

**Change Notice No. 5.8:
Standards for Law Enforcement Agencies Amendments
Enacted by the Commission on March 26, 2010**

Background

This is the eighth change notice for the Standards for Law Enforcement Agencies – 5th Edition, which was published July 2006. Change notices shall be numbered by the Edition, followed by a decimal point and the sequential number of the change to that edition. Change notices are an essential component of the standards for law enforcement; they help ensure these standards continue to reflect the best and most up-to-date information the profession can offer.

For the purpose of record, Change Notices 5.1, 5.2, 5.3, 5.4, 5.5, 5.6 and 5.7 were previously made available to all client agencies and the changes are outlined on the reverse side of this notice. The loose-leaf pages that accompanied Change Notice 5.1 bear the dates July 2006 and November 2006, Change Notice 5.2 bear the dates July 2007, November 2007, and March 2008, Change Notice 5.3 bear the date July 2008, Change Notice 5.4 bear the date December 2008, Change Notice 5.5 bear the date March 2009, Change Notice 5.6 bear the date July 2009, and Change Notice 5.7 bear the date November 2009.

Standards Amendments and Other Revisions Accompanying This Change Notice

Standard 2.1.3: Standard language change. (Effective Immediately)

Standard 22.3.1: Standard language change.

Standard 32.2.3: Standard language change. (Effective Immediately)

Standard 32.2.9: Standard language change. (Effective Immediately)

Standards 32.2.10: Standard language change. (Effective Immediately)

Standard 34.1.7: Standard language change. (Effective Immediately)

Standard 42.2.11: Standard language change. (Effective Immediately)

Standard 42.2.12: Standard language change. (Effective Immediately)

Standard 44.2.3: Standard and commentary language change.

Where to Insert This Notice and Accompanying Pages

Insert this notice immediately behind the front cover of the Standards Manual. Insert the accompanying loose-leaf pages as indicated by their respective page numbers and discard the old, correspondingly numbered pages. The new pages carry more recent dates than do those being replaced.

Change Notice 5.1 (January 2007)

Standard 22.2.7: Standard and Commentary language were changed.
Standard 71.3.3: Changed language for bullet a and added commentary language.
Chapter 72 Introduction: Language change.
APPENDIX A: GLOSSARY – Added new term – Demonstrated Proficiency.
APPENDIX B: GUIDING PRINCIPLES FOR AGENCIES AND ASSESSORS – Language change to 4.3.

Change Notice 5.2 (March 2008)

Table of Contents: New Standard.
Standard 16.3.3: Addition of Commission Interpretation.
Standard 25.1.3: Language and Levels of Compliance changes.
Standard 35.1.2: Language change.
Standard 42.2.8: Language change.
Chapter 45 Introduction: Language change.
Standard 46.3.4: Language change.
Standard 52.1.5: Levels of Compliance change.
Chapter 71 Introduction: Language change.
Standard 71.3.3: Language change.
Standard 71.4.1: Language change.
Standard 71.4.2: Language change.
Standard 71.4.3: Language change.
Subsection 71.5 Processing and Testing: New.
Standard 71.5.1: New.
Standard 81.2.10: Language change.
Standard 81.2.14: Moved to Standard 82.2.5.
Standard 81.2.15: Renumbered to Standard 81.2.14.
Standard 84.1.6: Commentary Language change.
APPENDIX A: GLOSSARY- Added new terms – AMBER Alert and Constant Supervision.
Language change to Temporary Detention.
APPENDIX E: LIST OF TIME SENSITIVE ACTIVITIES – Deleted 72.3.1(b) and 73.5.9(b).
APPENDIX G: FILE CONSTRUCTION AND DOCUMENTATION – Deleted reference to Panel Presentations.

Change Notice 5.3 (July 2008)

Table of Contents: xi – page number change for 42.2.
Standard 33.5.4: Language change.
Chapter 42 Introduction: Added paragraph 3.
Standard 42.1.6: Revised.
Standard 71.5.1: Language change.
Appendix H: STANDARD TITLES
H-10 – 46.3.4 changed to Hazemat Awareness.
H-16 – 81.2.14 moved to 82.2.5 (H-17).
H-16 – 81.2.15 changed to 81.2.14.

Change Notice 5.4 (December 2008)

Standard 1.2.2: Commentary language change.
Standard 1.3.6: Commentary language change.

Standard 1.3.9: Commentary language change.

Standard 35.1.9: Level of Compliance change.

Standard 42.2.11: New.

Standard 42.2.12: New.

Appendix A: GLOSSARY – Added new terms:

PHOTOGRAPHIC LINEUP

PHYSICAL LINEUP

SHOW-UP

Appendix E: LIST OF TIME SENSITIVE ACTIVITIES

E-2 – Changed Level of Compliance for 35.1.9(c)

Added 42.1.6(i)

E-4 – Changed Level of Compliance for 35.1.9(c)

Added 42.1.6(i)

Appendix H: STANDARD TITLES

H-9 – Added 42.2.11 and 42.2.12.

Index

Index-4 – Added Eyewitness identification

Index-6 – Added Line-up

Index 8 – Show-up

Change Notice 5.5 (March 2009)

Standard 1.3.1: Standard language change.

Standard 1.3.9: Standard language change.

Chapter 2– Introduction: Language change.

Standard 2.1.3: Standard and Commentary language change.

Standard 22.3.3: New.

Standard 22.3.4: Renumbered from 22.3.3.

Standard 22.3.5: Renumbered from 22.3.4.

Chapter 46 Introduction: Language change.

Standard 46.1.2: Standard language change.

Standard 46.1.9: Commentary language change.

Standard 83.2.2: Standard language change.

Appendix H: STANDARD TITLES

H-4 – Added 22.3.3

H-5 – Changed 22.3.3 to 22.3.4

H-5 – Changed 22.3.4 to 22.3.5

Change Notice 5.6 (July 2009)

Standard 83.2.7: Commentary language change.

Standard 84.1.6: Standard and Commentary language change.

Appendix A: GLOSSARY – Revised and added new terms.

AUDIT

INVENTORY

PROPERTY AND EVIDENCE CUSTODIAN

Appendix I: SAMPLE SIZE TABLE – EVIDENCE CUSTODIAN CHANGE AUDIT – New.

The following correction to a typographical error in the publication is also made as part of this change notice:

ACKNOWLEDGEMENT

Change Notice 5.7 (December 2009)

Standard 16.3.2: Standard and Commentary language change.

Standard 16.3.9: New Standard.

Standard 22.3.2: Standard language change.

Standard 42.2.11: Term “lineup” changed to “line-up.”

Standards 42.2.12: Term “showup” changed to “show-up.”

Standard 45.2.4: Commentary language change.

Appendix E: LIST OF TIME SENSITIVE ACTIVITIES: E-1 & E-4 – Added Standard 1.1.2.

Appendix H: STANDARD TITLES

H-1 – Title Change for 1.3.1.

H-3 – Added 16.3.9.

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AGENCY JURISDICTION AND MUTUAL AID

Standards in this chapter relate to an agency's jurisdiction and the provision and use of mutual aid and regional law enforcement services among agencies through cooperative agreements.

Agreements should be reached among first responder agencies, non-government organizations (NGO), social service organizations, institutions of higher education, school districts, medical facilities, and private entities in adjoining jurisdictions or within the agency's jurisdiction to provide assistance to each other in the event of natural disaster, mass disorder, pandemic or other emergency situations. Lines of command should be established beforehand. Procedures for the provision of personnel should also be established in advance.

The Commission has exempted state agencies from having formal mutual aid agreements with agencies in adjoining states. Standard 2.1.3 is not applicable for state agencies.

2.1 Agency Jurisdiction and Mutual Aid

2.1.1 *A written directive delineates the specific geographical boundaries of the agency's jurisdiction.*

Commentary: It is fundamental that the agency clearly describes, in writing, the geographical boundaries of its jurisdiction. Situations involving overlapping or ambiguous territorial jurisdiction should be avoided. A detailed official map, including the boundaries of the jurisdiction, may satisfy the requirements of this standard. **(M M M M)**

2.1.2 *A written directive specifies the agency's responsibilities in any interagency agreement regarding concurrent jurisdiction.*

Commentary: The intent of the standard is to encourage an agency to identify its responsibilities, with regard to concurrent jurisdiction, which are established as a matter of law or on the basis of interagency agreement. This standard does not require an interagency agreement where none exists. The written directive should clearly outline the source of the concurrent jurisdiction, e.g., cites the specific legal basis or relevant interagency agreement, and should outline such details as identification of which agency responds to a call for service by type, communication linkages between agencies to ensure prompt and appropriate response, provision of back-up support between jurisdictions, and reporting responsibilities and policy concerning the jurisdiction of prosecutors and courts. **(O O O O)**

2.1.3 *The agency has written agreements with neighboring agencies to provide mutual aid in emergency situations. The mutual aid agreement must include, at a minimum, the following details:*

- a. the legal status of agencies and agency personnel responding to mutual aid requests;*
- b. procedures for vesting provider agency personnel with the legal authority to act within the receiver agency's jurisdiction;*
- c. procedures for requesting mutual aid;*
- d. identity of those persons authorized to request mutual aid;*
- e. identity of persons to whom outside personnel are to report;*
- f. procedures for maintaining radio communication with outside personnel;*
- g. expenditures, if any, which should be borne by the receiver agency to compensate for the use of the provider agency's resources; and*
- h. procedures for review and revision if prescribed in the agreement.*

Commentary: Emergency situations often require augmented law enforcement capabilities to restore order or assist victims. The agency's mutual aid agreement should provide all the information necessary to initiate mutual aid activities either on behalf of the agency or at the request of a neighboring law enforcement agency. The agreement should also consider provisions for the indemnification of the provider agency and its personnel, e.g., life, health, and liability insurance.

Whether the agency operates under existing legislation or a mutual aid agreement, it should have a plan for providing or receiving aid in critical incident situations. The plan should assess the extent of aid that could be provided while maintaining adequate law enforcement coverage in the service area. The types and amounts of major resources should be estimated and their locations listed. Planning should also involve liaison with other agencies (non-government organizations (NGO), social service organizations, institutions of higher education, school districts, medical facilities, and private entities) that may be involved when mutual aid is invoked. **(O O O O)**

2.1.4 *A written directive governs procedures for requesting federal law enforcement or national guard assistance in emergency situations.*

Commentary: None. **(M M M M)**

22.3 Conditions of Work

22.3.1 *A written directive describes the agency's policy regarding physical examinations for employees.*

Commentary: A physical examination is a benefit to both the employee and the agency. Any physical examination should be conducted only to confirm the employees' continued fitness to perform the tasks of their assignments and to inform them of their general physical condition, not to identify employees with disabilities who are otherwise able to perform their assigned duties, with or without reasonable accommodation.

The nature of some specific positions or responsibilities may necessitate periodic specific health screenings, such as those for crime scene personnel, firearms instructors, or range technicians who are repeatedly exposed to hazardous chemicals or lead contaminants. (M M M M)

22.3.2 *A written directive describes the agency's policy regarding general health and physical fitness to perform job tasks identified for sworn employees.*

Commentary: The functions of a law enforcement agency require a level of physical fitness not demanded by many other occupations, and fitness requirements should be specified. Standards of fitness should be those that have been shown to be directly related to the tasks performed, and not serve to eliminate or penalize employees who can otherwise perform the tasks of their assignment, with or without reasonable accommodation. (M M M M)

22.3.3 *The agency has a written directive that addresses a fitness and wellness program which includes:*

- a.. mandatory or voluntary participation by agency personnel;*
- b. a trained program coordinator;*
- c. individual health screening and fitness assessment;*
- d. individual education and goal setting; and*
- e. ongoing support and evaluation.*

Commentary: A fitness and wellness program has two main elements. The first is physical performance, i.e., the development and maintenance of physical performance capability to satisfactorily perform job tasks and personal activities. The second is the individual's present health status as well as the risk for future disease. This is impacted greatly by lifestyle choices, including smoking, nutrition, weight, stress management, inactivity, etc. The agency should also consider incentives to encourage employee participation. (O O O O)

22.3.4 *A written directive governs the types of off-duty employment in which agency personnel may engage.*

Commentary: This standard applies to both sworn and non-sworn personnel. It pertains to secondary employment of the off-duty type—that is, outside employment wherein the use of law enforcement powers is not anticipated. Agencies may want to consider expressing the prohibition of certain types of

off-duty employment in general terms, such as proscribing off-duty employment that, in the opinion of the agency, would constitute a conflict of interest or would tend to bring discredit to the agency. The prohibition could be quite specific, such as by focusing on specific jobs or locations. (O O O O)

22.3.5 *If the agency permits sworn personnel to engage in extra-duty employment, a written directive addresses the following:*

- a. the requirement that sworn personnel must receive agency permission to engage in extra duty employment;*
- b. policies that address the behavior and activities of officers during extra-duty employment;*
- c. approval, review, and revocation processes pertaining to officers' extra-duty employment;*
- d. designation of a point of coordination or administration within the agency to oversee adherence to the aforementioned policies, processes, and other matters deemed appropriate by the agency; and*
- e. documentation of the significant aspects of each officer's extra-duty employment.*

Commentary: This standard pertains to sworn personnel whose secondary employment is of the extra-duty type, that is, outside employment wherein the actual or potential use of law enforcement powers is anticipated.

Bullet (a) requires sworn officers to obtain permission of the agency to engage in extra-duty employment. In addition, the relationship between the extra-duty employer and the officer-employee may be governed by a written agreement between the agency and extra-duty employer. Among other provisions, an agreement might specify that payment by the extra-duty employer for the officer-employee's services shall be remitted to the agency, which will promptly compensate the extra-duty officer.

Regarding policies referred to in bullet (b), the agency might address the following matters, among others, if not already covered by the agreement: authority of officers while working in an extra-duty capacity; responsibilities of the officers to the agency and to extra-duty employers; matters of jurisdiction; callback, if required; limitations, if any, on the number of hours worked per given time period and on the number of hours worked immediately prior to reporting to the agency; use of agency property (weapons, uniforms, and the like); and liability, compensation, and indemnification issues arising from injuries or other incidents occurring during extra-duty employment.

Regarding the approval, review, and revocation processes noted in bullet (c), the agency's written directive should cover a description of those processes, types of extra-duty employment that are prohibited, and agreement by the extra-duty employer to restrictions, if any, on the types and conditions of employment, including an assessment of the potential risk of injury.

With respect to bullet (e), documentation should reflect the unique needs of the agency, the relevant sections of its collective bargaining agreement, if any, as well as pertinent statutory requirements, e.g., the federal Fair Labor Standards Act. Among the significant aspects of extra-duty employment to document, the agency should consider the following: date, time, and place of employment; incidents that involved use of law enforcement powers, injury to the officer or others, complaints received, and court appearances (scheduled and actually attended) resulting from extra-duty employment; and liability and indemnification concerns stemming from actions during extra-duty employment. (M M M M)

tions. From the outset, candidates should be made aware that sensitive or confidential aspects of their personal lives may be explored. Written notification of the expected duration of the selection process not only is a courtesy but also helps the agency better plan and coordinate its selection process.

(M M M M)

32.1.5 *All candidates not selected for positions are informed in writing.*

Commentary: Prompt notification in writing is not only an essential element of an efficient administrative organization but also is fundamental to a fair and effective selection process. Candidates should be informed within 30 days of such a decision. **(M M M M)**

32.1.6 *A written directive governs the disposition of the records of all candidates not selected for appointment.*

Commentary: It is necessary to maintain selection data to ensure continuing research, independent evaluation, and defense against lawsuits. The agency should determine requirements, consistent with applicable laws, for maintaining identifying information, such as names and addresses. The agency should comply with all federal, state, and local requirements regarding the privacy, security, and freedom of information of all candidate records and data. **(M M M M)**

32.1.7 *A written directive requires that selection materials be stored in a secure area when not being used and are disposed of in a manner that prevents disclosure of the information within.*

Commentary: The agency responsible for selection materials should limit access to them and store them in locked files to provide 24-hour security. Selection materials should not be left unattended. **(M M M M)**

32.2 Administrative Practices and Procedures

32.2.1 *A background investigation of each candidate for all positions is conducted prior to appointment to probationary status, and includes:*

- a. verification of qualifying credentials;*
- b. a review of any criminal record; and*
- c. verification of at least three personal references.*

Commentary: It is more reliable to conduct the inquiry in person, though telephone and mail inquiries are appropriate in obtaining criminal history and driving records. The investigation should routinely involve a home visit with the candidate and his or her family and interviews with neighbors. Background investigations are generally listed among the final stages in the selection process only to suggest that this is when they should be completed; they are likely to have commenced much earlier. **(M M M M)**

32.2.2 *Personnel used to conduct background investigations are trained in collecting required information.*

Commentary: None. **(M M M M)**

32.2.3 *The agency has a policy regarding the retention of each candidate's background information.*

Commentary: None. (M M M M)

32.2.4 *If polygraph examinations or other instruments for the detection of deception are used in the selection process, candidates are provided with a list of areas from which polygraph questions will be drawn, prior to such examination.*

Commentary: Agencies are not required to administer polygraph examinations or other truth verification tests to all job classifications. For example, polygraph examinations may be required for sworn personnel but need not be required for non-sworn personnel. (M M M M)

32.2.5 *If polygraph examinations or other instruments for the detection of deception are used in the selection process, the administration of examinations and the evaluation of results are conducted by personnel trained in these procedures.*

Commentary: The sensitive nature of these tests makes it necessary to rely upon examiners who possess professional training and credentials in the use and interpretation of these investigative tools. (M M M M)

32.2.6 *A written directive prohibits the use of results of polygraph examinations or other instruments for the detection of deception as the single determinant of employment status.*

Commentary: Authorities agree that polygraph examinations or other instruments for the detection of deception should be used only as an investigative aid, if at all. An admission during pre-test, test, or post-test interviews, together with other information, may be sufficient to support decisions relevant to employment status. (M M M M)

32.2.7 *A medical examination is conducted, prior to appointment to probationary status, to certify the general health of each candidate for a sworn position.*

Commentary: None. (M M M M)

32.2.8 *An emotional stability and psychological fitness examination of each candidate for a sworn position is conducted and assessed by a qualified professional prior to appointment to probationary status.*

Commentary: None. (M M M M)

32.2.9 *The agency has a policy regarding the retention of the results of medical examinations, emotional stability and psychological fitness examinations.*

Commentary: The agency should maintain a report of each physical examination and emotional stability and psychological fitness examination to ensure proper procedures are followed and to provide data for continuing research and legal defense, if needed. All records should be stored in a secure area.

Access should be restricted to those persons legally entitled to review these records. The files or records may be maintained in agency files or at the location of the medical examination provider.
(M M M M)

32.2.10 *In the absence of controlling legislation, or a collective bargaining agreement, at least a six-month probationary period for sworn personnel following completion of entry-level classroom training is required before candidates are granted permanent status.*

Commentary: The agency should include a probationary period among the final steps in the selection process. A six-month probationary period is generally accepted as a minimum among the law enforcement community and should be carefully related to the field training program (see standard 33.4.3). Exceptions to the probation period if any, should be described in the directive. Exceptions may include special assignments, injury, or illness occurring during entry-level training and remedial training.
(M M M M)

Many commercially available tests have done validation studies that may be helpful to an agency.

Nothing in this standard should be interpreted as preventing an agency from using a combination of methods to document the job-relatedness of its promotion process. The goal of this standard is to ensure that the agency has the documentation necessary to make a logical and persuasive case in the event of a legal challenge and that the elements of the promotion process measure skills, knowledge, abilities, and traits needed to perform that job. (M M M M)

34.1.5 *The agency provides sworn personnel with a written announcement of the promotional process.*

Commentary: Announcements should be posted prominently and in a timely fashion and be augmented by periodic verbal reminders at staff meetings, conferences, and shift briefing sessions. A concise description of the vacancy should be provided, including the salary and the duties, responsibilities, skills, knowledge, and abilities required. Eligibility should be established during a formal qualifying period that continues until the closing date of the announcement, until the closing date for submitting a completed application, or until the date of the first scored part of the process, e.g., for a written examination. The description of the promotion process should be as detailed as is necessary to indicate clearly to candidates what they can expect. Information should include expected duration of the entire process; format, length, and duration of the written examination, if any; a summary of the role of the oral interview; cut-off scores on written and oral evaluations; a description of the assessment center, if any; and the numerical weight assigned to each element of the process. (M M M M)

34.1.6 *A written directive establishes criteria and procedures for the development and use of eligibility lists, if any, for sworn positions to include, at a minimum:*

- a. *the numerical weight, if any, assigned to each eligibility requirement;*
- b. *the system of ranking eligible candidates on the lists;*
- c. *time-in-grade and/or time-in-rank eligibility requirements, if any;*
- d. *the duration of the lists; and*
- e. *the system for selecting names from the lists.*

Commentary: None. (M M M M)

34.1.7 *A written directive requires at least a six-month probationary period for all sworn personnel who are promoted, with any exceptions defined.*

Commentary: The agency should include a probationary period among the final steps in the process to ensure newly promoted employees can assume the duties and responsibilities of the new positions, an intent consistent with selection procedures for entry-level officers. Employees on probation should be closely observed and evaluated frequently. Unsatisfactory performance should be identified and corrected early through counseling, training, or other suitable personnel actions to safeguard against the promotion of employees beyond their capabilities. Exceptions while rare may occur. The agency's written directive should include criteria necessary to exempt a newly promoted officer from this requirement. (M M M M)

Agencies outside the United States should contact CALEA staff for special interpretation of this standard as it relates to the differences in defining the terms “informants” and “agents.” (M M M M)

42.2.8 *The agency has a written directive concerning identity crime and procedures for:*

- a. *taking identity crime reports;*
- b. *specialized report forms, if any;*
- c. *providing information and assistance to identity crime victims;*
- d. *coordination of investigations with other agencies; and*
- e. *providing public information on prevention of identity crime.*

Commentary: Identity crime costs businesses, end consumers, and individuals billions of dollars. Significant credit problems and financial loss often affect an individual for years. Identity crime has been directly linked to terrorist activities in both funding operations and obtaining documents for illegal purposes.

The initial agency report information may require the use of a special form designed to obtain information unique to this crime. Information from government agencies is readily available to assist a victim in providing notices of identity theft, re-establishing their identity and credit, and for public awareness presentations. (O O O O)

42.2.9 *A written directive describes the procedures for the investigation of cold case files, which includes:*

- a. *defining a cold case;*
- b. *establishing cold case evaluation criteria; and*
- c. *recording agency investigative actions or activities.*

Commentary: Over time the position of persons involved and other factors in the situation may change and present new opportunities for law enforcement to solve the case. With recent advances in DNA (deoxyribonucleic acid) analysis, law enforcement has made a great advancement in its ability to identify unknown offenders, even years after the crime occurred.

Law enforcement agencies should have a procedure where unsolved/cold cases are reviewed for new information or where the application of new technology may be successful in solving the cases. This is particularly important with serious crimes against persons, as these offenders tend to continue to commit similar acts. (O O O O)

42.2.10 *The agency has a written directive governing procedures for both uniformed and non-uniformed personnel utilizing designated rooms for interviews and interrogation, to include:*

- a. *weapons control;*
- b. *security concerns;*
- c. *number of personnel allowed in the interview room;*
- d. *means and methods for summoning assistance, if needed;*
- e. *equipment or items to be kept in the interview room or area; and*
- f. *access to restrooms, water, or comfort breaks.*

Commentary: For the purpose of this standard, designated rooms include polygraph rooms, voice stress analyzer rooms, and other rooms where it is likely that an interview could turn into an interrogation and arrest of a person. The intent of this standard is to establish safe conditions for the various situations that law enforcement officers may encounter when conducting interviews or interrogations at law enforcement facilities. Occasionally, however, serious conditions unexpectedly develop such as an apparently cooperative suspect becoming combative. The agency should provide clear direction for the use of the interview room to ensure safety and the admissibility of any statements made therein.

Standard 42.2.1, interviews and interrogations, is concerned with techniques to enhance the development of information relating to a crime.

Standard 1.2.3 addresses applicable constitutional requirements concerning interviews and interrogations including access to counsel. (M M M M)

42.2.11 *A written directive describes the procedures for using photographic or physical line-ups in eyewitness identification to include the following:*

- a. composition of line-up;*
- b. using video and/or audio recording;*
- c. situations where more than one eye witness is available;*
- d. instructing witnesses prior to viewing line-up;*
- e. identifying the level of confidence expressed by the witness;*
- f. prohibiting feedback by the administrator; and*
- g. documenting line-up and the results.*

Commentary: The intent of this standard is to establish reliable identification testimony by a witness. This standard needs to be evaluated in terms of the following factors that the courts have found to be relevant in identification testimony, namely: 1) the witness' opportunity to view the criminal during the crime; 2) the length of time between the crime and subsequent identification; 3) the level of certainty demonstrated by the witness at the identification; 4) the accuracy of the witness' prior description of the suspect; and 5) the witness' degree of attention during the crime. In addition, the confidence level of the witness should be evaluated in terms of the witness' statement, conduct or other relevant observations. (M M M M)

42.2.12 *A written directive describes the procedures for using show-ups in eyewitness identification to include the following:*

- a. compelling reasons under which a show-up may occur;*
- b. manner of transportation to the show-up;*
- c. situations where more than one eye witness is available;*
- d. instructing witnesses prior to viewing show-up;*
- e. identifying the level of confidence expressed by the witness;*
- f. prohibiting feedback by the administrator; and*
- g. documenting show-up and the results.*

Law enforcement agencies have a wide range of alternative remedies they may employ, ranging from warnings to intake.

If allowed by law, written citations or summonses should be used rather than taking juveniles into custody. A copy of the citation should also be sent to the juvenile's parents or guardians.

The agency should have guidelines for making diversion decisions, such as the nature of the offense, the age and circumstances of the offender, the offender's record, the availability of community-based rehabilitation programs, and recommendations for diversion from complainants or victims.

Where appropriate and when resources are available, simple treatment by the agency alone, consisting principally of supervision on a voluntary basis agreed to by the parents, may suffice.

In other cases, a relatively prolonged program of treatment or diversion on a voluntary basis, necessitating the services of one or more social agencies, may be needed.

Agency referral of alleged juvenile offenders for formal legal proceedings should be restricted to those cases involving serious criminal conduct or repeated criminal violations. In general, delinquent acts requiring referral to the juvenile justice system would include all delinquent acts that, if committed by an adult, would be felonies; all delinquent acts involving weapons; all serious gang-related delinquent acts; all delinquent acts involving aggravated assault and battery; all delinquent acts committed by juveniles on probation or parole or by those with a case pending; and all repeated delinquent acts (within the preceding 12 months).

Other cases that may require referral to the juvenile justice system include juveniles who have been selected for a diversion program but have refused to participate and cases in which it has been determined that parental supervision is not effective.

If prevailing law specifies requirements for intake, the standard may be satisfied by incorporating reference to the law into the written directive. (M M M M)

44.2.2 *The agency has written procedures for taking a juvenile into custody including, at a minimum, provisions for the following:*

- a. determining whether the juvenile is alleged to have engaged in noncriminal misbehavior (a status offense);*
- b. determining whether the juvenile is alleged to have been harmed or to be in danger of harm;*
- c. ensuring that the constitutional rights of juveniles are protected;*
- d. bringing the juveniles to the intake facility or the juvenile component without delay (unless a juvenile is in need of emergency medical treatment); and*
- e. notifying parents or guardians of juveniles that the latter have been taken into custody.*

Commentary: The intent of the standard is to provide guidance to agency personnel in making custody decisions in juvenile matters. For the purposes of this standard the term "taking into custody" encompasses the concept of protective custody for juveniles.

Agency procedures should also specify the responsibilities of law enforcement personnel during the processing of a juvenile taken into custody. (M M M M)

44.2.3 *A written directive describes the procedures for the custodial interrogation of juveniles.*

Commentary: In developing this directive, the agency should be aware that the voluntariness of the juvenile's confession will generally be the issue. In determining whether a confession is voluntary, the courts look to the totality of the circumstances which includes a review of the following factors related to the juvenile defendant: 1) age, intelligence, educational background, 2) mental capacity, including whether the defendant was nervous and physical condition, 3) prior experience in the criminal system, 4) whether the defendant is suffering from any injury or pain at the time the statement is given, 5) the duration of the questioning, 6) time of day, 7) whether the defendant is tired and is desirous of sleep, 8) length of confinement, 9) whether Miranda or police caution warnings were given, when, and whether he understood them, 10) whether the room size was of sufficient size and supplied with appropriate furniture, 11) whether defendant was cuffed or threatened, 12) whether defendant was refused the use of bathroom, food, or drink, 13) whether there was a promise of leniency, 14) whether the juvenile understood the interrogation process, 15) whether a youth officer is present during the interview, 16) whether the parents were notified, 17) whether the juvenile asked for a parent to be present, 18) whether the police prevented a concerned adult from speaking with the juvenile, which is a significant factor, and 19) familiarity with English or the official language. (MMMM)

44.2.4 *A written directive describes the agency's school liaison program.*

Commentary: School liaison programs can also provide a forum through which students, parents, faculty, and law enforcement officers can become acquainted and, as a result, earn mutual respect. Apart from the obvious benefits accruing to students, such programs demonstrate to parents and faculty that the agency has a genuine interest in the community's young people. (OOOO)

44.2.5 *The agency participates in and/or organizes community recreational youth programs.*

Commentary: Law enforcement agencies should take an active leadership role in developing community recreational programs for juveniles.

This standard is intended to encourage the establishment of ongoing recreational programs as opposed to occasional events. This standard is additionally intended to address recreational program, as opposed to youth-oriented instructional programs, e.g., DARE, GREAT. (OOOO)