) Place the remaining photographs which will comprise the photo array in random order.
- 3) Place two blank photographs at the end (blanks on the same type of photographic paper as the actual photographs but which will not be shown to the witness; this is intended to cause the witness to think there may still be photographs to view in order to reduce pressure to choose what the witness may presume to be the last photograph).

g. Presenting the Photo Array to the Independent Administrator

Present the ordered photo array to the independent administrator. Do not tell the independent administrator which position the suspect is in.

2. Administration

The administrator of the photo array presentation should be an independent administrator who does not know the identity of the suspect and the witness should be informed of this. In a blind procedure, no one should be present who knows the suspect's identity.

a. Blinded Administration

If the blind procedure described above is not followed, then the photo array administrator should document the reason why and the administrator should be blinded. That is, he or she should conduct the photo array in a manner such that he or she does not know which person in the array the witness is looking at. There is a separate sample standard operating procedure for blinded photo array administration in this model policy immediately following this sample standard operating procedure.

b. Instruct Witness

Each witness should be instructed outside the presence of the other witnesses. The independent administrator should give the witness a written copy of the following Witness Certification Statement and should read the instruction statement aloud at the beginning of each identification procedure:

In a moment, I am going to show you a series of photos. The person who committed the crime may or may not be included. I do not know whether the person being investigated is included.

Even if you identify someone during this procedure, I will continue to show you all photos in the series.

The investigation will continue whether or not you make an identification.

Keep in mind that things like hair styles, beards, and mustaches can be easily changed and that complexion colors may look slightly different in photographs.

You should not feel you have to make an identification. It is as important to exclude innocent persons as it is to identify the perpetrator.

The photos will be shown to you one at a time. Take as much time as you need to look at each one. After each photo, I will ask you "Is this the person you saw [insert description of act here]?" Take your time answering the question. If you answer "Yes," I will then ask you, "In your own words, can you describe how certain you are?"

Because you are involved in an ongoing investigation, in order to prevent damaging the investigation, you should avoid discussing this identification procedure or its results.

Do you understand the way the photo array procedure will be conducted and the other instructions I have given you?

c. Document Consent to Participate

Witnesses should then be asked to read the following additional paragraph and sign and date below.

I have read these instructions, or they have been read to me, and I understand the instructions. I am prepared to review the photographs, and I will follow the instructions provided on this form.

- 1) Some witnesses may decline to sign. When a witness declines to sign, it is sufficient for the investigating officer to document that the witness was appropriately instructed.
- d. **Presentation of Photographs**
Present each photo to the witness separately (one at a time), in order. When the witness is finished viewing the photo, have the witness hand the photo back.
- e. **Question Witness**
After the witness has looked at a photo and handed it back to you, ask: **“Is this the person you saw [insert description of act here]?”** If the witness answers "Yes," ask the witness, **“In your own words, can you describe how certain you are?”**
- f. **Document Witness’s Responses**
Document the witness’s response using the witness’s own words. Have the witness complete the appropriate section of the Witness Certification Statement to reflect the outcome of the procedure.
- g. **Show All Photographs**
Even if the witness makes an identification, show the witness the next photo until you have gone through all the photographs. If a witness asks why he or she must view the rest of the photos, despite already making an identification, simply tell the witness that to assure objectivity and reliability, the witness is required to view all of the photographs.
- h. **Avoid Feedback During the Procedure**
Do not give the witness any feedback regarding the individual selected or comment on the outcome of the identification procedure in any way. Be aware that witnesses may perceive such things as unintentional voice inflection or prolonged eye contact, in addition to off-hand words or phrases, as messages regarding their selection. Avoid casual conversation comments such as “very good.” Be polite but purposeful when you speak.
- i. **Additional Viewings**
Only upon request of the witness, the witness may view the photo array again after the first photo array procedure has been completed. If the witness requests an additional viewing, the photo array administrator should present the entire photo array in the same order as the original presentation, a second time. If this occurs, it must be documented. The photo array administrator should never suggest an additional viewing to the witness. It is recommended that the witness not be allowed to view the photo array more than two times.

- j. Subsequent Use of Materials
Ensure that if the witness writes on, marks, or in any way alters identification materials, those materials are not used in subsequent procedures.
 - k. Multiple Identification Procedures With Same Witness
Avoid multiple identification procedures in which the same witness views the same suspect more than once.
 - l. Multiple Identification Procedures With Different Witness
If you need to show the same suspect to a new witness, have the preparer remix the photo array and renumber them accordingly.
 - m. Multiple Suspects
When there are multiple suspects, a separate photo array should be conducted for each suspect. There should not be more than one suspect per photo array.
 - n. Reuse of Fillers
When showing a different suspect to the same witness, do not reuse the same fillers from a previous array shown to that witness.
 - o. Contact Among Witnesses
To the extent possible, prevent witnesses from conferring with each other before, during, and after the photo array procedure.
 - p. Identification of Special Features
Only after an identification is made, a follow-up interview should assess any relevant factors that support the identification, such as: special facial features, hair, marks, etc.
3. Special Procedures are Required for Illiterate Persons or Persons Who Possess Limited English Proficiency
- a. Be Alert to People Who do not Speak English or Possess Limited English Proficiency
Given the diversity of communities, police officers may encounter persons who do not speak English or who possess limited English proficiency in the course of a criminal investigation. When presented with this situation, officers should carefully consider the ethical and legal ramifications of how to handle the case when there is a language barrier.
 - b. Using an Interpreter
Unless the administrator speaks the victim's or witness's language fluently, an interpreter should be used for persons who do not speak English. The interpreter shall sign the Witness Instruction Statement on obtaining consent of a non-English speaking person to assist in the eyewitness identification process. Law enforcement personnel should consider arranging for an interpreter if a person interviewed:
 - 1) Is unable to communicate in English
 - 2) Has a limited understanding of English
 - 3) Is deaf, hearing impaired, or speaking impaired

- 4) Is otherwise physically challenged to communicate in English
 - c. Review and Explain Forms
If the person is unable to read, the administrator, in the presence of the witness, will give the explanation, read any forms, and obtain consent and acknowledge the consent on the Witness Certification Statement, stating why the person was unable to sign the form.
 4. Documentation
In order to strengthen the evidentiary value of the administration it should be documented in full. Video documentation (with audio) is the preferred method. Audio recording is the preferred alternative. If neither method is employed, then the reason for not video or audio recording should be documented. Preserve the photo array, together with all information about the identification process.
- C. Sample Standard Operating Procedures for Sequential, Blinded Photo Array Administrations
 1. Preparation
 - a. Select Suspect Photograph
If multiple photos of the suspect are available, choose the photo that most resembles the suspect's appearance at the time of the crime. Do not include more than one photograph of the same suspect. If you do not know what the suspect looked like at the time of the crime, choose the photo that most resembles the victim's or witness's description of the perpetrator. If there are multiple suspects, include only one suspect's photo in the array.
 - b. Selecting Fillers
All persons in the photo array should be of the same sex and race and should be reasonably similar in age, height, weight, and general appearance. Ideally, the characteristics of the filler should be consistent with the description of the perpetrator provided by the witness(es). Where there is a limited or inadequate description of the perpetrator provided by the witness(es), where the description of the perpetrator differs significantly from the appearance of the suspect, fillers should be chosen so that no person stands out in the photo array. Do not mix color and black and white photos. Use photos of the same size and basic composition. Never mix mug shots with other types of photographs.
 - c. Choosing Number of Fillers
Whenever possible, include a minimum of five fillers. Because increasing the number of fillers tends to increase the reliability of the procedure, one may have more than the minimum number of fillers.
 - d. Ensuring Similarity
Assess the array to ensure that no person stands out from the rest. Cover any portions of the photographs that provide identifying

information on the suspect and similarly cover other photographs used in the array.

e. Placing Subject Photographs in Order

- 1) Place a filler in a folder and set it aside for placement in the lead position.
- 2) Place the remaining photographs which will comprise the photo array in separate folders and place them in random order (mix them up) so you do not know which photograph is in which folder.
- 3) Take the folder you set aside in step 1), above and place it in the lead position.
- 4) Place two empty folders at the end.
- 5) Number the folders.

2. Administration

a. Blinded Administration

The purpose of a blinded administration is to conduct the photo array in a manner such that the administrator does not know which person in the array the witness is looking at.

b. Instruct Witness

Each witness should be instructed outside the presence of the other witnesses. The blinded administrator should give the witness a written copy of the following Witness Instruction Statement and should read the instruction statement aloud at the beginning of each identification procedure:

The folders in front of you contain photos. In a moment, I am going to ask you to look at the photos. The person who committed the crime may or may not be included in the photos. I do not know whether the person being investigated is included.

Although I placed the photos into the folders, I have shuffled the folders so that right now I do not know which folder contains a particular photo.

Even if you identify someone during this procedure, I will continue to show you all photos in the series.

The investigation will continue whether or not you make an identification.

Keep in mind that things like hair styles, beards, and mustaches can be easily changed and that complexion colors may look slightly different in photographs.

You should not feel you have to make an identification. It is as important to exclude innocent persons as it is to identify the perpetrator.

You will look at the photos one at a time. When you open a folder, please open it in a manner that does not allow me to see the photo inside the folder. Take as much time as you need to look at each one.

When you have finished looking at a photo, close the folder and hand it to me. I will then ask you, "Is this the person you saw [insert description of act here]?" Take your time answering the question. If you answer "Yes," I will then ask you, "In your own words, can you describe how certain you are?"

Because you are involved in an ongoing investigation, in order to prevent compromising the investigation, you should avoid discussing this identification procedure or its results.

Do you understand the way the photo array procedure will be conducted and the other instructions I have given you?

- c. Document Consent to Participate
Witnesses should then be asked to read the following additional paragraph and sign and date below.

I have read these instructions, or they have been read to me, and I understand the instructions. I am prepared to review the photographs, and I will follow the instructions provided on this form.

- 1) Some witnesses may decline to sign. When a witness declines to sign, it is sufficient for the investigating officer to document that the witness was appropriately instructed.
- d. Present Folders
Present each folder to the witness separately (one at a time), in order. The blinded administrator should not be in a position to view the photographs while the witness is viewing the photographs. The eyewitness should be the only person viewing the photographs. When the witness is finished viewing the photo, have the witness hand the folder back.
- e. Question Witness
After the witness has looked at a photo and handed it back to you, ask: **"Is this the person you saw [insert description of act here]?"** If the witness answers "Yes," ask the witness, **"In your own words, can you describe how certain you are?"**
- f. Document Witness's Responses
Document the witness's response using the witness's own words. Have the witness complete the appropriate section of the Witness Certification Statement to reflect the outcome of the procedure.
- g. Show All Folders with Photos
Show all folders containing photos to the witness. Even if the witness makes an identification, show the witness the next photo until you have gone through all the photographs. If a witness asks why he or she must view the rest of the photos, despite already making an identification, simply tell the witness that to assure objectivity and reliability, the witness is required to view all of the photographs.
- h. Avoid Feedback During the Procedure

Do not give the witness any feedback regarding the individual selected or comment on the outcome of the identification procedure. Be aware that witnesses may perceive such things as unintentional voice inflection or prolonged eye contact, in addition to off-hand words or phrases, as messages regarding their selection. Avoid casual conversation comments such as “very good.” Be polite but purposeful when you speak.

- i. **Additional Viewings**
Only upon request of the witness, the witness may view the photo array again after the first photo array procedure has been completed. If the witness requests an additional viewing, the photo array administrator should present the entire photo array in the same order as the original presentation, a second time. If this occurs, it must be documented. The photo array administrator should never suggest an additional viewing to the witness. It is recommended that the witness not be allowed to view the photo array more than two times.
 - j. **Subsequent Use of Materials**
Ensure that if the witness writes on, marks, or in any way alters identification materials, those materials are not used in subsequent procedures.
 - k. **Multiple Identification Procedures with Same Witness**
Avoid multiple identification procedures in which the same witness views the same suspect more than once.
 - l. **Multiple Identification Procedures with Different Witness**
If you need to show the same suspect to a new witness, remix the photo array as before and renumber them accordingly.
 - m. **Multiple Suspects**
When there are multiple suspects, a separate photo array should be conducted for each suspect. There should not be more than one suspect per photo array.
 - n. **Reuse of Fillers**
When showing a different suspect to the same witness, do not reuse the same fillers from a previous array shown to that witness.
 - o. **Contact Among Witnesses**
To the extent possible, prevent witnesses from conferring with each other before, during, and after the photo array procedure.
 - p. **Identification of Special Features**
Only after an identification is made, a follow-up interview should assess any relevant factors that support the identification, such as: special facial features, hair, marks, etc.
3. **Special Procedures are Required for Illiterate Persons or Persons Who Possess Limited English Proficiency**
 - a. **Be Alert to People Who do not Speak English or Possess Limited English Proficiency**
Given the diversity of communities, police officers may encounter persons who do not speak English or who possess limited English

proficiency in the course of a criminal investigation. Where presented with this situation, officers should carefully consider the ethical and legal ramifications of how to handle the case when there is a language barrier.

b. Using an Interpreter

Unless the administrator speaks the victim's or witness's language fluently, an interpreter should be used for persons who do not speak English. The interpreter shall sign the Witness Certification Statement on obtaining consent of a non-English speaking person to assist in the eyewitness identification process. Law enforcement personnel should consider arranging for an interpreter if a person interviewed:

- 1) Is unable to communicate in English
- 2) Has a limited understanding of English
- 3) Is deaf, hearing impaired, or speaking impaired
- 4) Is otherwise physically challenged to communicate in English

c. Review and Explain Forms

If the person is unable to read, the administrator, in the presence of the witness, will give the explanation, read any forms, and obtain consent and acknowledge the consent on the Witness Instruction Statement, stating why the person was unable to sign the form.

4. Documentation

In order to strengthen the evidentiary value of the administration it should be documented in full. Video documentation (with audio) is the preferred method. Audio recording is the preferred alternative. If neither method is employed, then the reason for not video or audio recording should be documented. Preserve the photo array, together with all information about the identification process.

D. Sample Standard Operating Procedures for Sequential, Blind Live lineups

1. Preparation

a. Designating a Preparer

Preparing the live lineup should be undertaken by someone other than the person who will administer the live lineup. Ideally, the investigating officer will prepare the live lineup as this ensures that others who might be involved in the case are not used as fillers. Moreover, because the investigating officer knows who the suspect is, he or she should not conduct the actual administration of the live lineup

b. Selecting Fillers

All persons in the live lineup should be of the same sex and race and should be reasonably similar in age, height, weight, and general appearance. Ideally, the characteristics of the filler should be consistent with the description of the perpetrator provided by the witness(es). Where there is a limited or inadequate description of the

perpetrator provided by the witness(es), where the description of the perpetrator differs significantly from the appearance of the suspect, fillers should be chosen so that no person stands out in the live lineup.

- c. **Choosing Number of Fillers**
Whenever possible, include a minimum of five fillers. Because increasing the number of fillers tends to increase the reliability of the procedure, one may have more than the minimum number of fillers.
- d. **Ensuring Similarity**
Assess the lineup to ensure that no person stands out from the rest.
- e. **Placing the Subjects in Order**
Place a filler in the lead position and place the remaining persons who will comprise the live lineup in random order.
- f. **Presenting the Live lineup to Administrator**
Present the ordered live lineup to the administrator. Do not tell the administrator which position the suspect is in.

2. Administration

The administrator of the live lineup should be an independent administrator who does not know the identity of the suspect and the witness should be informed of this. In a blind procedure, no one should be present who knows the suspect's identity. In some live lineups, exceptions must be made to allow for the presence of defense counsel. Once the live lineup commences, defense counsel's role is limited to that of observer.

a. Instruct Witness

Each witness should be instructed outside the presence of the other witnesses. The live lineup administrator should give the witness a written copy of the following Witness Certification Statement and should read the instruction statement aloud at the beginning of each identification procedure:

In a moment, I am going to show you a series of individuals. The person who committed the crime may or may not be included. I do not know whether the person being investigated is included.

The investigation will continue whether or not you make an identification.

Even if you identify someone during this procedure, I will continue to show you all individuals in the series.

Keep in mind that things like hair styles, beards, and mustaches can be easily changed.

You should not feel you have to make an identification. It is as important to exclude innocent persons as it is to identify the perpetrator.

The individuals will be shown to you one at a time. Take as much time as you need to look at each one. After each individual, I will ask you "Is this the person you saw [Insert

description of act]?" Take your time answering the question. If you answer "Yes," I will then ask you, "In your own words, can you describe how certain you are?"

Because you are involved in an ongoing investigation, in order to prevent damaging the investigation, you should avoid discussing this identification procedure or its results.

Do you understand the way the lineup procedure will be conducted and the other instructions I have given you?

- b. Document Consent to Participate
Witnesses should then be asked to read the following additional paragraph and sign and date below.

I have read these instructions, or they have been read to me, and I understand the instructions. I am prepared to view the individuals who will be presented to me, and I will follow the instructions provided on this form.

- 1) Some witnesses may decline to sign. When a witness declines to sign, it is sufficient for the investigating officer to document that the witness was appropriately instructed.

- c. Presentation of Subjects
Begin with all live lineup participants out of the view of the witness. Present each subject one at a time in the order presented to the administrator by the preparer. Present each individual to the witness separately, removing those previously shown from the field of view.

- d. Question Witness
After each individual is shown, ask the witness: **"Is this the person you saw [insert description of act]?"** If the witness answers "Yes," ask the witness, **"In your own words, can you describe how certain you are?"** Document the witness's response using the witness's own words.

- e. Document Witness's Responses
Document the witness's response using the witness's own words. Have the witness complete the appropriate section of the Witness Certification Statement to reflect the outcome of the procedure.

- f. Show Every Subject
Even if the witness makes an identification, show the witness the next subject until all subjects have been shown. If a witness asks why he or she must view the rest of the subjects despite already making an identification, simply tell the witness that to assure objectivity and reliability, the witness is required to view all of the subjects.

- g. Consistency of Actions
Ensure that any identification actions (e.g., speaking, moving) are performed by all members of the live lineup.

- h. Avoid Feedback During the Procedure
Do not give the witness any feedback regarding the individual

selected or comment on the outcome of the identification procedure in any way. Be aware that witnesses may perceive such things as unintentional voice inflection or prolonged eye contact, in addition to off-hand words or phrases, as messages regarding their selection. Avoid casual comments such as “very good.” Be polite but purposeful when you speak.

- i. **Additional Viewings**
Only upon request of the witness, the witness may view the lineup again after the first live lineup has been completed. If the witness requests an additional viewing, the independent administrator should present the entire live lineup a second time. If this occurs, it must be documented. The live lineup administrator should never suggest additional viewing. It is recommended that the witness not be allowed to view the live lineup more than two times.
 - j. **Multiple Identification Procedures with Same Witness**
Avoid multiple identification procedures in which the same witness views the same suspect more than once.
 - k. **Multiple Identification Procedures with Different Witness**
If you need to show the same suspect to a new witness, have the preparer change the order of the subjects in the lineup.
 - l. **Multiple Suspects**
When there are multiple suspects, a separate live lineup should be conducted for each suspect. There should not be more than one suspect per lineup.
 - m. **Reuse of Fillers**
When showing a different suspect to the same witness, do not reuse the same fillers from a previous lineup shown to that witness.
 - n. **Contact Among Witnesses**
To the extent possible, prevent witnesses from conferring with each other before, during, and after the live lineup procedure.
 - o. **Contact between Witnesses, Suspects, and Fillers**
Take precautions to ensure that witnesses do not encounter suspects or fillers at any time before or after the identification procedure.
 - p. **Identification of Special Features**
Only after an identification is made, a follow-up interview should assess any relevant factors that support the identification, such as: special facial features, hair, marks, etc.
3. **Special Procedures Are Required for Illiterate Persons or Persons Who Possess Limited English Proficiency**
 - a. **Be Alert to People Who do not Speak English or Possess Limited English Proficiency**
Given the diversity of communities, police officers may encounter persons who do not speak English or who possess limited English proficiency in the course of a criminal investigation. Where presented with this situation, officers should carefully consider the

ethical and legal ramifications of how to handle the case when there is a language barrier.

b. Using an Interpreter

Unless the administrator speaks the victim's or witness's language fluently, an interpreter should be used for persons who do not speak English. The interpreter shall sign the Witness Certification Statement on obtaining consent of a non-English speaking person to assist in the eyewitness identification process. Law enforcement personnel should consider arranging for an interpreter if a person interviewed:

- 1) Is unable to communicate in English
- 2) Has a limited understanding of English
- 3) Is deaf, hearing impaired or speaking impaired
- 4) Is otherwise physically challenged to communicate in English

c. Review and Explain Forms

If the person is unable to read or write, the administrator, in the presence of the witness, will give the explanation, read any forms, and obtain consent and acknowledge the consent on the Witness Certification Statement, stating why the person was unable to sign the form.

4. Documentation

In order to strengthen the evidentiary value of the administration, it should be documented in full. Video documentation (with audio) is the preferred method. Audio recording is the preferred alternative. If neither method is employed, then the reason for not video or audio recording should be documented. A still photograph of each individual in the live lineup should be taken and details of all persons present during the live lineup should be documented.

E. Sample Standard Operating Procedures for Show-ups

Show-ups should be avoided whenever possible because of their suggestiveness. Photo arrays and live lineups are preferred. However, where circumstances require the prompt display of a suspect to a witness, the following procedures should be followed to minimize potential suggestiveness.

1. Preparation

a. Contact Among Witnesses

Separate witnesses and do not allow communication between them before or after conducting a show-up.

b. Document Witness's Description of Perpetrator

Document the witness's description of the perpetrator prior to conducting the show-up.

c. Temporal and Spatial Proximity to the Offense

Use show-ups only where the suspect is detained within a reasonably short time frame following the offense and is found in relatively close proximity to it. Although this is dependent on the

individual circumstances of each case, courts have generally held that a two-hour time lapse is acceptable.

- d. **Transport Witness to Suspect**
Transport the witness to the location of the suspect whenever practical, rather than bringing the suspect to the witness. The suspect may be taken to a location where the witness can view the suspect for possible identification.
- e. **Do not Return Suspect to Crime Scene**
Suspects should not be taken to the scene of the crime.
- f. **Disclosure of Location of Witness's Home**
Consider carefully whether to take the suspect to the witness's or victim's home.
- g. **Avoid Appearance of Guilt**
Do not conduct show-ups when the suspect is in a patrol car, handcuffed, or physically restrained by police officers unless such protective measures are necessary to ensure safety.
- h. **Minimize Reliance on Show-ups**
If one witness identifies the suspect, you are strongly urged to use a photo array or a live lineup with any remaining witnesses.

2. Administration

- a. **Instruct Witness**
Each witness should be instructed outside the presence of the other witnesses. The show-up administrator should give the witness a written copy of the following Witness Certification Statement and should read the instruction statement aloud at the beginning of the show-up identification procedure:

In a moment, I am going to show you a person who may or may not be the person who committed the crime.

You should not feel you have to make an identification. It is as important to exclude innocent persons as it is to identify the perpetrator. The investigation will continue whether or not you make an identification.

Because you are involved in an ongoing investigation, in order to prevent damaging the investigation, you should avoid discussing this identification procedure or its results.

Do you understand the procedure and the instructions I have given you?
- b. **Presentation of Suspect and Questioning of Witness**
Present the suspect to the witness and ask the witness whether the person they are looking at is the person they saw commit the crime.
If the witness answers "Yes," ask the witness to describe, in their own words, how certain they are.
- c. **Document Witness's Response**
Document the witness's response using the witness's own words.
- d. **Multiple Identification Procedures with Same Witness**

- Avoid multiple identification procedures in which the same witness views the same suspect more than once.
 - e. Avoid Requirement of Performance by the Suspect
 - Do not require show-up suspects to put on clothing worn by, speak words uttered by, or perform other actions of the perpetrator.
 - f. Avoid Conduct Suggestive of the Suspect's Guilt
 - Officers should avoid words or conduct that may suggest to the witness that the individual is or may be the perpetrator.
 - g. Contact Among Witnesses
 - Remind the witness not to talk about the show-up to other witnesses until police or prosecutors deem it permissible.
- 3. Special Procedures Are Required for Illiterate Persons or Persons Who Possess Limited English Proficiency
 - a. Be Alert to People Who do not Speak English or Possess Limited English Proficiency
 - Given the diversity of communities, police officers may encounter persons who do not speak English or who possess limited English proficiency in the course of a criminal investigation. Where presented with this situation, officers should carefully consider the ethical and legal ramifications of how to handle the case when there is a language barrier.
 - b. Using an Interpreter
 - Unless the show-up administrator speaks the victim's or witness's language fluently, an interpreter should be used for persons who do not speak English. Law enforcement personnel should consider arranging for an interpreter if a person interviewed:
 - 1) Is unable to communicate in English
 - 2) Has a limited understanding of English
 - 3) Is deaf, hearing impaired, or speaking impaired
 - 4) Is otherwise physically challenged to communicate in English
- 4. Documentation
 - In order to strengthen the evidentiary value of the administration it should be documented in full including the time, date, and location of the procedure, identities of persons present, and the outcome of the procedure. Video documentation (with audio) is the preferred method. Audio recording is the preferred alternative. If neither method is employed, then the reason for not video or audio recording should be documented.

Appendix A
Witness Certification Statement for Photo Array

Reference No.:

Offense:

Date of Offense:

Witness:

Time, Date, and Place of Photo Array:

Persons present:

Instructions:

In a moment, I am going to show you a series of photos. The person who committed the crime may or may not be included. I do not know whether the person being investigated is included. The investigation will continue whether or not you make an identification. Even if you identify someone during this procedure, I will continue to show you all photos in the series. Keep in mind that things like hair styles, beards, and mustaches can be easily changed and that complexion colors may look slightly different in photographs.

You should not feel you have to make an identification. It is as important to exclude innocent persons as it is to identify the perpetrator. The photos will be shown to you one at a time. Take as much time as you need to look at each one. After each photo, I will ask you "Is this the person you saw [insert description of act here]?" Take your time answering the question. If you answer "Yes," I will then ask you, "In your own words, can you describe how certain you are?"

Because you are involved in an ongoing investigation, in order to prevent damaging the investigation, you should avoid discussing this identification procedure or its results.

Do you understand the way the photo array procedure will be conducted and the other instructions I have given you?

Consent to Participate:

I have read these instructions, or they have been read to me, and I understand the instructions. I am prepared to review the photographs and I will follow the instructions provided on this form.

Signed: _____
(Witness)

I certify that I have translated and read the instructions to the witness.

Signed: _____
(Translator, if applicable)

Signed: _____
(Photo Array Administrator)

Identification Result:

I have picked photo number _____

Signed: _____
(Witness)

I did not pick anyone from the photo array

Signed: _____
(Witness)

Witness Confidence Statement:

Administrator Certification:

The photo that was picked from the photo array by the above-named witness has been identified as _____

Signed: _____

(Photo Array Administrator)

Appendix B Witness Certification Statement for Live Lineup

Reference No.:

Offense:

Date of Offense:

Witness:

Time, Date, and Place of Live Lineup:

Persons present:

Instructions:

In a moment, I am going to show you a series of individuals. The person who committed the crime may or may not be included. I do not know whether the person being investigated is included.

The investigation will continue whether or not you make an identification. Even if you identify someone during this procedure, I will continue to show you all individuals in the series. Keep in mind that things like hair styles, beards, and mustaches can be easily changed.

*You should not feel you have to make an identification. It is as important to exclude innocent persons as it is to identify the perpetrator. The individuals will be shown to you one at a time. Take as much time as you need to look at each one. After each individual, I will ask you "Is this the person you saw **[Insert description of act]**?" Take your time answering the question. If you answer "Yes," I will then ask you, "In your own words, can you describe how certain you are?"*

Because you are involved in an ongoing investigation, in order to prevent compromising the investigation, you should avoid discussing this identification procedure or its results.

Do you understand the way the lineup procedure will be conducted and the other instructions I have given you?

Consent to Participate:

I have read these instructions, or they have been read to me, and I understand the instructions. I am prepared to view the individuals, and I will follow the instructions provided on this form.

Signed: _____
(Witness)

I certify that I have translated and read the instructions to the witness.

Signed: _____
(Translator, if applicable)

Signed: _____
(Lineup Administrator)

Identification Result:

I have picked number _____

Signed: _____
(Witness)

I did not pick anyone _____

Signed: _____
(Witness)

Witness Confidence Statement:

Administrator Certification:

The individual who was picked from the live lineup by the above-named witness has been identified

as _____

Signed: _____
(Lineup Administrator)

EXHIBIT "C"
SPANISH PHOTO ARRAY

DEPARTAMENTO DE SEGURIDAD PÚBLICA PRESENTACIÓN DE FOTOS
HORA DE LA PRESENTACIÓN DE FOTOS _____
FECHA DE LA PRESENTACIÓN DE FOTOS _____
VISTO POR _____
FECHA DE LA OFENSA _____
AGENCIA _____
OFICIAL _____
CASO # _____

DEPARTAMENTO DE LA CUIDAD DE PRESIDIO PRESENTACIÓN DE FOTOS
Administrador ... lea las instrucciones en voz alta
Las carpetas al frente de usted contienen fotos. En un momento, voy a pedirle que mire las fotos. La persona que cometió el crimen puede o no estar incluido(a) en las fotos. No sé si la persona objeto de la investigación está incluida. (Marque la casilla si esto aplica) Aunque yo coloqué las fotos en las carpetas, las he mezclado de tal forma que en éste momento no sé qué carpeta contiene una foto en particular. Incluso si usted identifica a alguien durante éste procedimiento, yo seguiré mostrándole las fotos restantes. La investigación continuará si usted hace o no hace una identificación. Tenga en cuenta que cosas como los estilos de los cabellos, las barbas, y los bigotes pueden ser cambiados fácilmente y que el color de la piel puede ser ligeramente diferente en las fotografías. Usted no debe sentirse obligado(a) hacer una identificación. Es tan importante el excluir a personas inocentes, como lo es para identificar al perpetrador. Usted va a mirar las fotos uno por uno. Al abrir una carpeta, ábrala de una manera que no me permita ver la foto en el interior de la carpeta. Tómese todo el tiempo que necesite para mirar cada una de las fotografías. Cuando haya terminado de ver una foto, cierre la carpeta y entréguela. Entonces le preguntaré: "¿Es ésta la persona que usted vió? "

SEP **Tómese su tiempo para contestar la pregunta. Si su respuesta es "Sí", entonces le preguntaré "En tus propias palabras, ¿puede describir con que certeza está usted?"**

Debido a que usted está involucrado(a) en una investigación en proceso, a fin de evitar poner en peligro la investigación, usted no debe hablar sobre este procedimiento de identificación o de sus resultados.

¿Entiende usted cómo se va a realizar el procedimiento de presentación de fotos y las otras instrucciones que le he dado?

Consentimiento Para Participar

He leído estas instrucciones o han sido leídas a mí y yo entiendo las instrucciones. Estoy preparado(a) para revisar las fotografías, y voy a seguir las instrucciones explicado en este formulario.

Firma del Testigo _____

Fecha _____



Información recopilada por el Instituto de Manejo Policiaco Bill Blackwood de Tejas - Modelo de presentación de fotos (requerido por 38.20 CCP)

Copia del Investigador

DEPARTAMENTO DE SEGURIDAD PÚBLICA PRESENTACIÓN DE FOTOS

Administrador ... lea las instrucciones en voz alta

Las carpetas al frente de usted contienen fotos. En un momento, voy a pedirle que mire las fotos. La persona que cometió el crimen puede o no estar incluido(a) en las fotos.

No sé si la persona objeto de la investigación está incluida. (Marque la casilla si esto aplica)

Aunque yo coloqué las fotos en las carpetas, las he mezclado de tal forma que en éste momento, no sé qué carpeta contiene una foto en particular.

Incluso si usted identifica a alguien durante éste procedimiento, yo seguiré mostrándole las fotos restantes.

La investigación continuará si usted hace o no hace una identificación.

Tenga en cuenta que cosas como los estilos de los cabellos, las barbas, y los bigotes pueden ser cambiados fácilmente y que el color de la piel puede ser ligeramente diferente en las fotografías.

Usted no debe sentirse obligado(a) hacer una identificación. Es tan importante el excluir a personas inocentes, como lo es para identificar al perpetrador.

Usted va a mirar las fotos una a la vez. Al abrir una carpeta, ábrala de una manera que no me permita ver la foto en el interior de la carpeta. Tómese todo el tiempo que necesite para mirar cada una de las fotografías.

Cuando haya terminado de ver una foto, cierre la carpeta y entréguelamela. Entonces le preguntaré: "¿Es ésta la persona que usted vió? "

Tómese su tiempo para contestar la pregunta. Si su respuesta es "Sí", entonces le preguntaré "En tus propias palabras, ¿puede describir cuán cierto(a) está usted?"

Debido a que usted está involucrado(a) en una investigación en proceso, a fin de evitar poner en peligro la investigación, usted no debe hablar sobre este procedimiento de identificación o de sus resultados.

¿Entiende usted cómo se va a realizar el procedimiento de presentación de fotos y las otras instrucciones que le he dado?

Consentimiento Para Participar

He leído estas instrucciones o han sido leídas a mí y yo entiendo las instrucciones. Estoy preparado(a) para repasar las fotografías, y voy a seguir las instrucciones proporcionadas en este formulario.

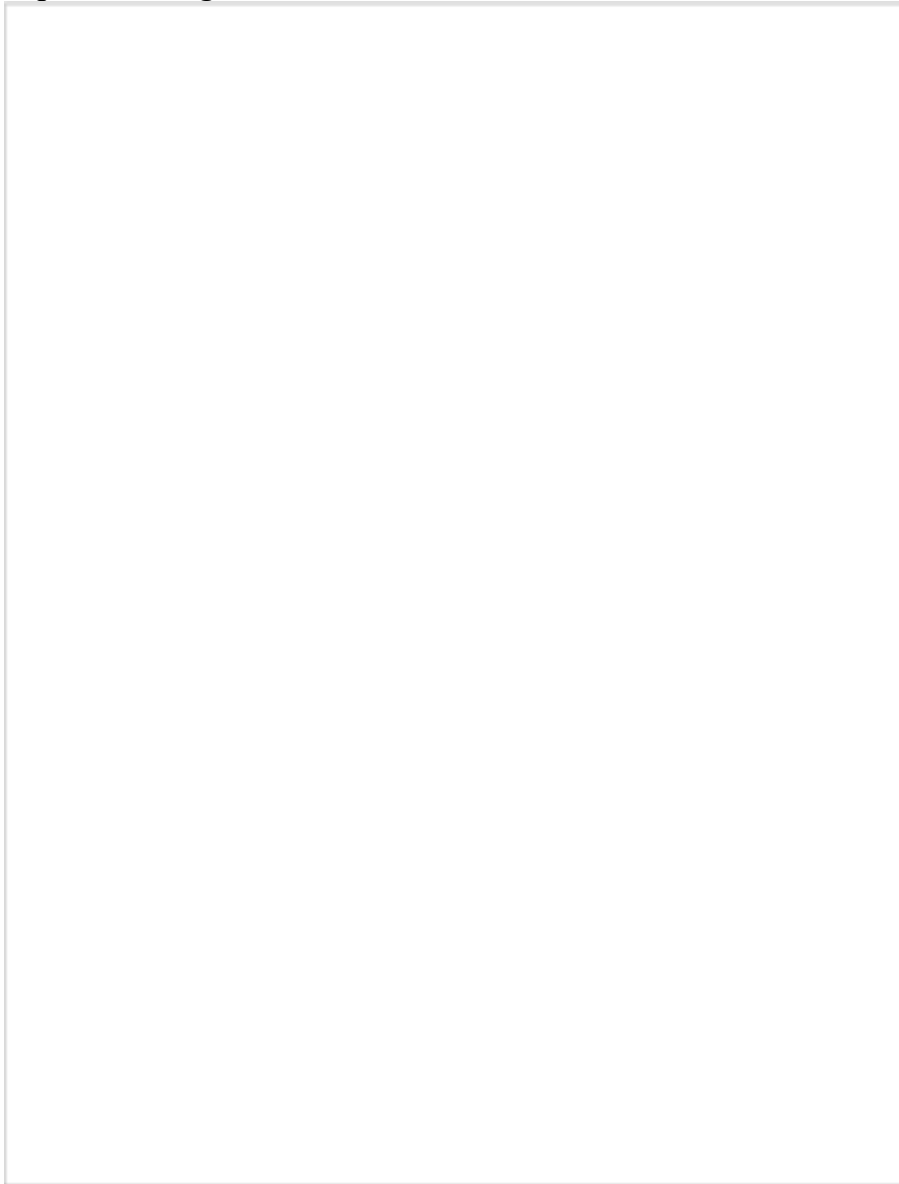
Firma del Testigo _____

Fecha _____



Información recopilada por el Instituto de Manejo Policiaco Bill Blackwood de Tejas - Modelo de alineación de foto (requerido por 38.20 CCP)

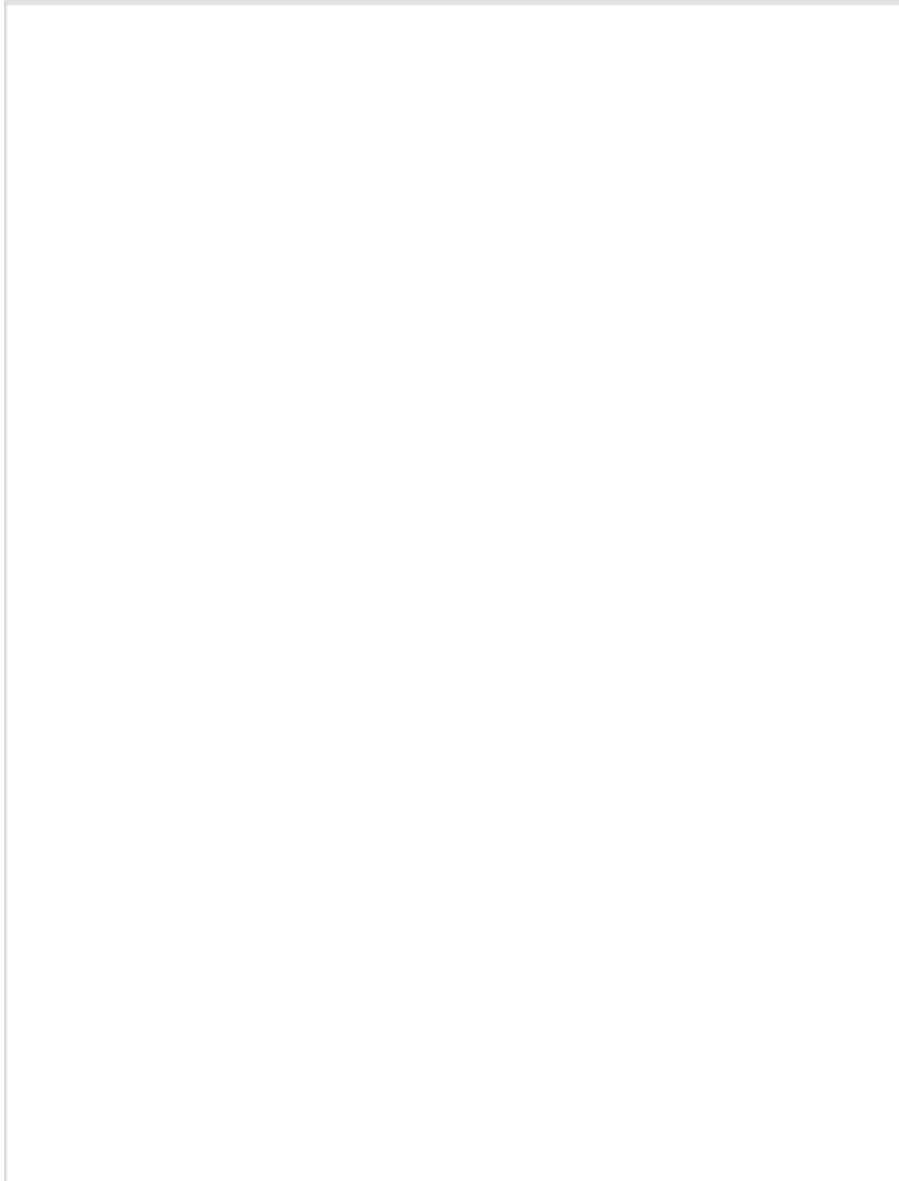
Copia del Testigo



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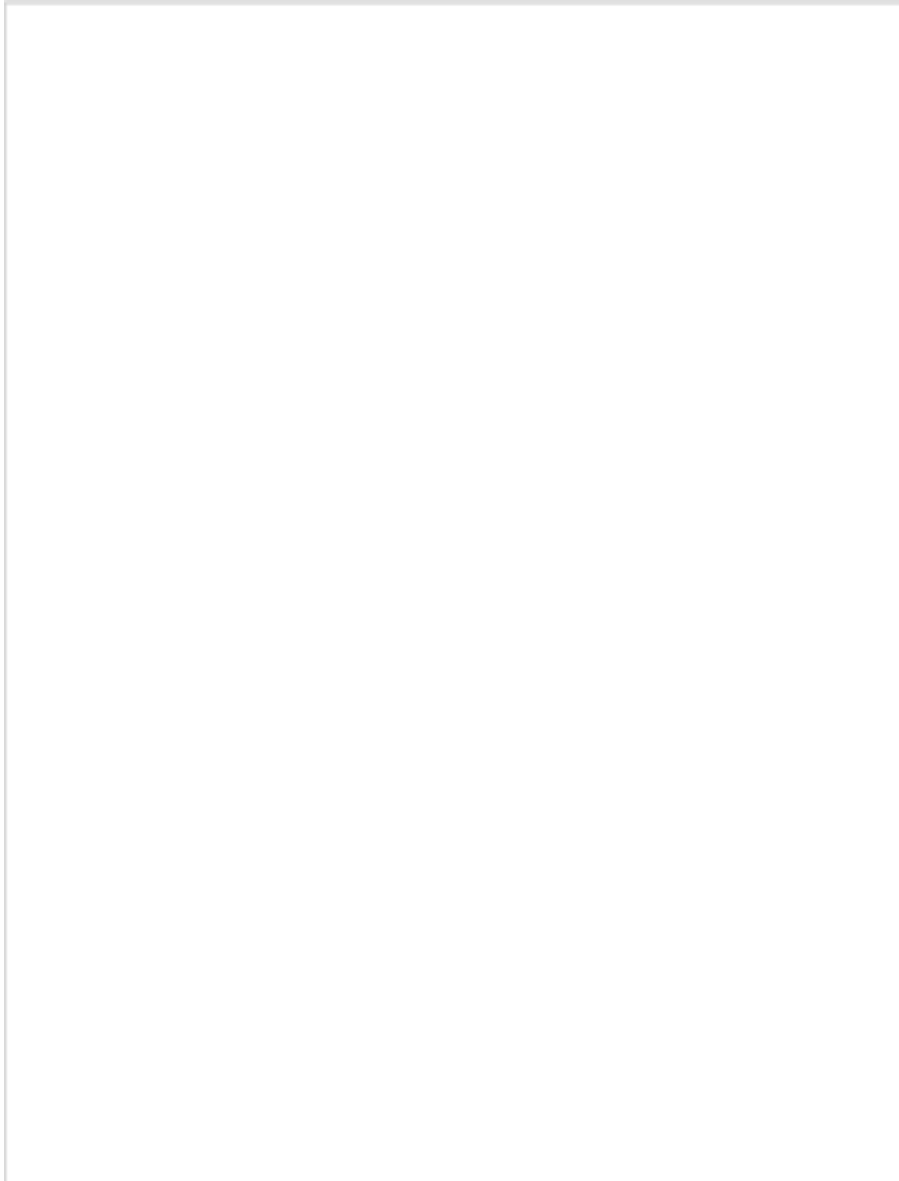
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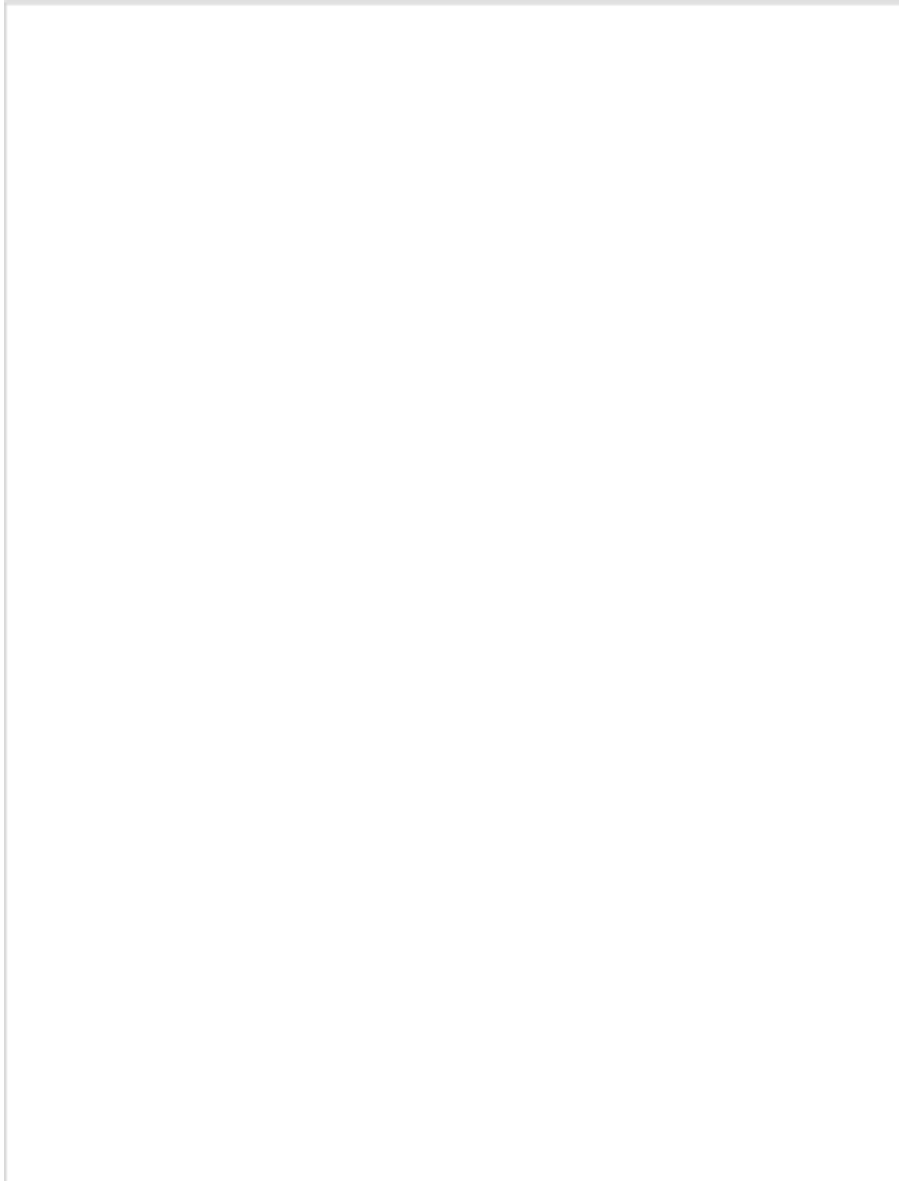
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