

## BERKELEY POLICE DEPARTMENT

DATE ISSUED: February 28, 2005

GENERAL ORDER C-16

### SUBJECT: REPORTS INVOLVING POSSIBLE CITY LIABILITY

- 1 - The purpose of this General Order is to establish procedures to be followed in situations involving potential City liability.

#### POLICY

- 2 - It is the policy of the Berkeley Police Department to investigate all police-related incidents where potential City liability is involved.

#### WHAT IS CITY LIABILITY?

- 3 - Possible City liability includes, but is not limited to:
  - (a) Falls of persons on City sidewalks, curbs, streets or other City property, or in buildings owned or leased by the City.
  - (b) Injury or damage alleged or sustained by overhanging trees, shrubbery, or by other property under City control.
  - (c) **Accidents and collisions involving City equipment and vehicles.**
  - (d) Injuries alleged or sustained by prisoners under arrest or in custody.
  - (e) Injuries to persons or damage to private property resulting from police action (e.g., forced entry on search warrants).
    - (1) If in doubt, the incident should be investigated as though it involves City liability.

#### PROCEDURES

- 4 - Immediate notification shall be made to:
  - (a) The City Attorney, even at home, if considered necessary by the Duty Command Officer when any injury is serious and likely to cause death.
  - (b) The City department concerned if during regular office hours.
  - (c) A Sergeant or the appropriate Commanding Officer when any case involves police personnel, equipment, or procedures.
    - (1) In situations where property is damaged (e.g., a search warrant where a door was forced open, or exigent circumstances requiring forced entry, etc.) and no resident is home, it is the responsibility of the handling officer to ensure that the property is secured. This may involve the notification of Public Works to provide a City crew to secure the property. When it can be anticipated that damage will

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occur, arrangements should be made with Public Works in advance for a crew to be available (on standby).

- (2) Follow-up with the owner or occupant of the property shall be made either later in the day, or the next day to determine if the damage has been repaired.
- (3) In all cases of damaged property a separate numbered report shall be completed. Information concerning the damaged property and security of same shall be described in the report.

### INVESTIGATION AND REPORT-CONTENT

- 5 - A numbered report shall be completed in all cases involving potential City liability.
  - (a) Photographs shall be taken in all cases unless prevented by a lack of cooperation by complainants or victims.
  - (b) It is the policy of the Berkeley Police Department to videotape or photograph structures (i.e., residences, apartments, businesses, etc.) to document the conditions of the structure before and after service of search warrants. Procedures for search warrant videotaping and photography are covered in G.O. S-6.
- 6- A factual description shall be given of the alleged condition which caused the injury or damage. If no defect is discernible, it' should be so stated.
- 7 - The name and address of the insurance carrier for the other vehicle should be included in cases of accidents involving City owned vehicles.
- 8 - **With the exception of vehicle collisions**, the subject of liability or responsibility shall not be discussed nor dealt with. All reports shall be factual and officer's opinions omitted.
- 9 - **Collisions involving City vehicles, including police vehicles, shall be thoroughly investigated based on the guidelines of General Orders E-3, P-12 and T-16 and, whenever possible, include the investigating officer's opinion/conclusion regarding the primary collision factor and any contributing causative factors.**

### REPORT DISTRIBUTION

- 10 - The employee completing the report shall insure that copies are routed to the City Attorney and Risk Manager, including photographs, diagrams, statements or other attachments, if applicable.
- 11 - The Division Commander shall receive a copy of every report investigated under

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paragraph 3(d) and (e).

- 12 - It shall be the responsibility of the officer or employee typing or transcribing the reports to insure that they are properly distributed.
  - (a) Those for the City Attorney and Risk Manager shall be placed in the mailbox of the Chief of Police for forwarding.

**HAZARDS AND DEFECTS**

- 13 - Reports concerning hazard and defective or dangerous conditions, whether received from citizens or observed by officers, shall be detailed on a "Notice of Defective Condition", Form 262-8, Blanket Case #(year)-00020, and routed:
  - (a) Original to the Department concerned.
  - (b) Duplicate to the Records Bureau for filing with the blanket report.
- 14 - Serious conditions shall be immediately reported to the Department concerned with a follow-up by the form.

References: General Orders C-15, C-17, E-2, E-3, O-7, P-12, P-24, R-3, R -19, V-4, S-6 and T-16