



Apex Police Department General Order



Title Criminal Investigations	Order Number 1101-20
Effective Date: October 1, 2020	Amends: General Order 1101-16
CALEA Standard: 1.2.3, 42.1.1, 42.1.2, 42.1.3, 42.1.4, 42.1.5, 42.2.1, 42.2.2, 42.2.3, 42.2.4, 42.2.7	Rescinds:
Reference: NCGS 14-7.1, 14-7.7, 15A-211 GO 401 – Records Administration GO 406 – Public Information and Media Relations GO 711 – Notification Matrix GO 1112 – Interview Room Security GO 1309 – Juvenile Operations	Pages: 15
Forms: F1101 - Miranda Waiver of Rights F1101a - Juvenile Rights F1101b - Spanish Miranda Waiver of Rights F1101c – Spanish Juvenile Rights F1101d – Auto Theft Investigation Check List F1101e – Death Investigation Check List F1101f – Fraud Investigation Check List F1101g- Property Crime Investigation Check List F1101h – Robbery Investigation Check List F1101i – Sex Offense Investigation Check List F1101j – 6 th Amendment Rights Waiver F1101k – Voluntary Statement Under Arrest F1101l – Voluntary Statement Not Under Arrest F1101m – Master Case File Check Out F1101n – Canvass Interview Sheet F1101o – Authorization for Medical Records F711 – Notification Matrix Infant/Child Death Investigative Report	

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Purpose

The purpose of this directive is to establish uniformity throughout the Apex Police Department regarding the management of criminal investigations.

Policy

It is the policy of the Apex Police Department to conduct a thorough investigation of all reported criminal offenses that are within the department's jurisdiction.

Definitions

Follow-Up Investigation – The extension of a preliminary investigation to gain additional information.

Investigative Task Force – An investigative unit in which the resources and personnel of other law enforcement agencies are made available to the department or a function in which department resources and/or personnel are made available to other law enforcement agencies on an on-going basis to address a series of similar crimes or events.

Investigator – A sworn police officer assigned to the Criminal Investigation Division. The position/term “investigator” and “detective” are synonymous.

Memorandum of Understanding (MOU) – A written document that summarizes the responsibilities of all agencies or organizations involved in a mutual activity and serves as the guiding document for agreements made.

Preliminary Investigation – Generally, the information collected by officers upon their initial response to an incident.

Primary Investigator – The officer assigned primary responsibility and accountability for an investigation.

Procedural Guidelines

Organization and Administration

1. A criminal investigation may be conducted by any sworn employee of the Apex Police Department. Patrol officers will be assigned to conduct preliminary and follow-up investigations of reported incidents, except in those instances where an investigator would be more effective. (42.1.4)

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- The responding/assigned patrol officer is responsible for the preliminary investigation.
 - Once assigned a case for follow-up investigation, the assigned patrol officer/investigator is responsible for the investigation until it is closed or reassigned.
2. Personnel are assigned to investigate cases based on expertise. Cases requiring specialized skills are assigned to officers having the necessary ability and training. This provision does not preclude officers from obtaining assistance from others, but is intended to use the best-qualified person available.
 3. Officers will fairly and impartially investigate all cases assigned to them, and will conduct investigations in the most discreet manner possible, being mindful not to endanger the reputation of any person under investigation.
 4. Information may be developed from an unlimited number of sources, including witnesses, victims, neighbors, friends, other public agencies, other law enforcement agencies, and informants. All information will be gathered in full compliance with departmental directives.

Preliminary and Follow-up Investigations

1. Officers conducting preliminary investigations will, as appropriate:
 - Observe all conditions, events, and remarks (42.2.1 (a))
 - Locate and identify witnesses (42.2.1 (b))
 - Maintain and protect the crime scene and potential evidence (42.2.1 (c))
 - Interview the complainant and witnesses (42.2.1 (d))
 - Interrogate any suspects (42.2.1 (d))
 - Arrange for the collection of evidence (42.2.1 (c))
 - Effect an arrest, if possible
 - Report the incident fully and accurately, including a supplemental report completed by each officer entering the crime scene
2. Officers conducting follow-up investigations will, when possible:
 - Review and analyze all previous reports prepared in the preliminary phase of the investigation (42.2.2 (a))
 - Conduct additional interviews and interrogations (42.2.2 (b))
 - Review any pertinent departmental records (42.2.2 (a))
 - Seek additional information from patrol officers, informants, etc. (42.2.2 (c))
 - Review laboratory results (42.2.2 (a))
 - Arrange for the dissemination of information, as necessary
 - Plan, organize, and conduct searches, as needed (42.2.2 (d))
 - Identify and apprehend suspects (42.2.2 (e))
 - Collect any physical evidence available (42.2.2 (d))

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- Determine involvement of suspects in other crimes (42.2.2 (f))
 - Check suspects' criminal histories (42.2.2 (g))
 - Prepare a Master Case File and prepare the case for court presentation (42.2.2 (h))
 - Assist in prosecution
3. The incident report in most cases will serve as a sufficient checklist for investigations. Investigations that are more complex may require additional effort and inquiry. To assist officers in these investigations, investigative checklists are provided for the following situations (use of the checklist is discretionary based upon the complexity of the case):
- Death investigations
 - Sexual crimes
 - Robbery
 - Property crimes
 - Fraud crimes
 - Vehicle theft
4. When conducting preliminary and follow-up investigations, officers should consider using resources available both within and outside the department. Departmental resources may include detectives and Computerized Voice Stress Analysis (CVSA) testing. Outside resources may include the State Bureau of Investigation (SBI), the State Medical Examiner's Office, other city offices, and other law enforcement agencies.

Patrol Squad Responsibility

1. Patrol officers will retain responsibility for preliminary and follow-up investigations of misdemeanor crimes as assigned, unless otherwise directed by command or supervisory personnel.
2. Investigative responsibility for felony cases will be referred to the Criminal Investigations Division (CID), unless a patrol squad supervisor or Watch Commander is able to determine that:
 - Immediate clearance is highly probable, *and*
 - The patrol squad has sufficient manpower to dedicate the necessary personnel to the case, or
 - An arrest can be made
3. A Patrol squad supervisor or Watch Commander will notify the on-call investigator to respond to incidents as outlined in General Order 711 – *Notification Matrix*.
4. Actual on-the-scene response by investigators is determined as outlined in Form F711 – *Notification Matrix* in accordance with General Order 711 – *Notification Matrix* or as directed by a supervisor, Watch Commander, or higher level of authority.

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- The responding investigator will follow appropriate division notification protocols as defined by the CID Commander.

Criminal Investigations Division Responsibility

1. The CID is under the supervision and control of the CID Commander.
2. The CID will be responsible for conducting follow-up investigations of cases referred to them, conducting preliminary investigations that may be initially assigned to them, and providing assistance in those investigations that are continued by Patrol officers.
3. **The Property Crimes Unit Supervisor is assigned the responsibility of case management for the department.**
 - **EXCEPTION:** The CID Commander may designate this responsibility to another division supervisor, as needed.
4. CID Supervisors will ensure the department's criminal investigation function provides 24-hour service. The CID Commander, or his/her designee, will provide the Communications Center and Patrol Division Supervisors a copy of the on-call schedule for personnel within the CID. (42.1.1)
5. Personnel from the CID will periodically attend patrol squad shift briefings or "roll call" in order to exchange information, enhance relationships, and plan for joint operations. (42.2.3)
 - The on-call detective should attempt to attend the night shift briefing at least once per Patrol squad rotation.
 - Other detectives should attempt to attend shift briefings as time permits.
6. The on-call detective will respond to the scene as outlined in General Order 711 – *Notification Matrix*.

Victim/Witness Contact Protocols

1. The officer assigned as a primary investigator of a case will be responsible for maintaining contact with the victim during an active investigation. Contacts with victims will be noted in supplemental reports.
2. When a case is assigned for follow-up investigation to the Patrol officer taking the original report, the officer should contact the victim within 14 calendar days of the initial investigation. In extraordinary circumstances, this deadline may be extended to 21 calendar

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days. If the officer cannot make contact with the victim during this time, a supplemental narrative must be completed noting why the officer could not follow-up.

3. When cases are assigned to the CID for follow-up investigation, investigators will contact the victim within 96 hours following assignment of the case.
4. Subsequent contacts with the victim will be at the officer's discretion, dependent upon the nature of the offense, investigative leads, and other variables unique to a particular investigation.
5. In addition to maintaining contact with the victim, the primary investigator, if necessary, will attempt to make a second contact with other principals, such as witnesses and complainants during follow-up investigations.
6. When the status of an investigation assigned to the CID is changed to either inactive or closed, the victim will be notified by means of the *Victim Notification Letter*. This letter will be attached to the completed incident report.

Case Management

Case Status

1. Case statuses will be updated in the department's Records Management System (RMS), as needed. (42.1.3 (a))
2. Each investigation is assigned a status designation in order to assist with case management and control. Administrative designators for each case are as follows: (42.1.3 (b))
 - Closed/Cleared by Arrest—The investigation revealed sufficient evidence that a crime had been committed and resulted in an arrest or citation issued
 - Closed/Cleared by Arrest Other—The investigation revealed sufficient evidence that a crime had been committed, charges were filed by APD, and the subject(s) was arrested by another agency
 - An arrest report does not need to be completed if the suspect was arrested by another agency
 - Exceptionally Cleared—In order to clear an offense by exceptional means the agency must have:
 - Identified the offender (race, sex, age, name, etc.)
 - Gathered enough evidence to support an arrest, make a charge, and turn over the offender to the court for prosecution
 - Identified the offender's whereabouts so that the suspect could be taken into custody immediately

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- Encountered a circumstance outside the control of law enforcement that prohibits the agency from arresting, charging, and prosecuting the offender
 - If a case meets the above criteria, the officer must select one of the following categories in the disposition field on page one of the Incident Report module:
 - EC – By Death of Offender
 - EC – Victim Refused to Cooperate
 - EC – Prosecution Declined
 - EC – Extradition Declined
- Closed/Unfounded—A crime was reported, but did not meet the elements of a crime as defined by North Carolina General Statute (NCGS)
 - Example 1: A fraud is reported to this agency, but the investigation revealed the offense occurred outside our jurisdiction
 - Example 2: A larceny of a wallet is reported, but later the owner locates the wallet and notifies an officer
 - The wallet was never stolen so the offense is unfounded
- Inactive/NCIC—The investigation has led to property or persons being placed in NCIC
- Juvenile Petitions Filed—The investigation revealed sufficient evidence that a crime had been committed and resulted in juvenile petitions being filed
 - The case has now become the responsibility of the Wake County juvenile intake office and the courts for final disposition
- Further Investigation—The case has workable leads and requires follow-up
 - Examples include rape, sexual assault, kidnapping, missing person, etc., or the case may be part of a related series of crimes, such as multiple vehicle break-ins or multiple shed break-ins
- Closed/Leads Exhausted—Having exhausted all investigative leads available, a lack of sufficient information prevents continuing an active investigation
- Closed/No Crime Info Only—This is to be used on Information Only reports
 - Examples include:
 - Domestic – Verbal Only
 - Found Property
 - Involuntary Commitments
- Closed/Missing Person Located—The missing person has been located
- Juvenile/Closed—A crime has occurred; however, no petitions will be sought
- Inactive—No longer used

Case Screening (42.1.2)

1. A system of case screening based on solvability factors will be used to determine whether to continue an investigation or suspend the investigative effort.

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2. The Case Manager will evaluate information collected in the preliminary investigation and consider the collective value of the solvability factors as a determinant in this decision-making.
3. Factors to be considered when determining to assign a case will include but are not limited to:
 - Value of solvability factors and total score
 - Seriousness of the offense (i.e. homicide, robbery, rape, serious assault, child abuse/neglect, etc.)
 - High-profile crime
 - Pattern crime
4. CID Supervisors, CID Commander, or his/her designee, will review cases that have been closed by the assigned detectives. All cases will be closed using the appropriate code.
5. Consideration will be given to the following criteria before closing a case:
 - Lack of further leads or solvability factors
 - Lack of investigative resources
 - Determination that a case is not within the department's legal jurisdiction (e.g. location of actual occurrence is outside the Apex Police Department's jurisdiction, the incident is a civil matter, etc.)
 - Failure to meet specific solvability factor minimum loss value criteria

Case Management System

1. The status of cases will be monitored by use of the department's RMS. (42.1.3 (a))
2. Case files are maintained by the primary detective on all active cases. Case files should contain a copy of preliminary investigative reports, statements from principals, results of the examination of physical evidence, and other reports and records necessary to the investigation. (42.1.3 (c))
3. If a case is turned over to the CID after a follow-up investigation has been conducted by a Patrol officer, the officer will forward all related case documents to the department Case Manager for:
 - Case review
 - Addition to a case file/"jacket" and filing purpose
 - Other appropriate actions to include but not limited to:
 - Case re-assignment
 - Documents scanned into RMS
 - Update to pending or existing discovery files for the District Attorney

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4. Investigators will be responsible for submitting timely supplemental reports detailing events in the case under investigation.
5. After the case is closed and the investigating officer no longer needs immediate access to the file, it will be placed in a designated storage location (Master Case File storage). The investigating officer should purge the file of any information that is duplicated in the department's case management system. Once the case has been disposed of in court, the file may be purged based upon the *North Carolina Records Retention and Disposition Schedule*. If the case is subject to a court ordered expungement, applicable written directives will be followed to ensure compliance with the court order. (42.1.3 (e))
6. When closing a case for whatever reason, the investigating officer will complete a supplemental report, which will contain information pertaining to the reason that the case is being closed along with a change in the final status, at a minimum.
7. The accessibility to investigative case files will be limited to CID personnel, sworn officers, and department Command and Executive Staff. Electronic access is restricted to only those employees who are authorized based upon login and password. Assigned detectives may "lock" access to a particular case file, limiting access to only CID personnel and Executive Staff.
8. Master case files will not be released outside the department without authorization of the CID Commander and in accordance with General Order 401 – *Records Administration*. Case files may be checked out for review by any detective/officer. Master case files that have been checked-out will be documented on Form F1101m- *Master Case File Check Out*. (42.1.3 (d))

Compliance with Constitutional and Statutory Requirements (1.2.3 (a)(b))

1. All officers and investigators discharging their authorized duties will not violate the constitutional rights and protections of any individual as identified in legal statutes, operational procedures, and prevailing case law.
2. Interviews may be conducted with persons who have knowledge regarding a certain aspect of a criminal investigation. Interrogations may be used for suspects and those persons directly involved in a criminal investigation. Interviews and interrogations will be conducted in conformance with constitutional requirements, General Order 1112 – *Interview Room Security* and any other applicable departmental written directives.
3. Officers will not enter into plea negotiations with a suspect. Plea negotiations will be handled by the District Attorney's Office and should not involve the officer. **NOTE:** This provision does not prohibit officers from presenting facts pertaining to the case, including facts relating to surrounding circumstances, expression of attitude, the defendant's conduct, etc. Officers will maintain a professional demeanor in all such matters.

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4. Efforts by officers that could be construed as coercion, intimidation, threats, or attempts to obtain involuntary confessions or admissions are strictly prohibited.
5. Officers will not engage in speculation of any form with regard to what will happen if the subject confesses.
6. Excessive or prolonged interrogation without breaks for personal needs such as meals and use of toilet facilities are strictly prohibited.
7. Misstatements concerning the elements of the crime or punishment are to be avoided.
8. Methods of interrogation must reflect consideration for the subject's age, mental capacity, physical health, and the level of impairment due to alcohol or drugs.

Arrest

1. Officers are required by state law to take any person arrested without a warrant, for the purpose of setting bond, before a judicial official without unnecessary delay. Delays caused by furtherance of legitimate investigative procedures are not considered unnecessary delays.
2. Prior to being questioned, suspects will be advised of their Miranda rights. If intervening events occur between the rights warning and a subsequent interrogation, which could be perceived as diluting the earlier warning (i.e. a change in controlling officer), suspects will again be advised of their rights prior to the interrogation.
3. If an arrestee waived his/her Miranda Rights, the investigating officer will request the arrestee to sign form F1101 – *Miranda Rights Waiver* (or F1101b – *Miranda Rights Form – Spanish*). If a juvenile is to be interviewed and Miranda Rights attach, the interview will be conducted in accordance with General Order 1309 – Juvenile Operations and using form F1101a - *Juvenile Rights Form* (or F1101c – *Juvenile Rights Form – Spanish*). If the suspect has been formally charged and wishes to waive his/her Sixth Amendment rights, the officer will request he/she sign form F1101j – *6th Amendment Rights Waiver Form*. The original waiver form will be made part of the case file.
4. A person's right to consult with counsel and counsel's request to consult with his/her client will be honored while a suspect is in custody. Officers will assist defendants in contacting an attorney when requested and to the extent required by law. (1.2.3 (c))
5. During the course of an interrogation, if a suspect requests counsel, the interrogation will immediately cease until contact is made and counsel is present. (1.2.3 (c))

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Written Statements

1. If the arrestee chooses to make a written statement, the investigating officer will request the written statement be made on form F1101k – *Voluntary Statement Under Arrest*.
2. If a person is not under arrest and chooses to make a written statement, the investigating officer will request the written statement be made on form F1101l – *Voluntary Statement Not Under Arrest*.

Release of Information

1. Information released to the news media and the public will/will be:
 - Consist of information intended to assist the department in its efforts to protect the community
 - Limited to that required by law
 - Made in accordance with General Order 406 – *Public Information and Media Relations*
2. Pretrial publicity that would tend to prejudice a defendant's right to a fair trial is to be avoided.
3. Requests for access to medical records will be completed on the appropriate hospital request form. Requests for medical information from physicians' offices will be completed on form F1101o – *Authorization for Medical Records*.

Electronic Recordings of Interrogations

1. In general, interviews and interrogations should be electronically recorded.
2. Custodial interviews in cases involving juveniles, **must** be electronically recorded in their entirety.
3. Custodial interviews and interrogations in an investigation relating to the following crimes **will** be electronically recorded in their entirety:
 - Class A, B1, or B2 felonies
 - Class felonies of rape, sex offence, or assault with a deadly weapon with intent to kill inflicting serious injury
4. Recordings may be made via audio or video and must be "in its entirety," including a reading of the person's constitutional rights.
5. The video recordings must show both the interrogator and the person in custody. Recordings must be authentic, accurate, and unaltered.

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Area Canvasses

1. Canvassing an area can be a useful investigative tool and should be done as needed during the course of an investigation. Canvass interviews will be documented on form F1101n – *Canvass Interview Sheet*.

Criminal Background Investigations

1. Background checks and investigations are often conducted on persons who are suspects in certain crimes or who have applied for legitimate purposes such as solicitor, peddler, and park concessionaire permits, etc.
2. The following guidelines apply to criminal background checks/investigations:
 - The investigative report or application will indicate the purpose of the investigation
 - Multiple sources of information (i.e. AOC, DCI, Clerk of Courts, other law enforcement agencies, etc.) will be used in order to provide a thorough check/investigation
 - Information collected from such checks/investigations will be used and managed as police information
 - The distribution of such information will be in accordance with all applicable laws, policies, and procedures
 - Information collected as the result of a criminal check/investigation will become part of the case file and/or applicable permit file and maintained as required by the NC Municipal Records Retention and Disposition Schedule

Habitual and Serious Offenders

1. Investigations that involve habitual or serious offenders should be identified and managed as a part of a career criminal approach:
 - Habitual offenders are persons who have been convicted of or pled guilty to three felony offenses in any federal or state court, as defined by NCGS 14-7.1 and 14-7.7. (42.1.5 (a))
 - The NCGS should be consulted to determine if a particular offender can be considered a habitual offender
 - Serious offenders are offenders whose crimes are particularly violent or egregious as well as offenders whose pattern of crimes indicates a need for prosecutorial awareness and focus (42.1.5 (a))
 - Investigations involving these offenders are to be identified in preliminary investigative reports, if known, in the supplemental reports resulting from follow-up investigations, and in the case summary submitted to the District Attorney (42.1.5 (b))
2. Investigating officers will ensure District Attorney's Office staff members assigned to prosecute the case are aware of the status of such offender(s). (42.1.5 (c))

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Cold Case Investigations

1. The term “*cold case*” refers to a criminal investigation of a type indicated below or a significant case that has been classified as “Closed/Leads Exhausted” and remains unsolved. (42.2.7 (a)) These cases include:
 - Murder
 - Attempted murder
 - Missing adult where foul play is suspected
 - Missing child
 - Rape
 - Sexual related crimes when serious injury has occurred
2. A cold case is considered unsolved until a suspect has been identified, charged, and tried for the crime, or sufficient information is available to develop probable cause for arrest but the suspect cannot be tried due to circumstances beyond the control of the District Attorney’s Office (i.e. the suspect has died). (42.2.7 (a)) Cases may or may not have a suspect named at the time of the crime or developed during the original investigation.
3. Considerations for re-opening a cold case include but are not limited to the following: (42.2.7 (b))
 - To review the case file and evidence to determine if new techniques exist that were not previously available that may help solve the case
 - To permit a fresh perspective so that new approaches might be applied to the investigation
 - To pursue further investigation
 - Circumstance indicate the possibility of new information or solvability factors
 - Forensic testing considerations of evidence
 - Availability of witnesses
 - Interview with victim or victim’s family yields new avenues for investigation
 - Upon request from the District Attorney
 - Upon direction of the Chief of Police
4. All investigative steps, actions, or activities taken in a cold case will be documented on supplemental reports through the RMS. (42.2.7 (c))
5. A documented annual review of all cases meeting the cold case criteria as outlined above will be completed.
 - The purpose of the review is to determine:
 - The status of each case
 - The investigative steps that may be appropriate
 - What course of action is appropriate to further investigate the case

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- The review is to be completed by the CID Commander, or his/her designee, and submitted to the Chief of Police by January 31st of the year following the review.
 - The date may be extended upon approval of the Chief of Police.
- **NOTE:** Nothing prevents a case from being opened any time information becomes available that may further the investigation.

Infant/Child Death Investigations

1. In the event of an infant or child death, the investigator must complete the Infant/Child Death Investigative Report and submit the report to the Office of the Chief Medical Examiner.

Investigative Task Forces

1. An investigative task force may be used only with the prior approval of the Chief of Police.
2. If department personnel participate in a formal, long-term, multi-jurisdictional investigative task force, a written Memorandum of Understanding (MOU) will be agreed to by all agencies involved. At a minimum, the MOU will include: (42.2.4)
 - The purpose of the task force (42.2.4)
 - The authority of the task force and all personnel (42.2.4)
 - Responsibilities of personnel and/or agencies relative to staffing, equipment (to include a common communications system), reporting, accountability, financial considerations, and clarification of any other pertinent issues (42.2.4)
 - A method for designating a leader and ensuring liaison among all agencies and personnel involved
3. The CID Commander will conduct an annual evaluation of each task force, which will include, at a minimum, the following: (42.2.4)
 - Evaluating the result(s) of the task force
 - Determining the need for continued operation
 - The review will be completed and submitted to the Chief of Police no later than January 31st of the year following the review
 - The date may be extended upon approval of the Chief of Police
4. Apex Police Department personnel assigned to a task force will be accountable to the CID Commander and will:
 - Review any MOU agreement existing between the Town of Apex and the task force
 - Conduct investigations according to accepted procedures as outlined in the MOU and/or Town of Apex Police Department policies
 - Conflicts between procedures and duties of the task force and department policies and procedures will be brought to the attention of the CID Commander.

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5. All resources of the department may be made available to the task force at the direction of the CID Commander with the approval of the Chief of Police.
6. Departmental personnel assigned to task force operations may have a direct supervisor different from normal protocol, if designated by Chief of Police.

Text in “Green” denotes a significant change in policy.

BY ORDER OF:



John W. Letteney
Chief of Police