

Criminal Organizations

421.1 PURPOSE AND SCOPE

The purpose of this policy is to ensure that the Santa Monica Police Department appropriately utilizes criminal intelligence systems and temporary information files to support investigations of criminal organizations and enterprises.

421.1.1 DEFINITIONS

Definitions related to this policy include:

Criminal intelligence system - Any record system that receives, stores, exchanges or disseminates information that has been evaluated and determined to be relevant to the identification of a criminal organization or enterprise, its members or affiliates. This does not include temporary information files.

Pattern of Criminal Gang Activity- The commission, attempted commission, conspiracy to commit, sustained juvenile petition for, or conviction of two or more of any offenses as described in Penal Code 186.22(e).

Criminal Street Gang- Any ongoing organization, association, or group of three or more persons, whether formal or informal, having as one of its primary activities the commission of one or more of the criminal acts enumerated in Penal Code 186.22(e), and which has a common name or common identifying sign or symbol, and whose members individually or collectively engage or have engaged in a pattern of criminal street gang activity.

Gang Related Crime- Any crime, which is committed for the benefit of, at the direction of, or in association with, a criminal street gang with the intent to promote, further or assist any criminal street gang.

421.2 POLICY

The Santa Monica Police Department recognizes that certain criminal activities, including but not limited to gang crimes and drug trafficking, often involve some degree of regular coordination and may involve a large number of participants over a broad geographical area.

It is the policy of this Department to collect and share relevant information while respecting the privacy and legal rights of the public.

421.3 CRIMINAL INTELLIGENCE SYSTEMS

No Department member may create, submit to or obtain information from a criminal intelligence system unless the Chief of Police has approved the system for Department use.

Any criminal intelligence system approved for Department use should meet or exceed the standards of 28 CFR 23.20.

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The Gang Unit supervisor, or a designated supervisor, will be responsible for maintaining each criminal intelligence system that has been approved for Department use. The Gang Unit supervisor or the authorized supervisor should ensure the following:

- (a) Members using any such system are appropriately selected and trained.
- (b) Use of every criminal intelligence system is appropriately reviewed and audited.
- (c) Any system security issues are reasonably addressed.

421.3.1 SYSTEM ENTRIES

It is the Gang Unit supervisor or designated supervisor's responsibility to approve the entry of any information from a report, field interview (FI), photo or other relevant document into an authorized criminal intelligence system. If entries are made based upon information that is not on file with this Department, such as open or public source documents or documents that are on file at another agency, the designated supervisor should ensure copies of those documents are retained by the Records Unit. Any supporting documentation for an entry shall be retained by the Records Unit in accordance with the established records retention schedule and for at least as long as the entry is maintained in the system.

The designated supervisor should ensure that any documents retained by the Records Unit are appropriately marked as intelligence information. The Records Manager may not purge such documents without the approval of the Gang Unit supervisor or designated supervisor.

421.3.2 GANG DATABASES

The Chief of Police may approve participation by the gang unit in a shared criminal gang intelligence database, such as CALGANG®. Members must obtain the requisite training before accessing any such database.

It is the Gang Unit supervisor's or the designated supervisor's responsibility to determine whether any report or field interview (FI) contains information that would qualify for entry into the database. Prior to designating any person as a suspected gang member, associate or affiliate in a shared gang database; or submitting a document to the Attorney General's office for the purpose of designating a person in a shared gang database; or otherwise identifying the person in a shared gang database, the Gang Unit supervisor or the designated supervisor shall provide written notice to the person and, if the person is under the age of 18, to his/her parent or guardian of the designation and the basis for the designation, unless providing that notification would compromise an active criminal investigation or compromise the health or safety of a minor. Notice shall also describe the process to contest the designation (Penal Code § 186.34).

The person, an attorney working on his/her behalf or his/her parent or guardian (if the person is under 18 years of age) may request, in writing, information as to whether the person is designated as a suspected gang member, associate or affiliate in a shared gang database accessible by the Department, the basis for that designation and the name of the agency that made the designation. The Department shall respond to a valid request in writing within 30 days, and shall provide the

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information requested unless doing so would compromise an active investigation or compromise the health and safety of the person if he/she is under 18 years of age (Penal Code § 186.34).

The person, or his/her parent or guardian if the person is under 18 years of age, may contest the designation by submitting written documentation which shall be reviewed by the gang unit supervisor. If it is determined that the person is not a suspected gang member, associate or affiliate, the person shall be removed from the database. The person and the parent or guardian shall be provided written verification of the department's decision within 30 days of receipt of the written documentation contesting the designation and shall include the reason for a denial when applicable (Penal Code § 186.34).

The Gang Unit supervisor or designated supervisor should forward reports or FIs to the Records Unit after appropriate database entries are made. The supervisor should clearly mark the report/FI as gang intelligence information.

It is the responsibility of the Records Unit supervisor to retain reports and FIs in compliance with the database rules, and any applicable end user agreement.

Records contained in a shared gang database shall not be disclosed for employment or military screening purposes, and shall not be disclosed for the purpose of enforcing federal immigration law unless required by state or federal statute or regulation (Penal Code § 186.36).

421.4 TEMPORARY INFORMATION FILE

No member may create or keep files on individuals that are separate from the approved criminal intelligence system. However, members may maintain temporary information that is necessary to actively investigate whether a person or group qualifies for entry into the Department-approved criminal intelligence system only as provided in this section. Once information qualifies for inclusion, it should be submitted to the supervisor responsible for consideration of criminal intelligence system entries.

421.4.1 FILE CONTENTS

A temporary information file may only contain information and documents that, within one year, will have a reasonable likelihood to meet the criteria for entry into an authorized criminal intelligence system.

Information and documents contained in a temporary information file:

- (a) Must only be included upon authorization of the Gang Unit supervisor or designated supervisor.
- (b) Should include the following information of the suspected criminal street gang participant(s):
 - 1. Names, aliases, monikers, addresses, other identifying information
 - 2. Gang name
 - 3. Justification used to identify individual as a criminal street gang participant

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4. Vehicle(s) known to be used
 5. Cross references to other gangs or gang members
- (c) Should not be originals that would ordinarily be retained by the Records Unit or Property Unit, but should be copies of, or references to, retained documents such as copies of reports, field interview (FI) forms, Public Safety Communications Center records or booking forms.
 - (d) Shall not include opinions. No person, organization or enterprise shall be labeled as being involved in crime beyond what is already in the document or information.
 - (e) May include information collected from publicly available sources or references to documents on file with another government agency. Attribution identifying the source should be retained with the information.

421.4.2 FILE REVIEW AND PURGING

The contents of a temporary information file shall not be retained longer than one year. At the end of one year, the contents must be purged or entered in a Department-authorized criminal intelligence system, as applicable.

The Gang Unit supervisor or designated supervisor shall periodically review the temporary information files to verify that the contents meet the criteria for retention. Validation and purging of files is the responsibility of the Gang Unit supervisor or designated supervisor.

421.5 INFORMATION RECOGNITION

Department members should document facts that suggest an individual, organization or enterprise is involved in criminal activity and should forward that information appropriately. Examples include, but are not limited to:

- (a) Gang indicia associated with a person or residence.
- (b) Information related to a drug-trafficking operation.
- (c) Vandalism indicating an animus for a particular group.
- (d) Information related to an illegal gambling operation.

Officers who contact individuals who are, or may be participants in criminal street gang activity should complete a Field Identification Card and document the reasonable suspicion underlying the contact and the circumstances leading to the suspicion that the individual is a criminal street gang participant (e.g. subject states he/she is a member of a particular gang, subject has a visible tattoo of the associated gang on his/her body, the subject is wearing clothing with the gang's name printed on it, etc.). Photographing known or suspected criminal street gang participants shall be done in accordance with the provisions of the Detentions and Photographing Detainees policy.

Department supervisors who utilize an authorized criminal intelligence system should work with the Training Sergeant to train members to identify information that may be particularly relevant for inclusion.

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421.6 REPORTING CRITERIA AND ROUTING

Incidents that appear to be criminal street gang related shall be documented on a report form and shall at minimum, include the following:

- (a) A description of any document, statements, actions, dress, or other information that would tend to support the officer's belief that the incident may be related to the activities of a criminal street gang.
- (b) Whether any photographs were taken and a brief description of what they depict.
- (c) What physical evidence, if any, was observed, collected, or booked.
- (d) A specific request that a copy of the report be routed to the Gang Unit or other authorized unit.

421.7 RELEASE OF INFORMATION

Department members shall comply with the rules of an authorized criminal intelligence system regarding inquiries and release of information.

Information from a temporary information file may only be furnished to Department members and other law enforcement agencies on a need-to-know basis and consistent with the Records Maintenance and Release Policy. A need-to-know basis means information that may be used in the prevention of gang-related activity or information concerning the investigation of gang-related crimes.

When an inquiry is made by the parent or guardian of a juvenile as to whether that juvenile's name is in a temporary information file, such information should be provided by the Gang Unit supervisor or authorized supervisor responsible for the temporary information file, unless there is good cause to believe that the release of such information might jeopardize an ongoing criminal investigation.

421.8 CRIMINAL STREET GANGS

The Department should ensure that there are an appropriate number of Department members who can:

- (a) Testify as experts on matters related to criminal street gangs, and maintain an above average familiarity with:
 - 1. Any organization, associate or group of three or more persons that meets the definition of a criminal street gang under Penal Code § 186.22(f).
 - 2. Identification of a person as a criminal street gang member and criminal street gang-related crimes.
 - 3. The California Street Terrorism Enforcement and Prevention Act (Penal Code § 186.21 et seq.), associated crimes and what defines a criminal street gang (Penal Code § 186.22).

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- (b) Coordinate with other agencies in the region regarding criminal street gang-related crimes and information.
- (c) Train other members to identify gang indicia and investigate criminal street gang-related crimes.

421.9 TRAINING

The Training Sergeant should provide training on best practices in the use of each authorized criminal intelligence system to those tasked with investigating criminal organizations and enterprises. Training should include:

- (a) The protection of civil liberties.
- (b) Participation in a multiagency criminal intelligence system.
- (c) Submission of information into a multiagency criminal intelligence system or the receipt of information from such a system, including any governing federal and state rules and statutes.
- (d) The type of information appropriate for entry into a criminal intelligence system or temporary information file.
- (e) The review and purging of temporary information files.