



DEPARTMENTAL REGULATIONS
CONCORD POLICE DEPARTMENT

GENERAL ORDER 2
EFFECTIVE DATE: 6/1998
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I.D. NUMBER: 383

Chief of Police

SCOPE OF DUTY AND AUTHORITY – SWORN OFFICERS

A. POLICY STATEMENT

The sworn members of the Concord Police Department are police officers 24 hours per day. In light of this, the sworn members of the Concord Police Department may take appropriate legal action as police officers at any time within the Mt. Diablo Judicial district when they become aware of any condition requiring such action. Further, all sworn officers shall assist outside police agencies and take appropriate legal action as police officers under any condition demonstrating a need for such assistance or action pursuant to a request for mutual aid.

B. POLICY

1. The City of Concord encompasses approximately 29 square miles within its jurisdictional boundaries. It is generally bordered by the cities of Pleasant Hill to the west, Clayton to the east, Walnut Creek to the south and the Concord Naval Weapons Station and unincorporated areas of Contra Costa County to the north. The detailed jurisdictional boundaries can be found on City of Concord maps, which are available to all department personnel.
2. All personnel, prior to assuming sworn status, shall take and subsequently abide by an oath of office to enforce the law and uphold the Constitution of the United States and the Constitution of the State of California.
 - .1 All sworn officers shall abide by the Code of Conduct and Law Enforcement Code of Ethics, as adopted by this agency and found in the Administration section of these department regulations.
3. Pursuant to 830.1 of the Penal Code, sworn officers of the Concord Police Department shall have peace officer powers anywhere in the State of California, as follows:
 - .1 Within the jurisdiction of the Concord Police Department.
 - .2 Within another jurisdiction when the Chief of Police or Sheriff of that jurisdiction has given prior consent for sworn officers of the Concord Police Department to act as peace officers.
 - .3 As to any public offense committed or which there is probable cause to believe has been committed in the officer's presence, and there is immediate danger to person or property, or the escape of the perpetrator of the offense.
 - .4 The Concord Police Department recognizes and has established a Reserve Police Officer program, under authority of Section 830.6 of the Penal Code.
 - .01 Peace officer powers and authority for Reserve Police Officers are defined in Section 832.6 of the Penal Code.

4. While acting within the scope of their duties, whether on or off duty, members of this department shall identify themselves by name and title when asked by a citizen, or when required to by law.

5. On-duty Intervention

When a sworn member of the department takes legal intervention while on-duty, his/her actions shall be in compliance with the standards of established law and departmental policies.

6. Off-duty Intervention

.1 Prior to taking enforcement action, off-duty officers will give first consideration to causing the appropriate action to be effected by on-duty department members from the law enforcement agency in which the activity occurs. Additionally, the Department recognizes that off-duty officers cannot rely on the immediate assistance or application of police resources in the same capacity as while on duty and, thus, does not expect officers to jeopardize themselves or others by taking police action while off duty in all circumstances. However, when action is considered necessary consistent with the tactical situation, offense involved, or other factors as articulated by the involved officer, any police action taken while off-duty is governed by the same policies, procedures, rules and regulations that apply to on-duty department members in a similar situation

.2 If a member of the Concord Police Department, while off-duty, takes legal action as a police officer, he/she shall cause a report to be made to the venue agency.

.01 If the incident occurs outside the City of Concord, the involved officer shall notify the on-duty Concord Police Department Watch Commander or Shift Supervisor as soon as practical.

.001 The involved officer shall inform the Watch Commander/Shift Supervisor of the circumstances of the event.

.002 The Watch Commander/Shift Supervisor may direct the involved officer to complete an original Concord Police Department report, documenting the event. This report will be in addition to any report or statement made to the venue agency. The report is to be completed as soon as practical.

.0001 The Watch Commander/Shift Supervisor may have the involved officer provide an interview statement in lieu of a written report.

.0002 Any written report or verbal statement taken from the involved officer shall be congruent with the officer's protection under the Public Safety Officer's Bill of Rights.

.003 After being notified of such an event, the Watch Commander/Shift Supervisor shall enter the details of the event into the computerized daily log, and make a "1000" voice mail notification, as necessary.

.02 If the incident occurs within the City of Concord, the involved officer shall report the event to the on-duty Watch Commander/Shift Supervisor.

.001 The Watch Commander/Shift Supervisor may direct the involved officer to complete an original report documenting the event.

- .0001 The Watch Commander/Shift Supervisor may have the involved officer provide an interview statement in lieu of a written report.
 - .0002 Any written report or verbal statement taken from the involved officer shall be congruent with the officer's protection under the Public Safety Officer's Bill of Rights.
 - .002 The Watch Commander/Shift Supervisor shall enter the circumstances of the event in the computerized daily log, and make a "1000" voice mail notification, as necessary.
 - .03 If the event involves the discharge of the involved officer's firearm, refer to General Order No. 40 for details of the proper reporting procedure.
 - .04 If the event involves the death of or serious bodily injury to the involved officer, or any other person, refer to Procedure No. 57 for details of the proper reporting/investigation procedures.
 - .05 If the event involves the use of less than lethal force, refer to General Order No. 35 for additional reporting requirements.
7. The scope and level of any follow-up investigation into any event covered by this General Order will depend on the circumstances of the event.

C. COMPLIANCE WITH CONSTITUTIONAL REQUIREMENTS

1. Sworn personnel of the Concord Police Department are required to act within the standards set forth by the governing bodies of the United States, the State of California and the City of Concord.
2. Sworn personnel are required to act within the standards established by the federal, state and local courts.
3. Guidelines for conducting the various law enforcement activities can be found in the California Peace Officers Legal Resource Manual. The procedures that are addressed in the manual include:
 - .1 Custodial interview, interrogation, and right to counsel.
 - .01 Custodial interviews are questions that are not intended to elicit an incriminating response from the prisoner; therefore, the prisoner does not have to be advised of his/her constitutional rights under Miranda. Custodial interviews may be conducted for a number of reasons, including the need to:
 - .001 Complete booking forms
 - .002 Determine if the prisoner is in need of medical attention
 - .003 Verify the prisoner's identity
 - .004 Ensure proper custodial placement of the prisoner
 - .02 Custodial interrogations are questions that are intended to elicit incriminating responses from the prisoner.
 - .001 Prior to conducting a custodial interrogation, officers shall ensure that the prisoner is advised of his/her constitutional rights under Miranda.

- .0001 Whenever possible, the officer should read the Miranda advisement to the prisoner from the Arrest and Detention form or Miranda advisement card. The officer should obtain a signed waiver and note the prisoner's response in the police report.
- .0002 The *custodial* status of the prisoner is the key to determining when the Miranda advisement is required.
- .002 While seeking a waiver of a prisoner's right to remain silent and his/her right to legal counsel, the officer shall:
 - .0001 Ensure that the waiver is voluntary and free of coercion or other influences likely to invalidate the waiver.
 - .0002 Ensure the prisoner has the capacity to understand the Miranda advisement and to provide a valid waiver.
- .003 If the prisoner invokes his/her right to remain silent or right to legal counsel, the officer shall not continue to ask questions intended to or likely to elicit an incriminating response. The officer shall not engage in conduct designed or likely to elicit an incriminating response.
- .004 The timing of the interrogation shall not violate the prisoner's right to pre-trial arraignment.
- .03 If a prisoner requests to speak to legal counsel, he/she shall be provided access to a telephone. Department members shall not listen to or otherwise monitor the telephone conversation between a prisoner and his/her legal counsel.
 - .001 A request for face-to-face contact between a prisoner and legal counsel shall be reviewed and a decision made by the on-duty shift supervisor. If the face-to-face contact is granted, it shall be in accordance with the procedures enumerated in the Jail Manual.
- .2 Searches without a warrant, to include:
 - .01 Search by consent
 - .001 Ascertain if the person giving consent has the authority to consent to the search of the vehicle, premises, or other item(s) to be searched.
 - .002 Whenever practical, attempt to obtain a signed consent to search.
 - .003 If the person giving consent rescinds the authorization, the search must stop absent a search warrant, or, when applicable, the moveable vehicle exception to a search warrant.
 - .02 Stop and frisk for officer safety reasons
 - .001 Upon lawful detention of an individual, an officer may conduct a limited search of the individual's person for firearms or other deadly weapons, if the officer concludes that the person detained may be armed and presently dangerous to the officer or others (Section 833.5 PC).
 - .03 Under the movable vehicle exception, when:

- .001 The vehicle has been stopped or encountered for a legitimate law enforcement reason, and
- .002 The officer has probable cause to believe that there is contraband or other illegal items contained within the vehicle, and
- .003 That the item(s) to be searched for are or could be within the portion of the vehicle to be searched.
- .04 At the scene of a crime
 - .001 Officers may search at the scene of a crime under the following circumstances:
 - .0001 With consent
 - .0002 Contemporaneous to a lawful arrest
 - .0003 If the location to be searched is open to the public
 - .0004 Under exigent circumstances as described in Section C.3.2.05
 - .05 Under exigent circumstances, which includes:
 - .001 To prevent imminent danger to life
 - .0001 This includes a “protective sweep” of a location when officers are lawfully inside or outside a location and the officers have some basis to believe there may be others inside who pose a danger to the officers or others.
 - .002 To prevent serious damage to property
 - .003 To prevent the imminent escape of a suspect, when:
 - .0001 Officers are in “hot pursuit”
 - .00001 Officers should comply with “knock and notice”, unless to do so would put the officers or others at risk.
 - .004 To prevent the destruction of evidence.
 - .06 Inventory searches of vehicles and other property
 - .001 Inventory searches of stored or impounded vehicles shall be in accordance with Departmental Procedure 21.
 - .002 Absent the requirement for a search warrant, property items seized by the Concord Police Department shall be inventoried on a property report form prior to the items being placed into the control of Property Room personnel.
 - .0001 Unless directed to do so by a supervisor, officers shall not force open locked containers for which they do not have a key or other means to open the container without causing damage.
 - .07 Other situations authorized by federal and state constitutional provisions.

.001 Probation searches

- .0001 Shall be conducted in accordance with the terms and conditions of the subject's probation and must be done in a reasonable manner.
- .0002 Authorization from the subject's probation officer is not required, as long as the probation terms allow for a search "by any law enforcement officer".
- .0003 As long as the terms of probation allow "any law enforcement officer" to search the person or property under the control of the probationer, no reasonable suspicion is necessary before conducting the search.
- .0004 Probation searches shall be done for legitimate law enforcement purposes and shall not be used for purposes of harassment.
- .0005 The "knock and notice" requirement exists when searching the residence of a probationer.

.002 Parole searches

- .0001 Parole is in lieu of continued incarceration.
- .0002 The person, residence and property under the control of a parolee is subject to search at any time by an agent of the Department of Corrections or any law enforcement officer.
- .0003 Although not required, it is suggested that the officer intending to conduct the parole search first contact the subject's parole agent, if practical to do so.
- .0004 If a subject is on parole for an offense that occurred on or after January 1, 1997, no reasonable suspicion is required before the parole search can be conducted.
- .0005 If a subject is on parole for an offense that occurred before January 1, 1997, reasonable suspicion is required before a parole search can be conducted.
- .0006 Parole searches shall be done for legitimate law enforcement purposes and shall not be used for purposes of harassment.
- .0007 The "knock and notice" requirement exists when searching the residence of a parolee.

.3 Arrests: with or without a warrant

.01 With a warrant

- .001 A felony arrest warrant may be served anytime of the day or night
- .002 A misdemeanor warrant may be served:
 - .0001 In a public place, anytime of the day or night, or
 - .0002 In a place not open to the public, if the warrant is endorsed for night service (10:00 p.m. to 6:00 a.m.), or

- .002 Absent voluntary cooperation on the part of the person contacted, detentions to complete a field interview shall be based on reasonable suspicion that the person is involved in or is suspected to be involved in criminal activity.
 - .02 Field interview cards are a valuable tool for gathering criminal intelligence information for use by investigative units.
 - .001 Field interview cards should be completed when a person is detained in relation to a police investigation and when no police report is written.
 - 4. Supervisors are required to ensure their subordinates are familiar with and act within the guidelines of established law.
 - .1 Compliance with this requirement may be demonstrated through documented training and counseling.

D. DISCRETION BY SWORN OFFICERS

- 1. Established law and departmental policy may guide individual discretionary decisions by sworn officers to enforce laws and make arrests.
- 2. Discretionary decisions not covered by law or departmental policy should be made in the best interests of the public and the department.
 - .1 If an officer is uncertain that the discretionary decision is the proper one to make, or if it is believed there may be a negative reaction to the decision, the officer should first consult with his/her supervisor.