

# Contra Costa County Probation Department

## Policy Manual

### **CHIEF'S PREFACE**

This manual represents the guiding principles and values of the Contra Costa Probation Department. The policies have been carefully developed and reviewed by this administration in collaboration with other County entities, staff, employee representatives as well as reviewing established law, best practices and sound judgment.

Our effort to capture all the nuances of our responsibilities in a work environment that is ever changing and highly complex has not been a simply task - nor should it be. Every decision we make has the potential to profoundly affect our own lives as well as the lives of others. Therefore, it is essential that all of us use this manual as a tool that establishes the fundamental guidelines for successful completion of our duties to protect ourselves, our communities, victims and our clients.

All of these guidelines and our use of common sense can be limited by our willingness to take personal responsibility for our actions. It is ultimately that individual responsibility to perform our duties that will enhance the trust with those we interact with in every aspect of our different assignments. The overall success of our Department is measured every day by the degree we nurture and maintain the trust of our justice partners and the public.

As the Chief Probation Officer I urge you to become well acquainted with this blueprint. It will help us focus forward to perform our duties safely while completing our responsibilities with honor and integrity.

**Philip F. Kader**, Chief Probation Officer

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### **Peace Officer Code of Ethics**

In recognition of the profound responsibilities inherent in a profession dedicated to the adjustment of social relationships, I acknowledge these to be my guiding precepts:

- Serve with Humility
- Act without Prejudice
- Uphold the Law with Dignity
- Be Objective in the Performance of my Duties
- Respect the Inalienable Rights of All Persons
- Hold Inviolable Those Confidences Reposed in me
- Cooperate with Fellow Workers and Related Agencies
- Be Aware of My Responsibilities To the Individual and to the Community
- Improve My Professional Standards Through Continuously Seeking Knowledge and Understanding.

# Contra Costa County Probation Department

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### **Mission Statement**

The Contra Costa County Probation Department is committed to the support of public safety by providing evidence-based prevention, investigation and supervision services, as well as to provide a safe environment for our staff and those placed in our custodial care.

Philip Kader, Chief Probation Officer

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**Chapter 1 - Law Enforcement Role and Authority**

## Law Enforcement Authority

### 100.1 PURPOSE AND SCOPE

Law enforcement officers are granted the authority to perform their function based on established legal authority. This department does not tolerate abuse of law enforcement authority.

### 100.2 PEACE OFFICER POWERS

Sworn members of this department shall be considered peace officers pursuant to Penal Code § 830.5. The authority of any such peace officer extends to any place in the State of California while engaged in the performance of the duties of their respective employment and for the purpose of carrying out the primary function of their employment.

- (a) PC 830.5(a) - The authority of probation officers shall extend only as follows:
1. To conditions of parole or of probation by any person in this state on parole or probation
  2. To the escape of any inmate or ward from a state or local institution
  3. To the transportation of persons on parole or probation
  4. To violation of any penal provisions of law that are discovered while performing the usual or authorized duties of his or her employment
  5. To the rendering of mutual aid to any other law enforcement agency
- (b) PC 830.5 (b) - ... or any superintendent, supervisor, or employee having custodial responsibilities in an institution operated by a probation department, or any transportation officer of a probation department.

### 100.3 CONSTITUTIONAL REQUIREMENTS

All employees shall observe and comply with every person's clearly established rights under the United States and California Constitutions.

## Procedure and the Law

### 101.1 POLICY

The Probation Department is an arm of the Court. The Chief Probation Officer is appointed by the Contra Costa County Board of Supervisors as identified in Contra Costa County Ordinance 2013-09, dated March 18, 2013. The Chief Probation Officer is legally mandated under Penal Code Section 1203.6 and Welfare & Institutions Code Section 270 to provide selected services and has the authority to provide other services to the Court and the Community. These services are to be provided in a lawful and professional manner. The Management Team is expected to implement policy and procedures, and are bound in every way by the dictates of the law. Staff is responsible for keeping current on department policies and procedures as well as changes in the law.

Should any employee become aware of a conflict between the law, policy manuals or procedures, the employee shall notify his or her immediate supervisor of the apparent conflict. The supervisor will take the appropriate action to handle this situation.

If an employee is directed by the Court to perform in a manner that does not appear to be consistent with the departmental policy and procedure, the employee will attempt to make the Court aware of the problem. If an immediate decision is not required, the employee will seek direction from the immediate supervisor. If an immediate response is required, the employee will comply with the directive of the Court and advise the immediate supervisor of the situation as soon as possible.

Any employee who intentionally provides inaccurate, misleading or untruthful information to, or intentionally withholds significant information from, the Court or the administrators or supervisors of the department is subject to disciplinary action.

# Oath of Office

## 104.1 PURPOSE AND SCOPE

Deputy Probation Officers and Probation Counselors of this department are sworn to uphold the federal and state constitutions and to enforce federal, state and local laws.

### 104.1.1 OATH OF OFFICE

Upon employment, all sworn employees shall be required to affirm the oath of office expressing commitment and intent to respect constitutional rights in discharging the duties of a law enforcement officer (Cal. Const. Art. 20, § 3; Government Code § 3102). The oath shall be as follows:

I, [employee name], do solemnly swear (or affirm) that I will support and defend the Constitution of the United States and the Constitution of the State of California against all enemies, foreign and domestic; that I will bear true faith and allegiance to the Constitution of the United States and the Constitution of the State of California; that I take this obligation freely, without any mental reservation or purpose of evasion; and that I will well and faithfully discharge the duties upon which I am about to enter.

# Policy Manual

## 106.1 PURPOSE AND SCOPE

The manual of the Contra Costa County Probation Department is hereby established and shall be referred to as "The Policy Manual." The Policy Manual is a statement of the current policies, procedures, rules, and guidelines of this department. All employees are to conform to the provisions of this manual. All prior and existing manuals, orders, and regulations which are in conflict with this manual are revoked, except to the extent that portions of existing manuals, orders, and other regulations which have not been included herein shall remain in effect where they do not conflict with the provisions of this manual.

Except where otherwise expressly stated, the provisions of this manual shall be considered as guidelines. It is recognized, however, that probation work is not always predictable and circumstances may arise which warrant departure from these guidelines. It is the intent of this manual to be viewed from an objective standard, taking into consideration the sound discretion entrusted to members of this department under the circumstances reasonably available at the time of any incident.

### 106.1.1 DISCLAIMER

The provisions contained in this Policy Manual are not intended to create an employment contract, nor any employment rights or entitlements. The policies contained within this manual are for the internal use of the Contra Costa County Probation Department and shall not be construed to create a higher standard or duty of care for civil or criminal liability against the County of Contra Costa, its officials or employees. Violations of any provision of any policy contained within this manual shall only form the basis for departmental administrative action, training or discipline. The Contra Costa Probation Department reserves the right to revise any policy content, in whole or in part.

## 106.2 RESPONSIBILITIES

The ultimate responsibility for the contents of the manual rests with the Chief Probation Officer. Since it is not practical for the Chief Probation Officer to prepare and maintain the manual, the following delegations have been made:

### 106.2.1 CHIEF PROBATION OFFICER

The Chief Probation Officer shall be considered the ultimate authority for the provisions of this manual and shall continue to issue Departmental Directives which shall modify those provisions of the manual to which they pertain. Departmental Directives shall remain in effect until such time as they may be permanently incorporated into the manual.

### 106.2.2 EXECUTIVE MANAGEMENT

Executive Management shall consist of the following:

- Chief Probation Officer
- Assistant Chief
- Probation Directors
- Administrative Service Officer

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The Executive Management Team shall review all recommendations regarding proposed changes to the manual. Managers shall be responsible to ensure Supervisors are informed.

#### **106.2.3 OTHER PERSONNEL**

All Department employees suggesting revision of the contents of the Policy Manual shall forward their suggestion, in writing, to their Immediate Supervisor who will consider the recommendation and forward to their manager.

#### **106.3 FORMATTING CONVENTIONS FOR THE POLICY MANUAL**

The purpose of this section is to provide examples of abbreviations and definitions used in this manual.

##### **106.3.1 DEFINITIONS**

The following words and terms shall have these assigned meanings, unless it is apparent from the content that they have a different meaning:

**Adult** - Any person 18 years of age or older.

**CHP** - The California Highway Patrol.

**CFR** - Code of Federal Regulations.

**County** - The County of Contra Costa.

**Department/CCCPD** - The Contra Costa County Probation Department.

**DMV** - The Department of Motor Vehicles.

**Employee/Personnel** - Any person employed by the Department.

**Juvenile** - Any person under the age of 18 years.

**Manual** - The Contra Costa County Probation Department Policy Manual.

**May** - Indicates a permissive, discretionary or conditional action.

**Member** - Any person who is employed or appointed by the Contra Costa County Probation Department including sworn staff ,non-sworn employees.

**Non-sworn** - Employees and volunteers who are not sworn peace officers.

**Deputy/Sworn** - Those employees, regardless of rank, who are sworn employees of the Contra Costa County Probation Department.

**On-Duty** - Employee status during the period when he/she is actually engaged in the performance of his/her assigned duties.

**Order** - A written or verbal instruction issued by a superior.

**POST** - The California Commission on Peace Officer Standards and Training.

**Rank** - The job classification title held by a deputy.

**Shall or will** - Indicates a mandatory action.

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**Should** - Indicates a generally required or expected action, absent a rational basis for failing to conform.

**USC** - United States Code

#### **106.3.2 DISTRIBUTION OF MANUAL**

Copies of the Policy Manual shall be distributed to the following:

- Three (3) Directors
- Administration
- Richmond Office
- Antioch Office

A computerized version of the Policy Manual will be made available on the Department network for access by all employees. The computerized version will be limited to viewing and printing of specific sections. No changes shall be made to the electronic version without authorization from the Chief Probation Officer or designee.

#### **106.4 MANUAL ACCEPTANCE**

As a condition of employment, all employees are required to read and obtain necessary clarification of this department's policies. All employees are required to sign a statement of receipt acknowledging that they have received a copy, or have been provided access to the Policy Manual and understand they are responsible to read and become familiar with its contents.

##### **106.4.1 REVISIONS TO POLICIES**

All employees are responsible for keeping abreast of all Policy Manual revisions. All changes to the Policy Manual will be circulated by the Field Service Director via e-mail (for staff that have access to e-mail) addressed to All Staff under the title Recent Policy Manual Revisions. Each employee shall acknowledge receipt by return email, review the revisions and seek clarification as needed. Institutional Directors are responsible to ensure institutional staff are advised and acknowledge changes.

Each Probation Manager will ensure that employees under his/her command are aware of any Policy Manual revisions.

##### **106.4.2 DEPARTMENT AND PERSONAL PHILOSOPHIES**

Policy and Procedure Manuals, state laws and other relevant county documents to which all employees must adhere can only provide a general guideline to the routine, anticipated repeated situations that occur in the courts or a job function and, therefore, have limitations. These resources will not address all situations. Employees must exercise sound professional judgment and seek supervisory input when necessary.

The primary responsibility of the Chief Probation Officer as an officer of the Court is the protection of the community through the provision of legally mandated services to the Courts and the utilization of rehabilitative services for the clients under adult or juvenile supervision.

Fulfilling the role of probation requires a blend of peace officer duties and casework skills.

Strategies for effective case management include prevention, diversion, investigation, supervision, detention and collaboration with other agencies.

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Employees must be careful to evaluate the difference between the department's philosophy and their own personal philosophy. Personal, political or religious beliefs should be kept separate from the employees' departmental role. In any case in which there is a potential conflict, the employee shall advise the immediate supervisor so appropriate action can be taken.

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**Chapter 2 - Organization and Administration**

# Organizational Structure and Responsibility

## 200.1 PURPOSE AND SCOPE

The organizational structure of this department is designed to create an efficient means to accomplish our mission and goals and to provide for the best possible service to the public.

## 200.2 DIVISIONS

The Chief Probation Officer is responsible for administering and managing the Contra Costa County Probation Department. There are three divisions in the Probation Department as follows:

- Field Services
- John A. Davis Juvenile Hall
- Orin Allen Youth Rehabilitation Facility

### 200.2.1 FIELD SERVICE DIVISION

Field Services is supervised by a Division Director whose primary responsibility is to provide general management direction and control for this Division. The Field Service Division includes Adult and Juvenile Court Services, Adult and Juvenile Supervision, and Training.

### 200.2.2 JUVENILE HALL DIVISION

The Juvenile Hall Division is supervised by a Division Director whose primary responsibility is to provide general management direction, operational oversight, and control of the John A. Davis Juvenile Hall.

### 200.2.3 O.A.Y.R.F.

The Orin Allen Youth Rehabilitation Facility Division is supervised by a Division Director whose primary responsibility is to provide general management direction, operational oversight and control for OAYRF.

## 200.3 COMMAND PROTOCOL

### 200.3.1 SUCCESSION OF COMMAND

The Chief Probation Officer exercises command over all personnel in the Department. During absences of the Chief Probation Officer the Assistant Chief will serve as the acting Chief Probation Officer.

Except when designated as above, the order of command authority in the absence or unavailability of the Chief Probation Officer is as follows:

- (a) Assistant Chief
- (b) Probation Director

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### *Organizational Structure and Responsibility*

#### **200.3.2 UNITY OF COMMAND**

The principles of unity of command ensure efficient supervision and control within the Department. Generally, each employee shall be accountable to one supervisor at any time for a given assignment or responsibility. Except where specifically delegated authority may exist by policy or special assignment, any supervisor may temporarily direct any subordinate if an operational necessity exists.

#### **200.3.3 ORDERS**

Members shall respond to and make a good faith and reasonable effort to comply with the lawful order of superiors and other proper authority.

## Departmental Directive

### 204.1 PURPOSE AND SCOPE

Departmental Directives establish an interdepartmental communication that may be used by the Chief Probation Officer to make immediate changes to policy and procedure consistent with the current Memorandum of Understanding and as permitted by Government Code § 3500 et seq. Departmental Directives will immediately modify or change and supersede sections of this manual to which they pertain.

#### 204.1.1 DEPARTMENTAL DIRECTIVE PROTOCOL

Departmental Directives will be incorporated into the manual as required upon approval of the Chief Probation Officer. Departmental Directives will modify existing policies or create a new policy as appropriate and will be rescinded upon incorporation into the manual.

All existing Departmental Directives have now been incorporated in the updated Policy Manual as of the below revision date.

Any Departmental Directives issued after publication of the manual shall be numbered consecutively starting with the last two digits of the year, followed by the number 01. For example, 12-01 signifies the first Departmental Directive for the year 2012.

### 204.2 RESPONSIBILITIES

#### 204.2.1 EXECUTIVE MANAGEMENT

Executive management shall review and approve revisions of the Policy Manual, which will incorporate changes originally made by a Departmental Directive.

#### 204.2.2 CHIEF PROBATION OFFICER

The Chief Probation Officer shall issue all Departmental Directives.

### 204.3 ACCEPTANCE OF DEPARTMENTAL DIRECTIVES

All employees are required to read and obtain any necessary clarification of all Departmental Directives. All employees are required to acknowledge in writing the receipt and review of any new Departmental Directive. Signed acknowledgement forms and/or e-mail receipts showing an employee's acknowledgement will be maintained by the Probation Director.

## Training Policy

### 208.1 PURPOSE AND SCOPE

It is the policy of this department to administer a training program that will provide for the professional growth and continued development of its personnel. By doing so, the Department will ensure its personnel possess the knowledge and skills necessary to provide a professional level of service that meets the needs of the community.

### 208.2 PHILOSOPHY

The Department seeks to provide ongoing training and encourages all personnel to participate in advanced training and formal education on a continual basis. Training is provided within the confines of funding, requirements of a given assignment, staffing levels, and legal mandates. Whenever possible, the Department will use courses certified by the Standards and Training for Corrections (STC) and/or the California Commission on Peace Officer Standards and Training (POST).

#### 208.2.1 STC ANNUAL HOURS

The Training Unit will provide and adequate selection of courses for annual STC training hours. The Unit will monitor the hours, but the ultimate responsibility lies with the supervisor and employee.

#### 208.2.2 STC CORE HOURS

Every new staff and certain newly promoted staff must complete CORE training within a one-year period. The Training Unit will be responsible for location and making arrangements for the CORE hours.

#### 208.2.3 P.C. 832 TRAINING

All Deputy Probation Officers and Probation Counselors are required to complete the portion of PC 832 (Laws of Arrest) that relate to their peace officer status, preferably within 90 days of appointment. The DPO or PC shall not exercise peace officer powers until they have successfully completed this training.

#### 208.2.4 NON-STC STAFF

Non-STC staff are encouraged to participate in training. It is the responsibility of the Supervisor to evaluate their staff and recommend appropriate training as needed and available. Non-STC staff are required to attend mandated training.

If an STC certified class has openings and no other STC staff are available, non-STC staff may attend the training upon their request and approval by their Supervisor, Manager and the Training Officer.

#### 208.2.5 TRAINING PROCEDURES

- (a) All employees assigned to attend training shall attend as scheduled unless previously excused by their immediate supervisor.
- (b) When an employee is unable to attend mandatory training, that employee shall:

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### *Training Policy*

1. Notify his/her supervisor as soon as possible but no later than one hour prior to the start of the training
2. Document his/her absence in a memorandum/e-mail to his/her supervisor
3. Make arrangements through his/her supervisor and the Training Officer to attend the required training on an alternate date

#### **208.2.6 EXPECTATIONS OF DEPARTMENTAL MANAGEMENT**

Managers and Supervisors in the department are expected to:

- (a) Make staff aware that training is their job for that day and relieve them of their workload responsibilities.
- (b) Follow up with staff as able after training to determine the quality and benefits of the training.
- (c) Provide input to the Training Supervisor regarding the quality of training and problems that are perceived.
- (d) Evaluate staff's training needs and request training in those areas to the Training Supervisor.
- (e) Ensure the timely completion of annual STC Training hours by staff under their supervision.

#### **208.2.7 EXPECTATIONS OF STAFF**

It is the responsibility of each staff member to recognize that training is their job for the day and that they have individual responsibilities to derive positive benefits from training. Each staff member is expected to:

- (a) Report disruptive behavior to the trainer
- (b) Attend and complete all training for which they are enrolled
- (c) Be punctual and return from breaks and lunch at designated times and remain in training until the class is dismissed
- (d) Have only those training materials pertinent to the session before them
- (e) Conduct themselves in an appropriate manner
- (f) Respect others' ideas and opinions and questions
- (g) Follow directions of the trainer and/or proctor in each class
- (h) Wear attire to training in accordance with the Department Personal Appearance Standards

#### **208.2.8 EXPECTATIONS OF TRAINERS**

Persons providing training to Probation Department staff are expected to:

- (a) Be organized and prepared to start training at the indicated time
- (b) Ensure insofar as possible that the training area is properly set up and is conducive to the training to be offered
- (c) Ensure that training handouts, etc. are prepared and available
- (d) Be responsive to the needs and questions of the class
- (e) Control disruptive and/or inattentive behavior and if the trainees fail to conform, direct them to leave and immediately report to the Training Supervisor

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### *Training Policy*

- (f) Provide regular breaks to the trainees and resume training on time following breaks
- (g) Work with the proctor to have trainees sign in and evaluate the class.

#### **208.2.9 OUT-OF-COUNTY CONFERENCE AND TRAINING ATTENDANCE**

- (a) Lodging - Staff authorized to attend out-of-county conferences or training shall be provided with the option of overnight lodging when: (reference County Administrative Bulletin [Training 112.9](#) and [Travel 111.8](#))
  - 1. It is a one-day training or conference and the site is more than 75 miles from the employee's regular work site.
  - 2. It is more than one day of training or conference sessions and the site is more than 60 miles from the employees regular work site.
  - 3. The conference and/or training sessions provide for double lodging accommodations. The Assistant Chief may make exceptions, when appropriate. Employees may elect to request single lodging at their own expense by paying the difference between the cost of the double and single lodging.
  - 4. The Assistant Chief may make appropriate exemptions to 1 and 2 above due to special circumstances. Special circumstances, may include weather, medical conditions of the employee, the beginning and ending of the sessions, etc.
- (b) Car-pooling - The Training Officer shall arrange for employees attending a conference or training sessions to car-pool when such an arrangement is practical and appropriate. The staff person, with assistance of their supervisor, shall arrange for the assignment of a county vehicle for commuting when practical and appropriate.
- (c) Meals - In accordance with existing county policy on meal reimbursement:
  - 1. Employees provided with overnight lodging shall be reimbursed for the following meals: breakfast, lunch, and dinner on all training days when they are at training site the night before if the training concludes at 5:00 PM.
  - 2. Employees shall be reimbursed for lunch meals eaten when attending out-of-county conferences or training.
  - 3. Eligible employees shall be reimbursed for breakfast and dinner meals eaten when the one way travel time exceeds three hours.
- (d) Commuting Distance - Regular and usual commute miles and commute time from the employee's home to his/her work site shall be deducted from the commute miles to the conference or training site. Calculations will be computed by the Training Division.
- (e) STC Training Reimbursement - Employee travel demands for reimbursement for STC training expense shall be submitted with the pre-approved travel request to the employees supervisor.

## Electronic Mail

### 212.1 PURPOSE AND SCOPE

The purpose of this policy is to establish guidelines for the proper use and application of the Department's electronic mail (email) system by employees of this department. E-mail is a communication tool available to employees to enhance efficiency in the performance of job duties and is to be used in accordance with generally accepted business practices and current law (e.g., California Public Records Act). Messages transmitted over the e-mail system must only be those that involve official business activities or contain information essential to employees for the accomplishment of business-related tasks and/or communication directly related to the business, administration, or practices of the Department. (Reference County Administrative Policy 139, [E-Mail](#))

### 212.2 E-MAIL RIGHT OF PRIVACY

All e-mail messages, including any attachments, that are transmitted over department networks are considered department records and therefore are department property. The Department reserves the right to access, audit or disclose, with or without notice, any message including any attachment that is transmitted over its e-mail system or that is stored on any department system.

The e-mail system is not a confidential system since all communications transmitted on, to or from the system are the property of the Department. Therefore, the e-mail system is not appropriate for confidential communications. If a communication must be private, an alternative method to communicate the message should be used instead of e-mail. Employees using the Department's e-mail system shall have no expectation of privacy concerning communications utilizing the system.

Employees should not use personal accounts to exchange e-mail or other information that is related to the official business of the Department.

### 212.3 PROHIBITED USE OF E-MAIL

Sending derogatory, defamatory, obscene, disrespectful, sexually suggestive and harassing or any other inappropriate messages on the e-mail system is prohibited and may result in discipline.

E-mail messages addressed to the entire department are only to be used for official business related items that are of particular interest to all users and must be approved by the Chief Probation Officer or Assistant Chief. Personal advertisements are not acceptable.

It is a violation of this policy to transmit a message under another user's name. Users are strongly encouraged to log off the network when their computer is unattended. This added security measure would minimize the misuse of an individual's e-mail, name and/or password by others.

### 212.4 MANAGEMENT OF E-MAIL

Because the e-mail system is not designed for long-term retention of messages, e-mail that the employee desires to save or that becomes part of an official record should be stored in another file/folder. Users of e-mail are solely responsible for the management of their

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### *Electronic Mail*

mailboxes. Messages should be purged every few days and "trash" should be emptied weekly.

# County Employee Proximity/Identification (ID) Cards and Badges

## 217.1 POLICY

Probation Department permanent employees are designated as Disaster Service Workers and are subject to such disaster service activities as may be assigned to them. Department employees are members of the Contra Costa County Emergency Organization and during an emergency may be required to render service at his/her regular workstation or designated site. Probation employees need a ready means of identification for performance of their official duties and, therefore, require identification card.

All permanent Probation employees shall be issued a Contra Costa County employee Identification and Emergency Pass. Additionally, the department will issue a Department photo proximity/ID card specifying the employee's name and position. All field staff are required to wear the proximity/ID card during work hours. Furthermore, all sworn, permanent Peace Officer personnel who are issued a peace officer belt badge must also display that badge during on duty hours.

### 217.1.1 ISSUANCE

All Deputy Probation Officers who have completed Penal Code 832 training and are eligible will be issued a wallet badge and a belt badge. The latter will be displayed during on duty hours. Deputies will also be issued a belt clip and neck chain to display the badge. Both badges are to be surrendered to the employee's supervisor upon resignation, termination, retirement or when placed on administrative leave.

If either badge is lost or stolen, the staff person is to, as soon as possible, submit written notification to the Chief Probation Officer through the chain of command. Each person is responsible for the issued badges and will be required to pay for the cost of replacement of lost items.

### 217.1.2 IMPROPER USE

Sworn field staff are expected to display their badges at all times while on duty. The badge is to be displayed only during the workday when the Deputy is on duty. Under no circumstances may any officer use or display his/her badge to influence the behavior of another apart from his/her designate duties, or when off-duty. "Flashing" a badge is forbidden and may result in disciplinary action. "Flashing" a badge is defined as displaying a badge in an attempt to receive personal favors. Examples include displaying a badge to receive a free cup of coffee or avoid a traffic citation.

The department badge or likeness thereof, or the department name shall not be used for personal or private reasons including, but not limited to, letters, memoranda, and electronic communications such as electronic mail or websites and web pages. The use of the badge and department name for all material (printed matter, products or other items) developed for department use shall be subject to approval by the Chief Probation Officer.

Employees shall not loan his/her department badge or identification card to others and shall not permit the badge or Identification card to be reproduced or duplicated.

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### *County Employee Proximity/Identification (ID) Cards and Badges*

#### **217.2 PROXIMITY CARDS/ IDENTIFICATION CARD**

The proximity/ID cards and badges are to be used only for identification in the performance of official duties. Each person is required to have the proximity/ID card and badge immediately available during the regular performance of his or her duties.

Persons changing job classifications should inform the Probation Administration Payroll Clerk who will fill out the required form for the County Human Resources department to issue a new ID card. If proximity/ID card is lost or stolen the employee shall immediately inform their supervisor in writing.

The Official County Identification Card is issued solely by the County's Human Resources Department. Probation Department proximity/ID cards and badges are issued by the Probation Department. Retired Department Peace Officers may request a Retiree identification Card to accompany their retirement badge, if issued. Other identification cards and/or badges shall not be used as official Probation Department identification.

#### **217.3 VOLUNTEERS/GUESTS**

All volunteers are required to wear proximity/ID cards while present at a Probation Facility or worksite. Employees from other departments wearing valid ID Badges will be permitted to enter Probation building unescorted during normal business hours. Visitors on official business may enter a building beyond the reception/lobby area, only with a visitor proximity/ID card. Visitors/Guests attempting entrance to Juvenile or OAYRF must secure permission from the Facility Director or designee. Prior to entrance, the limits of their visit will be established as well as escort status determined.

# Acceptance of Gifts, Favors, Loans, Etc. by Probation Department Staff or Volunteers

## 221.1 POLICY

Except as provided by [County Administrative Bulletin No.117.9](#), Probation Staff and volunteers are prohibited from soliciting or accepting any gifts, favors, or any other gratuities for services as a member of the Probation Department from a client or client's relatives, friends, or associates under any circumstances, and from anyone else when the circumstance could give the appearance of influencing that staff person or volunteer. Employees and volunteers are cautioned against innocently accepting gratuities without realizing the intent of the giver or the appearance that acceptance may have to the giver or his associates or any third person who might observe or hear about it.

### 221.1.1 EXCEPTIONS TO POLICY

Staff may be permitted to accept:

- (a) Small handmade items of nominal (almost no commercial) value made by youth at Juvenile Hall or OAYRF, where the item is made with materials provided by the institution and rejection would hurt the youth
- (b) Small amounts of such things as homemade cookies from a client or clients' parents where rejection would injure the relationship with the client
- (c) A cup of coffee or its equivalent offered by a client when the staff person is visiting his home.

# Request For Permission to Use Field Facilities for Recreational Purposes

## 223.1 POLICY

The use of Field Probation facilities for recreational activities shall be limited to employees of the Probation Department. Other Contra Costa County employees may utilize the facility upon approval of the Chief Probation Officer or designee. An employee who plans to participate in sports, exercise or wellness/fitness programs, knowing participation involves physical activity, is required to sign a *Contra Costa Probation Department Release from Liability Form* prior to use of any facility for recreational purposes.

### 223.1.1 PURPOSE AND SCOPE

- (a) Participation shall in no way be required or expected as a condition of employment. Participation is available to an employee only as a voluntary recreational, social, athletic, or fitness activity and does not constitute a part of work-related duties.
- (b) Neither Contra Costa County nor the Probation Department will assume responsibility for injuries or damages that may be sustained while participating in voluntary recreation, social, athletic, or fitness activities on any county work site, except those arising through the sole negligence or willful misconduct of the County.
- (c) Labor Code 3600 (a) (8) indicates that any injury incurred on County property, or elsewhere, during voluntary participation in non-work related recreational activities, will not be covered by the County's workers' compensation coverage.
- (d) Voluntary participation in a wellness/fitness program is not authorized during an employee's assigned work hours.
- (e) Smoking is prohibited in all County Facilities.
- (f) Use of the Probation Facilities for non-work activities by the Department personnel shall be on their off-duty hours, and shall be at times when the facility is not being utilized for normal Probation activities. Use of the facility for Probation business takes precedence over employees wishing to use the facility for voluntary recreational activities.

## Maintenance of Staff Home Addresses and Telephone Numbers

### 225.1 POLICY

The Probation Department shall maintain a roster of the home telephone numbers and addresses of all employees and the telephone numbers of person employees have designated as emergency contact persons. This information is considered confidential and shall be used for official Department business and emergency notification purposes only. This confidential list shall be maintained at the Administrative Office, Juvenile Hall, and OAYRF. All newly hired staff shall be required to fill out an Employee Information form. Staff shall provide updated information to payroll clerks as needed.

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**Chapter 3 - General Operations**

## Use of Force

### 300.1 PURPOSE AND SCOPE

This policy provides guidelines on the reasonable use of force. While there is no way to specify the exact amount or type of reasonable force to be applied in any situation, every member of this department is expected to use these guidelines to make such decisions in a professional, impartial and reasonable manner.

#### 300.1.1 DEFINITIONS

Definitions related to this policy include:

**Deadly force** - Force reasonably anticipated and intended to create a substantial likelihood of causing death or very serious injury.

**Force** - The application of physical techniques or tactics, chemical agents or weapons to another person. It is not a use of force when a person allows him/herself to be searched, escorted, handcuffed or restrained.

### 300.2 POLICY

The use of force by law enforcement personnel is a matter of critical concern, both to the public and to the law enforcement community. Sworn Peace Officers are involved on a daily basis in numerous and varied interactions and, when warranted, may use reasonable force in carrying out their duties.

Peace Officers must have an understanding of, and true appreciation for, their authority and limitations. This is especially true with respect to overcoming resistance while engaged in the performance of law enforcement duties.

The Department recognizes and respects the value of all human life and dignity without prejudice to anyone. Vesting Sworn staff with the authority to use reasonable force and to protect the public welfare requires monitoring, evaluation and a careful balancing of all interests.

#### 300.2.1 DUTY TO INTERCEDE

Any sworn staff present and observing another employee using force that is clearly beyond that which is objectively reasonable under the circumstances shall, when in a position to do so, intercede to prevent the use of unreasonable force. A sworn staff member who observes another employee use force that exceeds the degree of force permitted by law should promptly report these observations to a supervisor.

### 300.3 USE OF FORCE

Sworn staff shall use only that amount of force that reasonably appears necessary given the facts and circumstances perceived by the staff person at the time of the event to accomplish a legitimate law enforcement purpose.

The reasonableness of force will be judged from the perspective of a reasonable law enforcement officer on the scene at the time of the incident. Any evaluation of reasonableness must allow for the fact that Peace Officers are often forced to make split-second decisions about the amount of force that reasonably appears necessary in a

# Contra Costa County Probation Department

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### *Use of Force*

particular situation, with limited information and in circumstances that are tense, uncertain and rapidly evolving.

Given that no policy can realistically predict every possible situation a sworn staff member might encounter, sworn staff are entrusted to use well-reasoned discretion in determining the appropriate use of force in each incident.

It is also recognized that circumstances may arise in which sworn staff reasonably believe that it would be impractical or ineffective to use any of the tools, weapons or methods provided by the Department. Sworn staff may find it more effective or reasonable to improvise their response to rapidly unfolding conditions that they are confronting. In such circumstances, the use of any improvised device or method must nonetheless be reasonable and utilized only to the degree that reasonably appears necessary to accomplish a legitimate law enforcement purpose.

While the ultimate objective of every law enforcement encounter is to avoid or minimize injury, nothing in this policy requires an employee be exposed to possible physical injury before applying reasonable force.

#### **300.3.1 USE OF FORCE TO EFFECT AN ARREST**

Any peace officer may use reasonable force to effect an arrest, to prevent escape or to overcome resistance. A peace officer who makes or attempts to make an arrest need not desist from his/her efforts by reason of resistance or threatened resistance on the part of the person being arrested; nor shall a Peace Officer be deemed the aggressor or lose his/her right to self-defense by the use of reasonable force to effect the arrest, prevent escape or to overcome resistance (Penal Code § 835).

#### **300.3.2 FACTORS USED TO DETERMINE THE REASONABLENESS OF FORCE**

When determining whether to apply force and evaluating whether a sworn staff member has used reasonable force, a number of factors should be taken into consideration, as time and circumstances permit. These factors include, but are not limited to:

- (a) Immediacy and severity of the threat to others.
- (b) The conduct of the individual being confronted, as reasonably perceived by the sworn staff member at the time.
- (c) Peace Officer/subject factors (age, size, relative strength, skill level, injuries sustained, level of exhaustion or fatigue, the number of law enforcement personnel available vs. subjects).
- (d) The effects of drugs or alcohol.
- (e) Subject's mental state or capacity.
- (f) Proximity of weapons or dangerous improvised devices.
- (g) The degree to which the subject has been effectively restrained and his/her ability to resist despite being restrained.
- (h) The availability of other options and their possible effectiveness.
- (i) Seriousness of the suspected offense or reason for contact with the individual.
- (j) Training and experience of the Peace Officer.
- (k) Potential for injury to staff members, suspects and others.
- (l) Whether the person appears to be resisting, attempting to evade arrest by flight or is attacking the sworn staff member.

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- (m) The risk and reasonably foreseeable consequences of escape.
- (n) The apparent need for immediate control of the subject or a prompt resolution of the situation.
- (o) Whether the conduct of the individual being confronted no longer reasonably appears to pose an imminent threat to the sworn staff person or others.
- (p) Prior contacts with the subject or awareness of any propensity for violence.
- (q) Any other exigent circumstances.

### **300.3.3 PAIN COMPLIANCE TECHNIQUES**

Pain compliance techniques may be effective in controlling a physically or actively resisting individual. Sworn Peace Officers may only apply those pain compliance techniques for which they have successfully completed department-approved training. Sworn staff members utilizing any pain compliance technique should consider:

- (a) The degree to which the application of the technique may be controlled given the level of resistance.
- (b) Whether the person can comply with the direction or orders of the peace officer.
- (c) Whether the person has been given sufficient opportunity to comply.

The application of any pain compliance technique shall be discontinued once the sworn staff member determines that compliance has been achieved.

### **300.4 DEADLY FORCE APPLICATIONS**

Use of deadly force is justified in the following circumstances:

- (a) A sworn peace officer may use deadly force to protect him/herself or others from what he/she reasonably believes would be an imminent threat of death or serious bodily injury.
- (b) A sworn peace officer may use deadly force to stop a fleeing subject when the peace officer has probable cause to believe that the person has committed, or intends to commit, a felony involving the infliction or threatened infliction of serious bodily injury or death, and the peace officer reasonably believes that there is an imminent risk of serious bodily injury or death to any other person if the subject is not immediately apprehended. Under such circumstances, a verbal warning should precede the use of deadly force, where feasible.

Imminent does not mean immediate or instantaneous. An imminent danger may exist even if the suspect is not at that very moment pointing a weapon at someone. For example, an imminent danger may exist if a peace officer reasonably believes any of the following:

1. The person has a weapon or is attempting to access one and it is reasonable to believe the person intends to use it against the deputy or another.
2. The person is capable of causing serious bodily injury or death without a weapon and it is reasonable to believe the person intends to do so.

### **300.5 REPORTING THE USE OF FORCE**

Any use of force by a member of this department shall be documented promptly, completely and accurately in an appropriate report (P-Drive/templates/Adult/Incident Report), depending on the nature of the incident. The staff member should articulate the factors perceived and why he/she believed the use of force was reasonable under the

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### *Use of Force*

circumstances. To collect data for purposes of training, resource allocation, analysis and related purposes, the Department may require the completion of additional report forms, as specified in department policy, procedure or law.

#### **300.5.1 NOTIFICATION TO SUPERVISORS**

Supervisory notification shall be made as soon as practicable following the application of force in any of the following circumstances:

- (a) The application caused a visible injury.
- (b) The application would lead a reasonable peace officer to conclude that the individual may have experienced more than momentary discomfort.
- (c) The individual subjected to the force complained of injury or continuing pain.
- (d) The individual indicates intent to pursue litigation.
- (e) Any application of a control device.
- (f) Any application of a restraint device other than handcuffs.
- (g) The individual subjected to the force was rendered unconscious.
- (h) An individual was struck or kicked.
- (i) An individual alleges any of the above has occurred.

#### **300.6 MEDICAL CONSIDERATION**

Prior to booking or release, medical assistance shall be obtained for any person who exhibits signs of physical distress, who has sustained visible injury, expresses a complaint of injury or continuing pain, or who was rendered unconscious. Any individual exhibiting signs of physical distress after an encounter should be continuously monitored until he/she can be medically assessed.

Based upon the staff member's initial assessment of the nature and extent of the subject's injuries, medical assistance may consist of examination by fire personnel, paramedics, hospital staff or medical staff at the jail. If any such individual refuses medical attention, such a refusal shall be fully documented in related reports and, whenever practicable, should be witnessed by another staff member and/or medical personnel. If a recording is made of the contact or an interview with the individual, any refusal should be included in the recording, if possible.

The on-scene supervisor, or if not available, the primary handling deputy shall ensure that any person providing medical care or receiving custody of a person following any use of force is informed that the person was subjected to force. This notification shall include a description of the force used and any other circumstances the deputy reasonably believes would be potential safety or medical risks to the subject (e.g., prolonged struggle, extreme agitation, impaired respiration).

Persons who exhibit extreme agitation, violent irrational behavior accompanied by profuse sweating, extraordinary strength beyond their physical characteristics and imperviousness to pain (sometimes called "excited delirium"), or who require a protracted physical encounter with multiple deputies to be brought under control, may be at an increased risk of sudden death. Calls involving these persons should be considered medical emergencies. Staff who reasonably suspect a medical emergency should request medical assistance as soon as practicable and have medical personnel stage away if appropriate.

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#### **300.7 SUPERVISOR RESPONSIBILITY**

When a supervisor is able to respond to an incident in which there has been a reported application of force, the supervisor is expected to:

- (a) Obtain the basic facts from the involved staff members. Absent an allegation of misconduct or excessive force, this will be considered a routine contact in the normal course of duties.
- (b) Ensure that any injured parties are examined and treated.
- (c) When possible, separately obtain a recorded interview with the subject upon whom force was applied. If this interview is conducted without the person having voluntarily waived his/her *Miranda* rights, the following shall apply:
  1. The content of the interview should not be summarized or included in any related criminal charges.
  2. The fact that a recorded interview was conducted should be documented in a property or other report.
  3. The recording of the interview should be distinctly marked for retention until all potential for civil litigation has expired.
- (d) Once any initial medical assessment has been completed or first aid has been rendered, ensure that photographs have been taken of any areas involving visible injury or complaint of pain, as well as overall photographs of uninjured areas. These photographs should be retained until all potential for civil litigation has expired.
- (e) Identify any witnesses not already included in related reports.
- (f) Review and approve all related reports.
- (g) Determine if there is any indication that the subject may pursue civil litigation, the supervisor should complete and route a notification of a potential claim through the appropriate channels.
- (h) Evaluate the circumstances surrounding the incident and initiate an administrative investigation if there is a question of policy non-compliance or if for any reason further investigation may be appropriate.

In the event that a supervisor is unable to respond to the scene of an incident involving the reported application of force, the supervisor is still expected to complete as many of the above items as circumstances permit.

#### **300.7.1 PROBATION MANAGER RESPONSIBILITY**

The Probation Manager shall review each use of force by any personnel within his/her command to ensure compliance with this policy and to address any training issues.

## Deadly Force Review

### 302.1 PURPOSE AND SCOPE

This policy establishes a process for the Contra Costa County Probation Department to review the use of force by its employees.

This review process shall be in addition to any other review or investigation that may be conducted by any outside or multi-agency entity having jurisdiction over the investigation or evaluation of the use of deadly force.

### 302.2 POLICY

The Contra Costa County Probation Department will objectively evaluate the use of force by its members to ensure that their authority is used lawfully, appropriately and is consistent with training and policy. The Department will also utilize the Protocol for Law Enforcement Involved Fatal Incidents.

### 302.3 REMOVAL FROM LINE DUTY ASSIGNMENT

Generally, whenever an employee's actions or use of force in an official capacity, or while using department equipment, results in death or very serious injury to another, that employee will be placed in a temporary administrative assignment pending an administrative review. The Chief Probation Officer may exercise discretion and choose not to place an employee in an administrative assignment in any case.

### 302.4 REVIEW BOARD

The Use of Force Review Board will be convened when the use of force by a member results in very serious injury or death to another.

The Chief Probation Officer may request the Use of Force Review Board to investigate the circumstances surrounding any use of force incident.

The Assistant Chief will convene the Use of Force Review Board as necessary. It will be the responsibility of the Probation Manager or supervisor of the involved employee to notify the Assistant Chief of any incidents requiring board review. The Director or supervisor will also ensure that all relevant reports, documents and materials are available for consideration and review by the board.

#### 302.4.1 COMPOSITION OF THE BOARD

The Use of Deadly Force Review Board shall be comprised of the following persons:

- A designee of the Chief Probation Officer
- A Director designated by the Chief Probation Officer
- A peer deputy
- A sworn peace officer from an outside law enforcement agency
- Department instructor for the type of weapon, device or technique used
- A Probation Manager designated by the Chief Probation Officer

# Contra Costa County Probation Department

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### *Deadly Force Review*

The senior ranking command representative who is not in the same division as the involved employee will serve as chairperson.

#### **302.4.2 RESPONSIBILITIES OF THE BOARD**

The Use of Force Review Board is empowered to conduct an administrative review and inquiry into the circumstances of an incident.

The board members may request further investigation, request reports be submitted for the board's review, call persons to present information and request the involved employee to appear. The involved employee will be notified of the meeting of the board and may choose to have a representative through all phases of the review process.

The board does not have the authority to recommend discipline.

The Chief Probation Officer will determine whether the board should delay its review until after completion of any criminal investigation, review by any prosecutorial body, filing of criminal charges the decision not to file criminal charges, or any other action. The board should be provided all relevant available material from these proceedings for its consideration.

Absent an express waiver from the employee, no more than two members of the board may ask questions of the involved employee (Government Code § 3303). Other members may provide questions to these members.

The review shall be based upon those facts which were reasonably believed or known by the deputy at the time of the incident, applying any legal requirements, department policies, procedures and approved training to those facts. Facts later discovered but unknown to the deputy at the time shall neither justify nor call into question a deputy's decision regarding the use of force.

Any questioning of the involved employee conducted by the board will be in accordance with the department's disciplinary procedures, the Personnel Complaints Policy, the current collective bargaining agreement and any applicable state or federal law.

The board shall make one of the following recommended findings:

- (a) The employee's actions were within department policy and procedure.
- (b) The employee's actions were in violation of department policy and procedure.

A recommended finding requires a majority vote of the board. The board may also recommend additional investigations or reviews, such as disciplinary investigations, training reviews to consider whether training should be developed or revised, and policy reviews, as may be appropriate. The board chairperson will submit the written recommendation to the Chief Probation Officer.

The Chief Probation Officer shall review the recommendation, make a final determination as to whether the employee's actions were within policy and procedure and will determine whether any additional actions, investigations or reviews are appropriate. The Chief Probation Officer's final findings will be forwarded to the involved employee's Assistant Chief for review and appropriate action. If the Chief Probation Officer concludes that discipline should be considered, a disciplinary process will be initiated.

At the conclusion of any additional reviews, copies of all relevant reports and information will be filed with the Chief Probation Officer.

## Field and Office Safety Policy

### 303.1 PURPOSE AND SCOPE

This policy provides guidelines for office and field contacts by deputy probation officers in order to provide as safe a working environment for the deputy as possible.

### 303.2 POLICY

It is the policy of the Probation Department to provide supervision services for the purpose of reducing the incidence and impact of delinquency and crime. Our primary mission is community protection. As it is the deputy's responsibility to provide community protection, we will monitor the probationer's compliance with Court-ordered conditions of probation, attempt to secure adherence to conditions, and act promptly in cases of noncompliance. We work with probationers to effect changes in their conduct through the use of evidence based practices and casework modalities.

### 303.3 OFFICE INTERVIEWS

Failure to attend to personal safety in the office may result in serious incidents. Attention must be paid to the office environment for the protection of all staff. Lost or misplaced access cards/keys shall be reported immediately to your supervisor.

- (a) The ward/probationer should be interviewed in the office prior to making a field visit. During the interview the terms and conditions of probation shall be reviewed and explained which may include search and seizure, and random drug testing. They should also be advised that the deputy may make announced and unannounced home call visits. During this interview, information shall be solicited regarding the client's living situation including other individuals in the household and their criminal histories.
- (b) Only use one designated entrance and exit for clients.
- (c) All clients interviewed at probation offices must be received by a staff member and personally escorted at all times when behind secured doors. All interviews are to take place in designated interview rooms; no interviews are to occur in deputy's individual offices. Clients are not to be left unattended at any time, including being personally escorted out of the office area.
- (d) If a deputy has reason to believe that assistance may be necessary during an interview, the deputy shall share this information with their supervisor and/or co-workers and request that they "stand by" during the interview.
- (e) Receptionists are to ask other county employees such as General Services personnel, to display their ID when entering the probation secured work area. If a county employee does not have their identification, they shall not be allowed into a service area without express permission from a supervisor or manager.

### 303.4 FIELD CONTACT

Field contacts are considered an essential part of any effective case supervision plan and as such are routine for field supervision deputies. Field contacts basically fall into three categories: Home, School and Employment. All three present certain concerns, and guidelines for each are addressed below.

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## Policy Manual

### *Field and Office Safety Policy*

#### **303.4.1 HOME VISITS**

- If a deputy has not previously made a home visit, the first is to be made with a co-worker or law enforcement officer.
- The deputy is to sign out in their office leaving the location of the home call and the estimated time of return.
- Bring a cell phone and if available, a radio.
- The deputy must be clearly identifiable. Your belt badge must be displayed during all field activities. Wearing probation jackets and/or shirts are strongly encouraged.
- County vehicles should be used.
- Upon arriving at the destination, and when appropriate, pass by the residence to check the surroundings. Special attention should be given to individuals loitering in the area, occupied parked cars, loose dogs, etc. If the deputy feels uncomfortable with the situation, police backup should be requested or the visit aborted.
- When making a field call during hours of darkness, park in a well-lit area if possible, close to the residence.
- Before entering the property be aware of possible officer safety hazards such as dogs, chemical smells or loose steps. The deputy should trust their instincts if the situation does not seem right and leave the area and/or call for backup.
- When approaching the residence, the deputy should be alert to sounds from inside. Before knocking, the deputy shall stop, listen and observe. Prior to entering the residence, the deputy shall scan the visible interior. If there are unknown individuals or other officer safety hazards such as loose dogs, the deputy shall have the probationer come outside or terminate the visit and get backup.
- Before leaving the residence the deputy shall scan the area in front of the house where their vehicle is parked. If the situation warrants, police backup shall be summoned.
- Other Department personnel involved with a family shall be made aware of incidents which occur which might bring the safety of the officers into question. This becomes an issue when youth are on home supervision/electronic monitoring.

#### **303.4.2 SCHOOL VISITS**

Deputies assigned to juvenile caseloads are routinely expected to see minors at school. It is fundamental that deputy establish effective relationships with the various school administrators, teachers, security personnel and campus aides at the schools they service. The following guidelines shall be followed in seeing probationers on school campuses:

- Vehicles shall be parked when possible in a secured parking area.
- Upon entering the campus, the deputy shall report to the designated administrator before contacting probationers.
- Officer safety is threatened on campus by random acts of violence between students that may dictate the involvement of the deputy. Deputies may attempt to de-escalate the confrontation through verbal intervention, but are not to physically attempt to stop fights unless a probationer known to the deputy is involved or unless exigent circumstances are present. In situations where school personnel are being attacked, deputies, if physically able, may use reasonable force to restrain or subdue the attacker.
- Deputies shall not transport in a vehicle any non-probationer without written authorization of the parent or guardian and their supervisor or probation supervisor's permission.

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## Policy Manual

### *Field and Office Safety Policy*

- Arrest of probationers should normally not be effected on campus. Deputies are not to transport in-custody probationers in private vehicles. Whenever possible, school authorities shall be notified of the deputy's intent to conduct an arrest or the deputy must notify school authorities immediately thereafter.
- Before leaving the campus the deputy shall inform the proper school administrator of his/her departure. If any probationers are being removed from campus, their removal shall be cleared.

#### **303.4.3 EMPLOYMENT**

It may be necessary for deputies to contact probationers at their work. This may be for verification of employment or other routine contacts. This is generally discouraged as it may jeopardize the probationer's employment. The following guidelines shall be followed when meeting with a probationer in their work place:

- Consideration shall be given to meeting the probationer during a lunch or coffee break.
- When entering a place of employment, discretion should be used in identifying oneself as a probation officer.

#### **303.5 REQUESTS FOR LAW ENFORCEMENT ASSISTANCE**

Deputies shall develop well-defined working relationships with other law enforcement agencies and shall request the assistance of those agencies when the need for such assistance is anticipated. In such situations the probation officer must do the following:

- (a) Conference the situation in advance with their supervisor.
- (b) Communicate with law enforcement personnel:
  1. What the purpose of the client contact is.
  2. What the deputy expects of the police officer.
  3. What the police officer can expect of the deputy, especially in terms of arming, use of force, transportation of persons placed under arrest, per departmental policy.
  4. Give full identification to law enforcement, along with the arrest history and any officer safety concerns.

#### **303.6 PROBATION/POLICE ACTIVITY**

This term refers to a probation officer accompanying law enforcement officers in marked or unmarked police vehicles as the officer's drive about a community. Some examples include truancy sweeps and special law enforcement operations.

##### **303.6.1 DEPUTIES ACCOMPANYING LAW ENFORCEMENT**

Deputies accompanying law enforcement: Deputies involvement is always for an approved purpose. Valid reasons for the deputy's presence would be to:

- Provide community protection.
- Familiarize the deputy with a particular neighborhood.
- Enforce conditions of probation.
- Create a high visibility image in a targeted neighborhood and among probationers in that neighborhood.
- Defuse possible volatile situations.

# Contra Costa County Probation Department

## Policy Manual

### *Field and Office Safety Policy*

- Arrest probationers when appropriate.
- Foster closer affiliation with law enforcement agencies and officers.
- Participate in police/probation activities.

#### **303.6.2 PRE-DEPARTURE ACTIVITY**

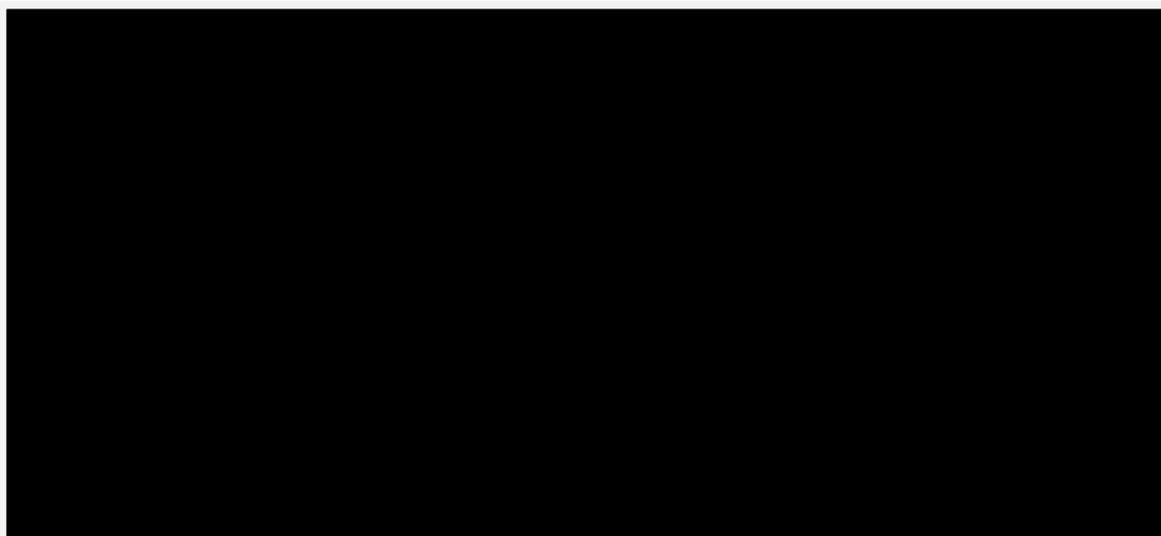
As a high visibility activity, the activity needs to be well planned and organized. The following issues and procedures must be addressed prior to the activity beginning:

- Activities initiated by probation staff will be accompanied by an informational briefing.
- Obtain the approval of the deputy's supervisor. The activity and its purpose must be discussed and approved by the supervisor.
- Clarify with law enforcement officers the deputy's purpose in accompanying the officers. The deputy insures that the officers are aware of the deputy's role. It is also important to clarify what the deputy expects of law enforcement during the activity.
- Acquaint the law enforcement officer with the equipment the deputy has available. Law enforcement may assume that deputies are armed.
- Other issues needing clarification prior to the activity commencing include the resolution of who will make arrests, who will transport prisoners, how evidence will be handled and who will prepare and submit reports to the District Attorney.

#### **303.6.3 EVENT COMPLETION ACTIVITY**

Upon the completion of a police/probation activity the deputy involved is to submit a completed copy of incident report to their supervisor(s). A copy of the incident report will be placed in the probationers file and a copy will be placed in the incident report binder in the appropriate office.

#### **303.7 EQUIPMENT**



## Arrest Policy

### 305.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidelines when arresting a probationer. These guidelines are designed to minimize the possibility of injury to any of the parties who may be involved.

### 305.2 POLICY

It is the mission of the Contra Costa County Probation Department to "Join our justice partners in service and support of our communities, courts, and victims." It is the policy of the Probation Department to provide services to the community for the purpose of reducing the incidence and impact of delinquency and crime thus affording enhanced community protection. The Probation Department will monitor the probationer's compliance with Court-ordered conditions of probation and respond in cases of non-compliance. Deputy Probation Officers will enforce probation conditions and, as necessary and appropriate, initiate arrests on probationers.

### 305.3 FACTORS TO CONSIDER WHEN MAKING AN ARREST

Upon determining that the arrest of a probationer may be necessary, the following factors shall be considered:

- (a) The deputy must have probable cause to believe the probationer has violated a law or reasonable suspicion, has violated a term or condition of probation, has an outstanding warrant, his /her safety or the safety of others is in jeopardy, or has escaped from any commitment ordered by the Court.
- (b) The deputy must consider the risk to the community, probationer, and staff involved. If the probationer doesn't pose an immediate threat and it is believed that he/she will not flee the jurisdiction of the Court, the case may be calendared for a "walk-in" warrant hearing or the probationer may be directed to turn himself in to law enforcement or a custodial institution.
- (c) Availability of police/probation support.

#### 305.3.1 ARREST PROCEDURES

The circumstances of the case and a plan for arrest must be reviewed and approved by the unit supervisor or an alternate supervisor or manager, unless exigent circumstances exist. The deputy and the supervisor must take into account the previously mentioned factors when determining the plan for arrest.

#### 305.3.2 ARREST EFFECTED BY LAW ENFORCEMENT

- (a) The deputy shall contact the police agency (Watch Commander or other established police agency contact) having jurisdiction at the intended location of the arrest.
- (b) Direct contact should be made with the agency/officer making the arrest. The deputy shall provide:
  - 1. Information regarding the probationer including new offense information, picture of probationer (or other positive identification), prior history of offenses, risk factors, warrant information, and other pertinent information.

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### *Arrest Policy*

2. Names of unarmed probation staff who will be present and safety equipment they do possess.
3. Discuss roles of law enforcement and deputy staff and details of the arrest, transportation and booking issues. Ideally, law enforcement should transport and book the probationer; however, there may be occasions when probation may transport and book individuals.
4. During the arrest procedure the probationer is to be notified of intent, the cause, and the authority for the arrest. Said notification shall occur when the probationer is secured and the situation is stable.
5. Admonish the probationer of his/her constitutional rights per Miranda before taking a statement regarding any new offense for which the probationer is arrested.
6. After the arrest has been completed, the deputy probation officer shall notify the supervisor, initiate a petition to revoke/request for warrant, enter information in the field book, and complete an incident report.

#### **305.3.3 ARREST EFFECTED BY TWO DEPUTY PROBATION OFFICERS**

- (a) In some circumstances the deputy probation officer and his/her supervisor may feel that police assistance with an arrest is not necessary.
- (b) When an arrest effected by two deputy probation officers is being considered, following procedures shall be followed:
  1. The deputy must secure his/her supervisor's approval prior to affecting the arrest and must be able to articulate why law enforcement is not needed.
  2. The deputy shall not make an arrest without having the assistance of another deputy and notifying the police agency of the jurisdiction to inform them of the planned arrest.



4. Verify the identity of the probationer being arrested.
5. The probationer shall be handcuffed and searched for officer safety by a deputy of the same sex when possible.
6. During the arrest procedure the probationer is to be notified of intent, the cause, and the authority for the arrest. Said notification should occur when the probationer is secured and the situation is stable.
7. Where appropriate, an admonishment will be read.
8. The probationer will be transported via the use of a caged vehicle with two deputies in the front. The deputy will need to contact the booking institution and complete all paperwork for booking.
9. After booking, the arresting deputy shall notify his/her supervisor, initiate a petition to revoke/request for warrant and enter the information in the field book and complete the field operation form.

#### **305.3.4 VOLUNTARY SURRENDER**

On occasion a probationer with a warrant for arrest will contact the deputy and want to voluntarily surrender. When this occurs, the deputy shall instruct the probationer

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### *Arrest Policy*

to surrender to the local police agency, correctional institution, public defender's office or arrange for surrender in the office. The DPO may also direct adult probationers to surrender to court or in the case of juveniles, calendar a walk-in warrant hearing.

#### **305.3.5 ARRESTING PROBATIONERS WITH WARRANTS**

Also, on occasion a probationer will appear in the office with an active warrant. When this happens it is the expectation that the probationer be arrested on the warrant if such an arrest can be safely managed.

## Handcuffing

### 306.1 PURPOSE AND SCOPE

This policy provides guidelines for the use of handcuffs during detentions, transportation and arrests.

### 306.2 POLICY

The Contra Costa County Probation Department authorizes the use of restraint devices in accordance with this policy, the Use of Force Policy and department training. Restraint devices shall not be used to punish, to display authority or as a show of force.

### 306.3 USE OF RESTRAINTS

Only staff who have successfully completed Contra Costa County Probation Department-approved training on the use of restraint devices described in this policy are authorized to use these devices.

When deciding whether to use handcuffs on individuals, Probation staff should carefully balance officer and community safety concerns with factors that include, but are not limited to:

- The circumstances or crime leading to the arrest.
- The demeanor and behavior of the arrested person.
- The age and health of the person.
- Whether the person is known to be pregnant.
- Whether the person has a hearing or speaking disability. In such cases, consideration should be given, safety permitting, to handcuffing to the front in order to allow the person to sign or write notes.
- Whether the person has any other apparent disability.

The use of restraints on Juvenile Individuals who are in custody at the Juvenile Hall or at the Orin Allen Youth Rehabilitation Facility shall be the least restrictive form of restraint and shall be used consistent with the legitimate security needs of each individual. Probation staff must make a determination that handcuffs and/or other mechanical restraints are necessary to prevent physical harm to the juvenile or another person, or are necessary due to a substantial risk of flight.

#### 306.3.1 RESTRAINT OF DETAINEES

Situations may arise where it may be reasonable to restrain an individual who may, after brief investigation, be released without arrest. Unless arrested, the use of restraints on detainees should continue only for as long as is reasonably necessary to assure the safety of Probation staff and others. When deciding whether to remove restraints from a detainee, Probation staff should continuously weigh the safety interests at hand against the continuing intrusion upon the detainee.

### **306.3.2 RESTRAINT OF PREGNANT PERSONS**

Persons who are known to be pregnant should be restrained in the least restrictive manner that is effective for officer safety and in no event shall these persons be restrained by the use of leg irons, waist chains or handcuffs behind the body.

No person who is in labor, delivery or recovery after delivery shall be handcuffed or restrained except in extraordinary circumstances and only when a supervisor makes an individualized determination that such restraints are necessary for the safety of the arrestee, Probation staff or others. (Penal Code 3407; Penal Code 6030).

### **306.4 APPLICATION OF HANDCUFFS OR PLASTIC CUFFS**

Handcuffs, including temporary nylon or plastic cuffs, may be used only to restrain a person's hands to ensure officer safety.

Although recommended for most arrest situations, handcuffing is discretionary and not an absolute requirement of the Department. Probation staff should consider handcuffing any person they reasonably believe warrants that degree of restraint. However, Probation staff should not conclude that in order to avoid risk every person should be handcuffed, regardless of the circumstances.

In most situations handcuffs should be applied with the hands behind the person's back. When feasible, handcuffs should be double-locked to prevent tightening, which may cause undue discomfort or injury to the hands or wrists.

In situations where one pair of handcuffs does not appear sufficient to restrain the individual or may cause unreasonable discomfort due to the person's size, Probation staff should consider alternatives, such as using an additional set of handcuffs or multiple plastic cuffs.

Handcuffs should be removed as soon as it is reasonable or after the person has been searched and is safely confined within a detention facility.

### **306.5 REQUIRED DOCUMENTATION**

If an individual is restrained and released without an arrest, the Probation staff shall document the details of the detention and the need for handcuffs or other restraints.

If an individual is arrested, the use of restraints other than handcuffs shall be documented in the related report. The Probation staff should include, as appropriate:

- (a) The amount of time the suspect was restrained.
- (b) How the suspect was transported and the position of the suspect.
- (c) Observations of the suspect's behavior and any signs of physiological problems.
- (d) Any known or suspected drug use or other medical problems.

Revision Date: January 2018

## Control Devices and Techniques

### 308.1 PURPOSE AND SCOPE

This policy provides guidelines for the use and maintenance of control devices that are described in this policy.

### 308.2 POLICY

In order to control subjects who are violent or who demonstrate the intent to be violent, the Contra Costa County Probation Department authorizes deputies to use control devices in accordance with the guidelines in this policy and the Use of Force Policy.

### 308.3 ISSUING, CARRYING AND USING CONTROL DEVICES

Control devices described in this policy may be carried and used by members of this department only if the device has been issued by the Department or approved by the Chief Probation Officer or the authorized designee.

Only deputies who have successfully completed department-approved training in the use of any control device are authorized to carry and use the device.

Control devices may be used when a decision has been made to control, restrain or arrest a subject who is violent or who demonstrates the intent to be violent, and the use of the device appears reasonable under the circumstances. When reasonable, a verbal warning and opportunity to comply should precede the use of these devices.

When using control devices, deputies should carefully consider potential impact areas in order to minimize injuries and unintentional targets.

### 308.4 RESPONSIBILITIES

#### 308.4.1 MAINTENANCE RESPONSIBILITIES

All normal maintenance or cleaning shall remain the responsibility of personnel using the various devices.

Any damaged, inoperative, outdated or expended control devices along with documentation explaining the cause of the damage, shall be returned to the Director for disposition.

### 308.5 OLEORESIN CAPSICUM (OC) GUIDELINES

As with other control devices, oleoresin capsicum (OC) spray may be considered for use to bring under control an individual or groups of individuals who are engaging in, or about to engage in violent behavior. OC spray should not, however, be used against individuals or groups who merely fail to disperse or do not reasonably appear to present a risk to the safety of officers or the public.

#### 308.5.1 OC SPRAY

Personnel carrying OC spray shall carry the device in its holster. All Deputy staff are to carry OC Spray at all times when participating in field operations/contacts.

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### *Control Devices and Techniques*

Canisters involved in any type or malfunction, damage, or use shall be turned in to the Director for exchange. A special incident report may be required.

#### **308.5.2 TREATMENT FOR OC SPRAY EXPOSURE**

Persons who have been sprayed with or otherwise affected by the use of OC should be promptly provided with decontamination wipes to cleanse the affected areas. Those persons who complain of further severe effects shall be examined by appropriate medical personnel.

#### **308.6 TRAINING FOR CONTROL DEVICES**

- (a) Only Deputies trained and having shown adequate proficiency in the use of any control device and this agency's Use of Force policy are authorized to carry the device. Proficiency training must be monitored and documented by a certified instructor.
- (b) Training for all control devices should occur yearly.
- (c) All training and proficiency for control devices will be documented and maintained by the Training Division.
- (d) Deputies failing to demonstrate proficiency or knowledge of this agency's Use of Force policy will be provided remedial training. If, after two additional attempts, a Deputy still cannot demonstrate proficiency with a device or knowledge of this agency's Use of Force policy, the Deputy may be subject discipline.

#### **308.7 REPORTING USE OF CONTROL DEVICES AND TECHNIQUES**

Any application of a control device or technique listed in this policy shall be documented in the related incident report/Chemical Incident Report and reported pursuant to the Use of Force Policy.

Whenever OC is deployed staff shall:

- (a) Notify the local police agency of the situation and clearly identify themselves as Probation Officers.
- (b) Notify their immediate supervisor or manager.
- (c) Document the incident in their field book.
- (d) As soon as possible and within 24 hours, complete the Use of Chemical Agent Report. The report shall include:
  - 1. A clear and factual rationale for the agent's use
  - 2. A description of how the agent was deployed and the results
  - 3. A description of the aftercare employed and/or medical treatment

When an individual is handcuffed and released without an arrest, a written report of the incident shall be made to document the details of the detention and need for use of handcuffs.

## Officer-Involved Shooting

### 310.1 PURPOSE AND SCOPE

To establish policy and procedures for the investigation of an incident in which a person is injured or killed as the result of a police shooting. The intent of this policy is to ensure that such incidents be investigated in a fair and impartial manner. This policy is only intended as a guide. The Police Chief's Association Protocol for Law Enforcement Involved Fatal Incidents, 2007, will be the guiding document for all officer involved shootings. All Supervisors, Management and armed staff shall have access to the full version of the protocol as well as participate in training as provided by the Department.

Nothing in this policy is intended to increase, modify, or in any way affect the current legal standards nor shall any deviation from these guidelines be considered a breach of any legal standard.

For purposes of this policy, "Deputy Probation Officer," "Probation Officer," "Officer" or "Deputy" includes all sworn peace officer classifications, including Probation Supervisors and Probation Counselors

### 310.2 TYPES OF INVESTIGATIONS

Officer-involved shootings involve several separate investigations. The investigations may include:

- (a) A criminal investigation of the incident by the agency having jurisdiction where the incident occurred
- (b) A criminal investigation of the involved deputy(s) conducted by an outside agency
- (c) A civil investigation to determine potential liability conducted by the involved deputy's agency
- (d) An administrative investigation conducted by the involved deputy's agency, to determine if there were any violations of department policy

### 310.3 JURISDICTION

The agency where the incident occurred has criminal jurisdiction and is responsible for the criminal investigation of the incident. That agency may relinquish its criminal investigation of the suspect(s) to another agency. The Probation Department will conduct timely civil and/or administrative investigations. The Probation Department shall obtain the law enforcement investigation report as soon as possible upon its release.

### 310.4 THE INVESTIGATION PROCESS

The following procedures are guidelines used in the investigation of an officer-involved shooting.

#### 310.4.1 DUTIES OF INITIAL ON SCENE SUPERVISOR

Upon arrival at the scene of an officer-involved shooting, the first uninvolved supervisor should:

- (a) Take all reasonable steps to obtain emergency medical attention for all apparently injured individuals.

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### *Officer-Involved Shooting*

- (b) Ensure that the weapon is unloaded and secured for evidence.
- (c) Attempt to obtain a brief overview of the situation from any non-shooter Deputy Probation Officer(s).
  - 1. In the event that there are no non-shooter Deputy Probation Officer(s), the supervisor should attempt to obtain a brief voluntary overview from one deputy.
- (d) If necessary, the supervisor may administratively order any deputy from this department to immediately provide public safety information necessary to secure the scene and pursue suspects.
  - 1. Public safety information shall be limited to such things as outstanding suspect information, number and direction of shots fired, parameters of the incident scene, identity of known witnesses and similar information.
- (e) Absent a voluntary statement from any deputy(s), the initial on scene supervisor should not attempt to order any deputy to provide anything other than public safety information.
- (f) Provide all available information to the Probation Manager. If feasible, sensitive information should be communicated over secure networks.
- (g) As soon as practical, shooter deputies should respond or be transported (separately, if feasible) to the office for further direction.
  - 1. Each involved deputy should be given an administrative order not to discuss the incident with other involved deputies pending further direction from a supervisor.
  - 2. When a deputy's weapon is taken or left at the scene (e.g., evidence), the deputy will be provided with a comparable replacement weapon or transported to the office by other deputies.
- (h) Probation Manager and Division Director Duties
  - 1. Upon learning of an officer-involved shooting, the Probation Manager or Division Director shall be responsible for coordinating all aspects of the incident until relieved by the Chief Probation Officer or Chief Deputy.

#### **310.4.2 NOTIFICATIONS**

The following person(s) shall be notified as soon as practical:

- Chief Probation Officer
- Assistant Chief
- Director
- Manager
- Probation Supervisor
- Internal Affairs/Training Supervisor
- Psychological/Peer support personnel
- Coroner (if necessary)
- Deputy representative (if requested)

All outside inquiries about the incident shall be directed to the Chief Probation Officer.

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### *Officer-Involved Shooting*

#### **310.4.3 MEDIA RELATIONS**

A single press release shall be prepared with input and concurrence from each agency representative responsible for each phase of the investigation. This release will be available to the Chief Probation Officer and Assistant Chief in the event of inquiries from the media.

It will be the policy of this department to not release the identities of involved deputies absent their consent or as required by law. Moreover, no involved deputy shall be subjected to contact from the media (Government Code § 3303(e)) and no involved deputy shall make any comments to the press unless authorized by the Chief Probation Officer or Assistant Chief.

Law enforcement officials receiving inquiries regarding incidents occurring in other agency jurisdictions shall refrain from public comment and will direct those inquiries to the agency having jurisdiction and primary responsibility for the investigation.

#### **310.4.4 INVOLVED OFFICERS**

Once the involved deputy(s) have arrived at the office, the Probation Manager should admonish each deputy that the incident shall not be discussed except with authorized personnel or representatives. The following shall be considered for the involved deputy:

- (a) Any request for department or legal representation will be accommodated, however, no involved deputy shall be permitted to meet collectively or in a group with an attorney or any representative prior to providing a formal interview or report (Government Code § 3303(i)).
- (b) Discussions with licensed attorneys will be considered privileged as attorney-client communications.
- (c) Discussions with department representatives (e.g., employee association) will be privileged, however, only as to the discussion of non-criminal information.
- (d) A Mental Health professional shall be provided by the Department to each involved deputy, or any other deputy, upon request.
  1. Interviews with a health professional will be considered privileged and will not be disclosed except to the extent that the deputy is or is not fit for return to duty.
  2. An interview or session with a mental health professional may take place prior to the involved deputy providing a formal interview or report, but the involved deputies shall not be permitted to consult or meet collectively or in a group with a mental health professional prior to providing a formal interview or report.
- (e) Although the Department will honor the sensitivity of communications with peer counselors, there is no legal privilege to such. Peer counselors are cautioned against discussing the facts of any incident with an involved or witness deputy.

Care should be taken to preserve the integrity of any physical evidence present on the deputy's equipment or clothing, such as blood or fingerprints, until investigators or lab personnel can properly retrieve it.

The Probation Supervisor shall make reasonable accommodations to the deputy's physical and emotional needs (Government Code § 3303(d)).

Each involved deputy shall be given reasonable paid administrative leave following an officer-involved shooting. It shall be the responsibility of the Probation Supervisor to make schedule adjustments to accommodate such leave.

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## **310.5 THE SHOOTING INCIDENT CRIMINAL INVESTIGATION**

### **310.5.1 CRIMINAL INVESTIGATION**

It shall be the policy of this department to utilize the District Attorney's Office to conduct an independent criminal investigation into the circumstances of any officer-involved shooting involving injury or death.

Once public safety issues have been addressed, criminal investigators will be given the next opportunity to interview involved deputies in order to provide them with an opportunity to give a voluntary statement. The following shall be considered for the involved deputy:

- (a) Supervisors and Internal Affairs Unit personnel should not participate directly in any voluntary interview of deputies. This will not prohibit such personnel from monitoring such interviews or indirectly providing areas for inquiry.
- (b) If requested, any involved deputy will be afforded the opportunity to consult individually with a representative of his/her choosing or an attorney, prior to speaking with criminal investigators. However, in order to maintain the integrity of each individual deputy's statement, involved deputies shall not consult or meet with a representative or attorney collectively or in groups prior to being interviewed.
- (c) Any voluntary statement provided by the deputy(s) will be made available for inclusion in the administrative or other related investigations.
- (d) Absent consent from the involved deputy or as required by law, no administratively coerced statement(s) will be provided to any criminal investigators.

### **310.5.2 REPORTS BY INVOLVED OFFICERS**

In the event that suspects remain outstanding or subject to prosecution for related offenses, this department shall retain the authority to require involved deputies to provide sufficient information for related criminal reports to facilitate the apprehension and prosecution of those individuals (Government Code § 3304(a)).

While the involved deputy may write the report, it is generally recommended that such reports be completed by law enforcement officers having jurisdiction, who should interview involved deputies as victims/witnesses. Since the purpose of these reports will be to facilitate criminal prosecution, statements of involved deputies should focus on evidence to establish the elements of criminal activities by involved suspects. Care should be taken not to duplicate information provided by involved deputies in other reports.

Nothing in this section shall be construed to deprive an involved deputy of the right to consult with legal counsel prior to completing any such criminal report.

Reports related to the prosecution of criminal suspects will be processed according to normal procedures, but should also be included for reference in the investigation of the officer-involved shooting.

## **310.6 ADMINISTRATIVE INVESTIGATION**

In addition to all other investigations associated with an officer-involved shooting, this department will conduct an internal administrative investigation to determine conformance with department policy. This investigation will be conducted under the supervision of the Internal Affairs Supervisor and will be considered part of a confidential peace officer personnel file.

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- (a) Any deputy involved in a shooting may be administratively compelled to provide a blood sample for alcohol/drug screening. Absent consent from the deputy, such compelled samples and the results of any such testing shall not be disclosed to any criminal investigative agency.
- (b) If any deputy has voluntarily elected to provide a statement to criminal investigators, the assigned administrative investigator should review that statement before proceeding with any further interview of that involved deputy.
  - 1. If a further interview of the deputy is deemed necessary to determine policy compliance, care should be taken to limit the inquiry to new areas with minimal, if any, duplication of questions addressed in the voluntary statement. The involved deputy shall be provided with a copy of his or her prior statement before proceeding with any subsequent interview(s) (Government Code § 3303(g))
- (c) In the event that an involved deputy has elected to not provide criminal investigators with a voluntary statement, the assigned administrative investigator shall conduct an administrative interview to determine all relevant information.
  - 1. Although this interview should not be unreasonably delayed, care should be taken to ensure that the deputy'(s) physical and psychological needs have been addressed before commencing the interview.
  - 2. If requested, the deputy shall have the opportunity to select an uninvolved representative to be present during the interview (Government Code § 3303(i)). However, in order to maintain the integrity of each individual deputy's statement, involved deputies shall not consult or meet with a representative or attorney collectively or in groups prior to being interviewed.
  - 3. Administrative interview(s) should be recorded by the investigator (the deputy may also record the interview) (Government Code § 3303(g)).
  - 4. The deputy shall be informed of all constitutional *Miranda* rights (Government Code § 3303(h)) and, assuming no voluntary waiver, will then be given an administrative order to provide full and truthful answers to all questions (Government Code § 3303(e)). The deputy shall be informed, however, that the interview will be for administrative purposes only and that the statement cannot be used criminally (The *Lybarger* or *Garrity* admonishment).
  - 5. The administrative interview shall be considered part of the deputy's confidential personnel file.
  - 6. The Internal Affairs Supervisor shall compile all relevant information and reports necessary for the Department to determine compliance with applicable policies.
  - 7. The completed administrative investigation shall be submitted to the Use of Deadly Force Review Board, which will restrict its findings as to whether there was compliance with the Department use of deadly force policy.
  - 8. Any other indications of potential policy violations shall be determined in accordance with standard disciplinary procedures.

#### **310.6.1 CIVIL LIABILITY RESPONSE**

A member of this department may be assigned to work exclusively under the direction of the legal counsel for the Department to assist in the preparation of materials deemed necessary in anticipation of potential civil litigation.

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All materials generated in this capacity shall be considered attorney work product and may not be used for any other purpose. The civil liability response is not intended to interfere with any other investigation, but shall be given reasonable access to all other investigations.

## Firearms and Qualification

### 312.1 PURPOSE AND SCOPE

This policy establishes procedures for the training, assignment, and use of firearms. The Chief Probation Officer or his or her designee shall approve all Department firearms before they are issued to any member of this Department.

Deputy Probation Officers authorized to carry firearms shall comply with the requirements of the Penal Code and this Policy. The authorization to carry a firearm shall not give nor be inferred as giving the Deputy Probation Officer any additional authority or jurisdiction over offenders or offenses.

For purposes of the Policy, "Deputy Probation Officer," "Probation Officer," "Officer" or "Deputy" includes all sworn peace officer classifications, including Probation Supervisor and Probation Counselors.

#### 312.1.1 LEGAL AUTHORITY TO CARRY AND USE A FIREARM

Penal Code 830.5 designates Deputy Probation Officers as peace officers. This section also authorizes deputies, employees having custodial responsibility in a probation department or any transportation officer of a probation department to carry a firearm under the terms and conditions specified by the Probation Department.

The Deputy Probation Officer's use of peace officer powers is defined and limited to on-duty hours by statute, court decisions and opinions of the California Attorney General. By way of example, Penal Code 830.5(a) reads, in part:

"Except as otherwise provided in this subdivision, the authority of these...probation officers shall extend only as follows:

- (a) To conditions of parole, probation, mandatory supervision, or post-release community supervision by any person in this state on parole, probation, mandatory supervision, or post-release community supervision.
- (b) To the escape of any inmate or ward from a state or local institution.
- (c) To the transportation of persons on parole, probation, mandatory supervision, or post-release community supervision.
- (d) To violations of any penal provision of law that are discovered while performing the usual or authorized duties of his or her employment.
- (e) To the rendering of mutual aid to any other law enforcement agency."

Deputy Probation Officers' authority to carry and use firearms on-duty shall be consistent with these provisions of the Penal Code and shall be limited by the terms and conditions specified by this Policy. Nothing in this Policy shall be considered or construed as conferring on the deputy authority beyond that granted by the Penal Code.

#### 312.1.2 DEPARTMENT DISCRETION TO AUTHORIZE USE OF A FIREARM

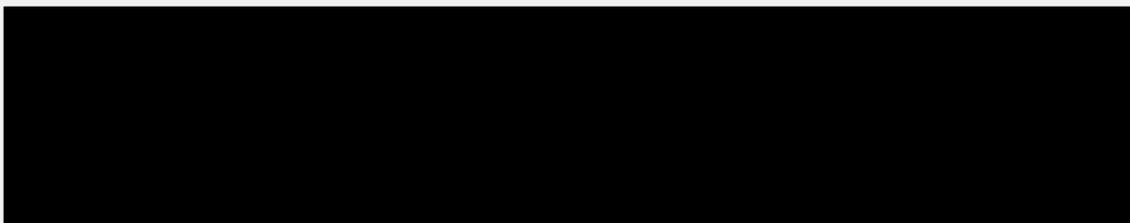
The Chief Probation Officer has sole and full discretion to authorize and/or revoke a Deputy Probation Officer's use of a firearm.

The following positions are identified as "Armed Positions:"

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### *Firearms and Qualification*



Incumbents in the above listed positions will be given the option of "opting out" of carrying a firearm. Incumbents who fail to qualify to carry a firearm or who fail to pass the psychological assessment will be given the option to remain in his/her position. All future staff transferring into the above positions will be required to be armed and subject to the requirements of this policy. (This paragraph will remain in effect until all current staff in the identified positions are armed or leave the position.)

The authorization to carry a firearm will be subject to ongoing periodic review by the Chief Probation Officer.

The Chief Probation Officer, or his/her designee (e.g., Chief Deputy, Director, Manager or Supervisor), may at any time, for any reason or without cause, revoke the authority of any deputy to carry a Department-issued firearm while on duty. The Chief Probation Officer, or his/her designee, will immediately notify the deputy of the revocation. Upon such an order, the deputy shall immediately surrender his or her firearm and ammunition and shall immediately cease carrying a firearm. If necessary, the Chief Probation Officer will also transfer the deputy to an assignment not requiring the use of firearms. The Chief, or his/her designee, will deliver a copy of the written revocation to the deputy with five (5) working days of his/her decision, and a copy will be placed in the deputy's personnel file.

### **312.2 AUTHORIZED WEAPONS**

No firearms will be carried that have not been thoroughly inspected by the on-site Firearm Expert or Rangemaster. A Rangemaster will inspect the firearms during regularly scheduled range dates. As stated above, except in an emergency or as directed by a supervisor, no firearm shall be carried by a deputy who has not qualified with that weapon at an authorized Department range.

All other weapons, including but not limited to, edged weapons, chemical or electronic weapons, impact weapons or any weapon prohibited or restricted by law or that is not covered elsewhere by department policy, may not be carried by personnel in the performance of their official duty without the express written authorization of the Chief Probation Officer.

#### **312.2.1 DUTY WEAPONS**

The authorized departmental issued handgun is the Sig Sauer P226.

#### **312.2.2 REQUIRED TRAINING**

- (a) Before a Deputy Probation Officer is issued a firearm, he or she must:
1. Be up-to-date on the Department training requirements, as specified below;
  2. Pass a psychological evaluation
  3. Satisfactorily complete PC 832 firearms training; and
  4. Meet the firearms qualifications.

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- (b) If a deputy is issued a firearm, he or she must maintain current, up-to-date firearm qualifications every quarter.
- (c) Failure to meet all of the foregoing requirements and/or maintain the foregoing requirements may lead to immediate revocation of the deputy's firearm privileges.
- (d) The Probation Department's required training includes:
  - 1. Defensive Tactics Training
  - 2. Cardiopulmonary Resuscitation and First Aid Certification
  - 3. Training on the Probation Department's policies concerning the carrying of firearms

Any deputy who is applying to an armed position must be current on all the Department's required trainings in order to proceed in the firearm authorization process.

The Probation Department's Training Supervisor shall maintain the training records of all deputies authorized to carry firearms and shall promptly notify the Chief Probation Officer and the appropriate supervisor when any such deputy is not in compliance with the Department's training requirements.

Before proceeding to the firearms training and qualification process, the applying deputy must first pass a psychological evaluation. The psychological evaluation will only be administered one (1) time to each deputy applying for an armed position. Failure to pass the psychological evaluation will result in immediate disqualification from the position.

### **312.3 SAFE HANDLING OF FIREARMS**

Deputies shall maintain the highest level of safety when handling firearms and are required to follow the following safety guidelines:

- (a) Deputies shall not unnecessarily display or handle any firearm.
- (b) Deputies shall be governed by all rules and regulations pertaining to the use of the range and shall obey all orders issued by the Rangemaster.
- (c) Deputies shall not dry fire or practice quick draws.
- (d) Deputies shall not clean, repair, load or unload a firearm anywhere in the Department, except where clearing barrels are present.
- (e) Deputies shall not place or store any firearm or other weapon on Department premises except where the place of storage is locked. No one shall carry firearms into the Detention Facility or Juvenile Hall section or any part thereof when securing or processing a prisoner, but shall place all firearms in a secured location.
- (f) Any weapon authorized by the Department to be carried on-duty that is found by the deputy to be malfunctioning or needing service, shall not be carried. It shall be promptly presented to the Department Expert for inspection. Any weapon determined to be in need of service or repair during an inspection by the Department Expert, will be immediately removed from service. If the weapon is the deputy's primary duty weapon, a replacement weapon will be issued to the deputy until the duty weapon is serviceable.

### **312.4 FIREARMS QUALIFICATIONS**

All deputies applying for an armed position must satisfactorily complete Penal Code § 832 firearms training. As a part of the firearms training, the deputy must complete and satisfy a firearms qualification process. Once qualified, the deputy must maintain current, up-to-date

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firearm qualifications each quarter. These qualifications will be overseen and approved by the Chief Probation Officer and the Rangemaster.

- (a) The minimum qualifying score for each type of firearm shall be established by the Rangemaster and approved by the Chief Probation Officer.
- (b) Deputy Probation Officers must also be able to provide a practical demonstration of at least the following:
  - 1. Firearm safety
  - 2. Shooting proficiency during scenarios-based training
  - 3. Weapon retention
  - 4. All less-than-lethal self-defense options for which the deputy is certified
  - 5. The care and cleaning of an authorized weapon
  - 6. Any other demonstrations as required by the Chief Probation Officer and/or Rangemaster
- (c) Deputy Probation Officers shall comply with the Rangemaster's policies and directions.
- (d) The Training Supervisor shall administer a firearm qualification program in conjunction with the Rangemaster that ensures competency among all Deputy Probation Officers authorized to carry firearms.
- (e) Any Deputy Probation Officer who fails to qualify shall have his/her authorization to carry a firearm suspended. This suspension will remain in effect until the individual receives additional training and qualifies. Continued failure to qualify will result in revocation of the authorization to carry a firearm.
- (f) Deputy Probation Officers must qualify with their Department-issued firearm and/or approved firearm. Deputy Probation Officers not qualified with a particular weapon are not authorized to carry that weapon until they become qualified with it, except in an emergency or as directed by a supervisor.
- (g) Qualification shall be during normal working hours. Request for qualification outside of regular working hours may be approved by the Probation Manager and scheduled with the Rangemaster.
- (h) The Training Supervisor shall prepare and submit a quarterly firearms qualification report to the Chief Probation Officer.
- (i) A Deputy Probation Officer may, with the Probation Manager's approval, be authorized for additional on-duty hours for practice to improve proficiency in the use of a firearm. Arrangements will be made for additional firearms practice under the supervision of the Rangemaster.

#### **312.4.1 NON QUALIFICATION**

Deputies who fail to qualify on their first attempt at firearms qualification shall be provided one (1) more opportunity to obtain a qualifying score. The deputy must take remedial training until proficiency is demonstrated and may be subject to additional range assignments until the deputy demonstrates consistent weapon proficiency. Deputies shall be given credit for a range qualification after remedial training and a qualifying score is obtained. However, deputies will not be given range credit for unauthorized range make-up times. Deputies will also not be given range credit if they fail to meet the firearms qualification after remedial training. In the event that the deputy fails to meet the firearms

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qualification after remedial training, then the deputy will immediately be deemed ineligible for the armed assignment.

#### **312.4.2 ARMING AUTHORIZATION**

Once a deputy has satisfactorily completed all required components of the training, he or she will be issued an "Arming Authorization" certificate. The Arming Authorization is a written document that must be signed by the Chief Probation Officer to be valid. No deputy shall carry a firearm on his/her person at any time or have a firearm in his/her possession in the office or any other job location or in his/her vehicle without a valid, current, Arming Authorization, signed by the Chief Probation Officer.

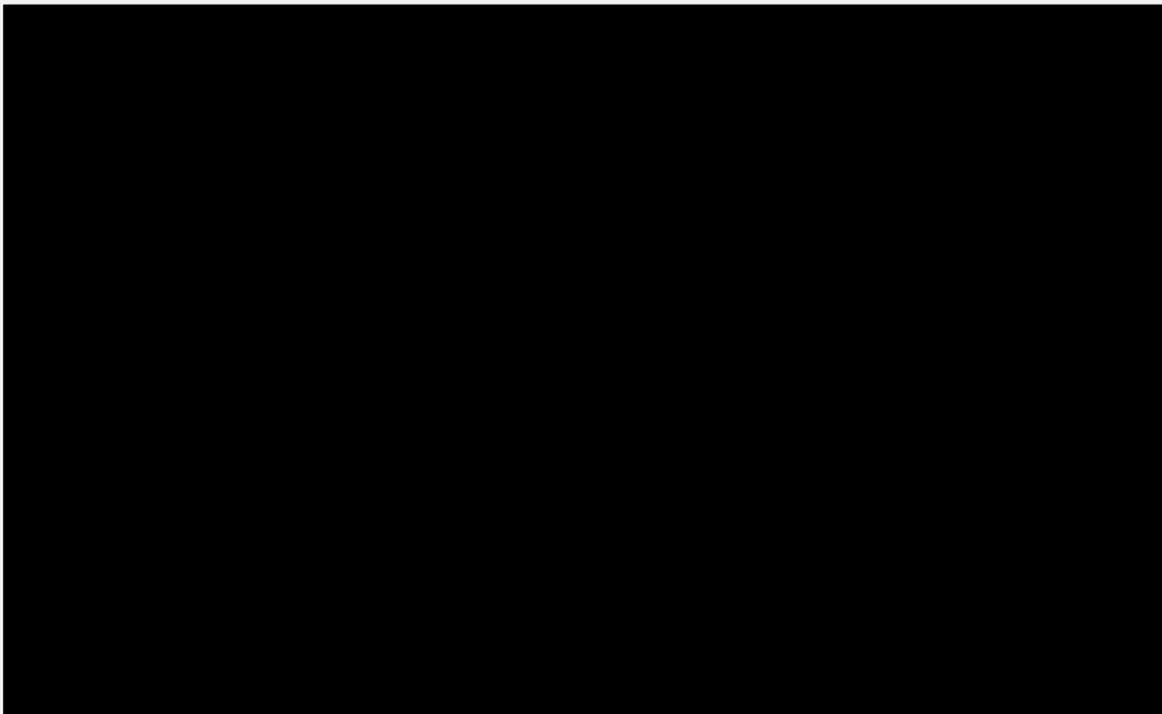
The signed Arming Authorization form shall be kept in the deputy's personnel file and training file.

Even if a deputy is issued an Arming Authorization by the Department, the Chief Probation Officer has the authority and discretion to revoke this authorization at any time.

#### **312.4.3 FIREARM AS A DEFENSIVE WEAPON**

The fact that Deputy Probation Officers are armed does not dictate that they shall aggressively pursue unplanned or situational circumstances in the field. If a Deputy Probation Officer has prior knowledge of a serious threat from a probationer toward any person(s) or towards him/herself and an arrest and/or dangerous situation is anticipated, the Deputy Probation Officer must contact his or her supervisor and the appropriate law enforcement agency for assistance. Deputy Probation Officers who are given authorization to carry firearms shall regard the firearm as a defensive weapon to protect human life and/or to prevent serious bodily injury.

#### **312.4.4 CARRYING THE FIREARM**



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#### **312.4.5 STOLEN OR LOST FIREARMS**

In the event a firearm is lost or stolen, the deputy must:

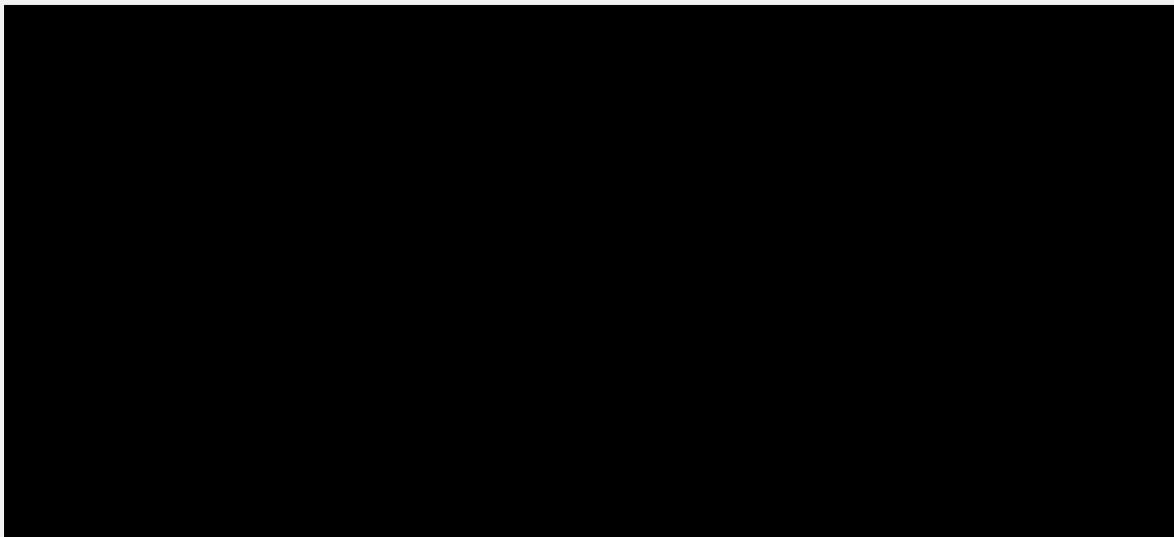
- (a) File a report with the appropriate law enforcement agency immediately upon discovery that his/her on-duty firearm is missing;
- (b) Immediately report a lost or stolen firearm to his/her supervisor, who will notify the Chief Probation Officer via the chain of command; and
- (c) File a written report regarding the matter with their supervisor by the end of the assigned shift. The written report shall be submitted to the Chief Probation Officer through the chain of command.

The Chief Probation Officer or Designee may authorize the temporary or permanent issuance of another firearm to the deputy. In the event the Officer is issued a temporary or new firearm, the deputy must qualify with the newly issued firearm before authorization to carry the firearm on-duty shall become effective.

The Deputy Probation Officer may be required to reimburse the Department in the event that a Department- owned firearm and related equipment is lost through negligence of the deputy. In addition, the deputy may be subject to discipline, up to, and including, termination from employment, for his or her negligence.

#### **312.4.6 STORAGE OF FIREARMS**

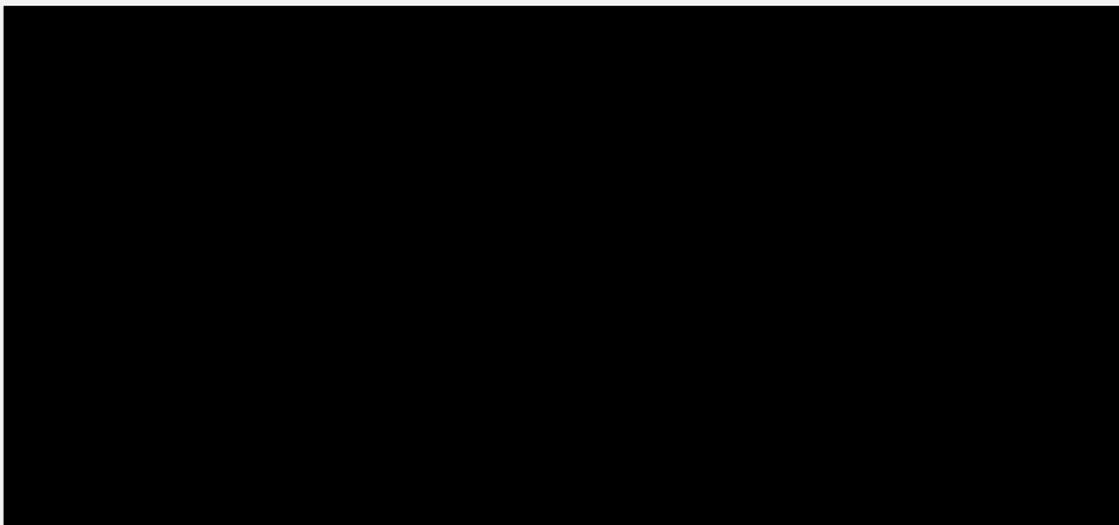
Deputy Probation Officers are responsible for the safe and secure storage of their firearms. Deputy Probation Officers authorized to carry firearms are charged with the responsibility to observe and practice the following storage regulations:



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#### **312.4.7 REPAIR OR MODIFICATIONS OF DUTY WEAPONS**

Firearms carried on-duty shall be maintained in a clean and serviceable condition. The Rangemaster shall be the only person authorized to repair or modify any Department-owned weapon. All repairs and/or modifications of Department-issued weapons not performed by the Rangemaster must be approved in advance by the Rangemaster and accomplished by a Department-approved gunsmith.

#### **312.5 DESTRUCTION OF ANIMALS**

Deputy Probation Officers are authorized to use firearms to stop an animal in circumstances where the animal reasonably appears to pose an imminent threat to human safety and alternative methods are not reasonably available or would likely be ineffective.

In circumstances in which Deputy Probation Officers have sufficient advanced notice that a potentially dangerous animal may be encountered, Deputy Probation Officers should develop reasonable contingency plans for dealing with the animal (e.g., fire extinguisher, EMDT device, oleoresin capsicum (OC) spray, or contacting an animal control officer). Nothing in this Policy shall prohibit any deputy from shooting a dangerous animal if circumstances reasonably dictate that a contingency plan has failed or becomes impractical.

#### **312.6 REPORT OF FIREARM DISCHARGE**

Except during training or recreational use, any deputy who discharges a firearm intentionally or unintentionally, on or off-duty, shall make a verbal report to his/her supervisor as soon as circumstances permit. If the discharge results in injury or death to another person, additional statement and reports shall be made in accordance with the Department's Officer-Involved Shooting Policy. If a firearm was discharged as a use of force, the involved deputy shall adhere to the additional reporting requirements set forth in the Department's Use of Force Policy.

In all other cases, written reports shall be made as follows:

- (a) If on-duty at the time of the incident, the deputy shall file a written report with his/her Assistant Chief or provide a recorded statement to investigators prior to the end of shift, unless otherwise directed.

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- (b) If off-duty at the time in the incident, the deputy shall submit a written report or recorded statement provided no later than the end of the next regularly scheduled shift to his or her supervisor, unless otherwise directed by a supervisor.

#### **312.6.1 RESTRICTIONS ON CARRYING FIREARMS**

Deputies who have been authorized to be armed are prohibited from carrying or using firearms under the following conditions:

- (a) When off duty.
  - 1. Under Penal Code 830.5, a Deputy Probation Officer holds peace officer status at all times. However, the authority to act as a peace officer only extends to on-duty hours while the deputy is engaged in the performance of his/her duties. Therefore, a deputy who carries or uses any firearm off-duty does so as a private citizen. Furthermore, a deputy shall not carry his/her department issued firearm off-duty. However, a deputy can carry his/her weapon to/from work and while at lunch. Furthermore, a deputy can carry his/her duty weapon off duty with the Chief Probation Officer's approval.
  - 2. If a deputy chooses to carry a firearm while off-duty, he or she shall be deemed to be acting outside the scope and course of his/her employment and to be acting completely independent of the County and the Probation Department. Any consequences or liability of any kind arising out of any act or incident involving the unauthorized use or carrying of any firearm is the personal responsibility of the officer taking the action or involved in this incident. The County assumes no liability or responsibility for such unauthorized use.
- (b) When a deputy has consumed any alcoholic beverage or taken any drugs that would tend to adversely affect the deputy's senses or judgment.
- (c) While injured or in a physical condition causing an impaired ability to utilize a firearm effectively or properly (e.g., broken arm, eye injury causing impaired vision, etc.).
- (d) While on disciplinary or investigative suspension.
- (e) While on leave of absence without pay, or any other period of unpaid absence from the Department, or while on Workers' Compensation status.
- (f) When the authorization to carry a firearm has been revoked.
- (g) When the deputy has been directed by the Rangemaster or a superior to cease carrying a firearm.
  - 1. Any deputy directed to cease carrying a firearm shall immediately surrender his/her firearm (if owned by the Department) and shall immediately cease carrying any firearm on-duty.
  - 2. If a supervisor or superior suspends an deputy's authority to carry a firearm, he or she shall submit a written report, within three (3) working days of the suspension, to the Chief Probation Officer, indicating the circumstances that led to the suspension. A copy of the report shall be made available or mailed to the Officer within one (1) work day following submission of the report to the Chief.

Any liability of any kind arising out of any act or incident involving the use or carrying of any firearm in violation of the foregoing restrictions shall be the sole, personal responsibility of the deputy. The County assumes no liability or responsibility for use of a firearm during restricted times by a deputy, and any act or incident shall not be deemed an official or permitted act or incident or the exercise of peace officer authority.

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#### **312.6.2 REVIEW OF SUSPENSION**

A deputy may request a review of any suspension of his or her use of a firearm, in writing, to the Chief Probation Officer within ten (10) working days of the deputy's receipt of written notification of suspension of authority to carry a firearm. The written request shall clearly state the reason(s) the authorization should be reinstated or specific objections to the decision.

The Chief Probation Officer will make a final determination of whether or not to revoke the authorization. The Chief Probation Officer's decision is final and shall not be or become the basis for any grievance.

#### **312.7 FLYING WHILE ARMED**

The Transportation Security Administration (TSA) has imposed rules governing law enforcement officers flying armed on commercial aircraft. The following requirements apply to deputies who intend to be armed while flying on a commercial air carrier or flights where screening is conducted (49 CFR 1544.219):

- (a) Deputy Probation Officers are not authorized to fly while armed unless they are flying in an official capacity (i.e., Deputy Probation Officer may not fly while armed for vacation or other personal purposes).
- (b) Deputy Probation Officers must complete the mandated TSA security training covering officers flying while armed. The training shall be given by the Department-appointed instructor.
- (c) Deputy Probation Officers must carry their Department identification card, which must contain a full-face picture, the Deputy Probation Officer's signature and the signature of the Chief Probation Officer or the official seal of the Department. The deputy must present this identification to airline officials when requested. The Officer should also carry the standard photo identification needed for passenger screening by airline and TSA officials (e.g., driver's license or a passport).
- (d) The Probation Department must submit a National Law Enforcement Telecommunications System (NLETS) message prior to the deputy's travel. If approved, TSA will send the Probation Department an NLETS message containing a unique alphanumeric identifier. The Deputy Probation Officer must present the message to airport personnel as authorization to travel while armed on the day of travel.
- (e) The deputy must obtain and maintain an official letter signed by the Chief Probation Officer, authorizing the travel. The letter must outline the Officer's need to fly armed, his/her itinerary, and should include that the deputy has completed the mandatory TSA training.
- (f) It is the Deputy Probation Officer's responsibility to notify the air carrier in advance of the intended armed travel. This notification can be accomplished by early check-in at the carrier's check-in counter.
- (g) The deputy must exercise good judgment and discretion to avoid alarming passengers or crew by displaying a firearm. The deputy must keep the firearm concealed on his/her person at all times. Firearms are not permitted in carry-on luggage and may not be stored in an overhead compartment.
- (h) Deputies should not surrender their firearms but should try to resolve any problems through the flight captain, ground security manager or other management representative of the air carrier.

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- (i) Deputies shall not consume alcohol beverages while aboard an aircraft, or within eight (8) hours prior to boarding an aircraft.

#### **312.8 CARRYING FIREARMS OUT OF STATE**

Qualified deputies are authorized to carry a concealed firearm in all other states subject to the following conditions (18 USC 926B AND C):

- (a) The deputy shall carry his/her Department identification card whenever carrying such weapon.
- (b) The deputy is not the subject of any current disciplinary action.
- (c) The deputy may not be under the influence of alcohol or any other intoxicating or hallucinatory drug.
- (d) The deputy will remain subject to this policy and all other Department policies regarding firearms (including qualifying and training). The Deputy Probation Officers are cautioned that individual states may enact local regulations that permit private persons or entities to prohibit or restrict the possession of concealed firearms on their property, or that prohibit or restrict the possession of firearms on any state or local government property, installation, building, base or park. Federal authority may not shield a Deputy Probation Officer from arrest and prosecution in such locally restricted areas. Visiting active peace officers from other states are subject to all requirements set forth in 18 USC 926B and C.

#### **312.8.1 FAILURE TO ADHERE TO POLICY**

The Department takes seriously the issuance of firearms to its deputies. All deputies issued a firearm pursuant to this Policy is hereby ordered to adhere to the terms of this Policy.

Any violation of this Policy, including any misuse of a firearm by a deputy, may subject that deputy to disciplinary action, up to and including termination, in addition to any civil or criminal action to which the officer may be subjected.

## Body Armor

### 317.1 POLICY

Sworn Probation Department staff are issued personal body armor as needed to use in the performance of their duty. A "pool" of vests will also be maintained at the Martinez office for use by staff who do not have an individual vest assigned.

### 317.2 USE OF BODY ARMOR

- (b) A personal vest will be fitted for size prior to the purchase/issue of a vest. All vests will be numbered for identification and staff will sign Form #34 to acknowledge understanding the conditions of issuance and the proper maintenance of the vest.
- (c) In the event that the personally assigned vest becomes lost or stolen, staff are responsible for its replacement costs and will be required to reimburse the department for replacement. Staff are not responsible for replacement cost should the body armor best become unusable through "wear and tear" resulting from normal usage or if the vest expires.

### 317.3 OFFICE VEST POOL

- (a) The Martinez office shall maintain a pool of vests to be available for use by staff who do not have a personally assigned vest. A Supervisor will be assigned to maintain the office pool. Vests in the office pool will be numbered and staff shall sign out the "pool" vests.
- (b) Following each use of a vest, staff shall place the vest in a location designated for "soiled vests". The vest will be laundered at the Juvenile Hall and returned. The responsible Supervisor will reassemble and inspect the vest prior to returning to the office pool.

### 317.4 REPLACEMENT OF VESTS

The Manager or designated Supervisor shall maintain a log of vests assigned to staff and assigned to the office pool on a yearly basis. The Supervisor shall inventory all vests to insure the replacement of vests that are unusable due to poor condition or lapse of the manufacturer's warranty. The complete list of vests needing to be replaced shall be forwarded to the Division Manager. Vests that are being replaced shall also be surrendered to the Division Manager for proper disposal.

### 317.5 CARE AND MAINTENANCE OF SOFT BODY ARMOR

Body armor should never be stored for any period of time in an area where environmental conditions (e.g., temperature, light, humidity) are not reasonably controlled (e.g., normal ambient room temperature/humidity conditions), such as in automobiles or automobile trunks.

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### *Body Armor*

Body armor should be cared for and cleaned pursuant to the manufacturer's care instructions provided with the soft body armor. The instructions can be found on labels located on the external surface of each ballistic panel. The carrier should also have a label that contains care instructions. Failure to follow these instructions may damage the ballistic performance capabilities of the armor. If care instructions for the soft body armor cannot be located, contact the manufacturer to request care instructions.

Body armor should not be exposed to any cleaning agents or methods not specifically recommended by the manufacturer, as noted on the armor panel label.

Body armor should be replaced in accordance with the manufacturer's recommended replacement schedule.

## Transportation of Clients

### 321.1 POLICY

As part of the field supervision process, probation staff has the responsibility of transporting probationers who have been taken into custody. Probation staff should carefully plan the circumstances of the transportation including an assessment of the potential problems when dealing with unstable or dangerous probationers, securing an appropriate county vehicle and acquiring assistance if needed. Unless it is absolutely unavoidable, probation staff should avoid transporting alone or transporting a probationer of the opposite sex. Arrangements should be made for the assistance of another staff member or from another law enforcement agency.

- (a) Persons under arrest and being transported while in custody shall be handcuffed and searched for weapons and contraband per departmental policy. Prior to placing the arrestee into the County vehicle, the back seat area should be searched thoroughly. Once the vehicle is searched, the arrestee shall be placed in the back seat of the vehicle on the right side with the seat belt fastened on the arrestee.
- (b) Whenever possible, a caged car should be used for transportation. If one is not available, a non-caged car may be used however, another probation staff must sit in the back seat next to the arrestee. If a radio is available, local law enforcement dispatch must be contacted and apprised of the arrest and the transport destination.
- (c) Staff shall not use their own personal vehicles to transport clients.

## Search & Seizure

### 322.1 PURPOSE AND SCOPE

Both the federal and state Constitutions provide every individual with the right to be free from unreasonable searches and seizures. This policy provides general guidelines for Contra Costa County Probation Department personnel to consider when dealing with search and seizure issues.

### 322.2 POLICY

It is the policy of the Contra Costa County Probation Department to respect the fundamental privacy rights of individuals. Members of this department will conduct searches in strict observance of the constitutional rights of persons being searched. All seizures by this department will comply with relevant federal and state law governing the seizure of persons and property.

In accordance with the Training Policy (208.2), the Department will provide relevant and current training to deputies as guidance for the application of current law, local community standards and prosecutorial considerations regarding specific search and seizure situations, as appropriate.

### 322.3 SEARCHES

The U.S. Constitution generally provides that a valid warrant is required in order for a search to be valid. There are, however, several exceptions that permit a warrantless search.

Examples of law enforcement activities that are exceptions to the general warrant requirement include, but are not limited to, searches pursuant to the following:

- Valid consent
- Incident to a lawful arrest
- Legitimate community caretaking interests
- Vehicle searches under certain circumstances
- Exigent circumstances
- Probation or Parole Authorization (Court Order)

Certain other activities are recognized by federal and state courts and by certain statutes as legitimate law enforcement activities that also do not require a warrant. Such activities may include seizure and examination of abandoned property, and observations of activities and property located on open public areas.

Because case law regarding search and seizure is constantly changing and subject to interpretation by the courts, each member of this department is expected to act in each situation according to current training and his/her familiarity with clearly established rights as determined by case law.

During a search, whenever practicable, deputies are encouraged to contact a supervisor to resolve questions regarding search and seizure issues prior to electing a course of action.

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### *Search & Seizure*

#### **322.4 SEARCH PROTOCOL**

All planned searches shall be approved in advance by the Probation Supervisor. Although conditions will vary and officer safety and other exigencies must be considered in every search situation, the following guidelines should be followed whenever circumstances permit:

- (a) Members of this department will strive to conduct searches with dignity and courtesy.
- (b) Deputies should explain to the person being searched the reason for the search and how the search will be conducted.
- (c) Searches should be carried out with due regard and respect for private property interests and in a manner that minimizes damage. Property should be left in a condition as close as reasonably possible to its pre-search condition.
- (d) When the person to be searched is of the opposite sex as the searching deputy, a reasonable effort should be made to summon a deputy of the same sex as the subject to conduct the search. When it is not practicable to summon a deputy of the same sex as the subject, the following guidelines should be followed:
  1. Another deputy or a supervisor should witness the search.
  2. The deputy should not search areas of the body covered by tight-fitting clothing, sheer clothing or clothing that could not reasonably conceal a weapon.

#### **322.5 DOCUMENTATION**

Deputies are responsible to document any search in the case file (field book) and to ensure that any required reports are sufficient including, at minimum, documentation of the following:

- Reason for the search
- Any efforts used to minimize the intrusiveness of any search (e.g., asking for consent or keys)
- What, if any, injuries or damage occurred
- All steps taken to secure property
- The results of the search, including a description of any property or contraband seized
- If the person searched is the opposite sex, any efforts to summon a deputy of the same sex as the person being searched and the identification of any witness deputy

Supervisors shall review reports to ensure the reports are accurate, that actions are properly documented and that current legal requirements and department policy have been met.

#### **322.6 PROBATION SEARCHES**

All probation searches shall be conducted in accordance with the policy in a thorough and professional manner that demonstrates consideration for the rights and property of the probationers.

All searches shall be related to a proper probation purpose. This includes searches done to deter further offenses by the probationer and searches to ascertain whether the probationer is complying with the terms of probation. Searches shall be consistent with the scope of the probation order and shall not be conducted for the harassment or for arbitrary and capricious reasons.

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### *Search & Seizure*

Any Peace Officer may apply the search and seizure condition of probation if authorized by the Court order granting probation. The Deputy Probation Officer shall verify the existence of a valid search condition upon request from any law enforcement agency. If a law enforcement agency contacts the department during duty hours requesting assistance for a probation search, the Deputy Probation Officer should advise the Probation Supervisor of the request. A copy of the Court order that includes the search condition should be faxed to the requesting law enforcement officer. The probation officer should document the date and time, the name of the officer to whom the information was provided and the agency. If for any reason it is unclear whether a valid search can be conducted, the Deputy or Law Enforcement Officer shall refer to the District Attorney's Office.

Probation searches are limited to areas an property governed by the search order. Within those areas, probation searches are permitted of the probationer's property and those areas that the probationer jointly controls. Consent of the probationer or any other person sharing occupancy or ownership is not required, but should be sought and obtained if practical.

Neither the probationer's presence nor the presence of any other common occupant or owner is necessary for the search of the residence, vehicle, or property of the probationer. The probationer must be given notice of the reason and purpose of the search in advance of the search only if the probation condition actually requires such advance notice.

Officer safety is the controlling factor during any search. In the event of a perceived threat to life or limb, when practical, deputies are directed to withdraw and seek assistance from local law enforcement. Conducting searches with law enforcement is strongly advised.

# Evidence Collection and Chain of Custody

## 323.1 PURPOSE AND SCOPE

The collection, preservation and chain of custody of evidence by a probation officer may be a crucial factor in determining the outcome of a case.

- (a) In the event that contraband is located relating to a new law violation (e.g., illegal weapon, stolen property or drugs), the Deputy Probation Officer shall make every effort not to disturb the item and contact the local law enforcement for assistance.
- (b) Upon collecting evidence relating to a violation of probation (e.g., gang paraphernalia, gang clothing, gang indicia, knife, marijuana paraphernalia) the Deputy Probation Officer shall immediately complete the (Receipt for Property and Chain of Custody) form and provide a copy to the probationer or persons residing in the home.
- (c) Only property related to a violation of probation may be seized.

### 323.1.1 EVIDENCE COLLECTION AND STORAGE

The Deputy Probation Officer shall place the evidence in an evidence bag and relinquish it as soon as applicable to a designated Probation Department Evidence Custodian. If the Evidence Custodian is not immediately available to receive seized property, the Deputy Probation Officer shall place the property in a short-term evidence locker and notify the Evidence Custodian of the location and number of the locker, along with a description of the seized property. The Evidence Custodian or his/her designee shall retrieve the seized property prior to the end of the next business day and indicate on the Chain of Custody form that he or she receive the evidence and placed it in a designed long-term evidence locker. There will be long-term evidence lockers maintained at the Juvenile Hall, OAYRF and 50 Douglas.

The original Chain of Custody form shall be placed and maintained in the evidence locker folder. Copies of the Chain of Custody form shall be distributed as follows: (a) A copy to the probationer or residents of the home upon the seizure of property. If no responsible party is present at the time of the seizure, a copy shall be left in a conspicuous place inside the residence. (b) A copy attached to the evidence bag. (c) A copy to the probation case file. The original Chain of Custody form shall be completed and updated by all parties upon relinquishing and accepting of the evidence.

### 323.1.2 DISPOSITION OF EVIDENCE

The Probation Department Evidence Custodian shall keep a list of all collected evidence stored in the long-term evidence locker under his/her control, as well as the outcome of each case. The evidence shall be destroyed or otherwise disposed of pursuant to court order. The Chief Probation Officer may authorize the retention of the evidence for training purposes. Any seized contraband shall not be otherwise possessed and/or displayed.

### 323.1.3 FACTORS TO CONSIDER

- (a) In situations where deputies conduct a search and discover contraband or evidence and seize items that would be the basis of a new offense and or violation of probation and no law enforcement agency is present, the deputies have initial responsibility of

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### *Evidence Collection and Chain of Custody*

seizing, impounding, securing and preserving the items. In cases where a new law violation is suspected, the agency with primary jurisdiction shall be contacted and given the opportunity to respond.

- (b) There are also situations in which another law enforcement agency is present and items of contraband are found during a search, which in and of themselves, are not illegal but are prohibited as a condition of the individual's probation terms. In these situations the law enforcement agency may decline to seize the items, thus leaving probation personnel to seize and secure the prohibited items in order to proceed with the probation violation.
- (c) Contraband that may be held as evidence can be any item that is designated illegal by law, any item used to commit an illegal act or any items that a probationer is prohibited from possessing as a condition of probation. Examples include: drugs, guns, knives, brass knuckles, clubs, computers, pornographic videos, etc.
  - 1. If a suspected explosive device is discovered, the area where the device is located (home, building) is to be evacuated with residents and probation staff located to a safe area. The police agency with primary jurisdiction is to be immediately notified. Any deputies involved will remain but allow the agency with primary jurisdiction to take charge of the operation and probation will provide any written reports required.
  - 2. Loaded firearms are to be rendered safe and then properly secured. **ONLY A DEPUTY WHO HAS BEEN TRAINED IN BASIC FIREARM SAFETY SHOULD HANDLE ANY FIREARM.** The law enforcement agency with primary jurisdiction shall be immediately contacted. If the law enforcement agency chooses not to respond, the probation officer shall contact a Deputy Probation Officer who has been trained.
- (d) In the field:
  - 1. Take custody of the contraband/evidence. Note specific location, date, time and from whom the item was seized.
  - 2. Whenever possible, photograph the contraband/evidence in place. If that is not possible, photograph the item(s) prior to placing them in the contraband/evidence locker.
  - 3. Provide the person from whom the contraband evidence is seized with a receipt and retain a copy for the file.
  - 4. Mark the evidence. This may be accomplished by either putting the deputy's initials and the date of seizure on the item or by affixing a tag to the item with the deputy's initials and date of seizure.
  - 5. As soon as possible, the evidence shall be transported to the main office in Martinez and the probation officer shall contact the evidence custodian or his/her designee.
  - 6. Fill out the chain of custody section on the envelope or container.
  - 7. Place the item in the evidence envelope or other container with the completed chain of custody stamped or affixed to the outside. A container can be a plain paper bag with a stamped chain of custody on the outside or a tag affixed just so it can be effectively sealed with the evidence tape.
  - 8. Seal the container (envelope, zip-lock bag, etc.) with evidence tape. Write the deputy's initials and date on the evidence tape. The initials and date shall be written in such a way as to be on both the container and the tape which will prevent easy removal and resealing of the tape.

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### *Evidence Collection and Chain of Custody*

9. The designated evidence custodian will log in the item and provide an evidence control number for the deputy.
10. The deputy will complete a field incident report and have it approved and signed by the unit supervisor.
11. Complete any additional reports (Petition to Revoke/Request for Bench Warrant, etc.).
12. The item or items will be logged in and placed in the evidence cabinet and locked. The contraband/evidence log will show the identification number, a description of the item, the date, time, and location it was seized, the name of the deputy seizing the item, the date it was logged into the contraband/evidence cabinet and the name of the contraband/evidence custodian logging in the item.
13. When items are removed, they will show a logged out date and will be signed for by the deputy logging them out.
14. If the contraband/evidence is logged back into the evidence cabinet, it will be logged back in using the same procedure and the original contraband/evidence number.

#### **323.1.4 RESPONSIBILITY OF EVIDENCE CUSTODIAN**

It will be the responsibility of the assigned contraband/evidence custodian to periodically inventory items in the contraband/evidence cabinet and ascertain through appropriate staff if items need to be retained or destroyed. If items can be destroyed, the custodian will arrange through appropriate administrative staff for the destruction or disposal of items that no longer need to be retained. Regardless, the contraband/evidence cabinet shall be inventoried at least one time per year.

## Adult Abuse

### 326.1 PURPOSE AND SCOPE

This policy provides members of this department with direction and understanding of their role in the prevention, detection, and intervention in incidents of adult abuse. It is the policy of the Contra Costa County Probation Department to treat reports of adult abuse as high priority criminal activity that is to be fully investigated regardless of the relationship between the victim and the suspect.

### 326.2 DEFINITIONS

**Adult Abuse** - Any offense or attempted offense involving violence or neglect of adults over the age of 65 or any offense or attempted offense involving a dependent adult victim committed by a caregiver. This also include any other act that would mandate notification to a social service/licensing agency or law enforcement related to the abuse of an adult (Welfare and Institutions Code 15610.07; Welfare and Institutions Coder 15610.27; Welfare and Institutions Code 15610.23)

**Dependent Adult** - Any person residing in this state, between 18 and 64-years of age, who has physical or mental limitations that restrict his/her ability to carry out normal activities or to protect his/her rights including, but not limited to, persons who have physical or developmental disabilities or whose physical or mental abilities have diminished because of age. This includes any person between 18 and 64-years of age who is admitted as an inpatient to a 24-hour health facility, as defined in state law (Health and Safety Code §§ 1250, Health and Safety Code 1250.2, and Health and Safety Code 1250.3).

### 326.3 MANDATORY NOTIFICATION

Any member who has observed or has knowledge of an incident that reasonably appears to be adult abuse, is told by an elder or dependent adult that he/she has experienced abuse or who reasonably suspects abuse, shall report to the county adult protective services agency as soon as practicable as provided in Welfare and Institutions Code 15630.

For purposes of notification, abuse is physical abuse, abandonment, abduction, isolation, financial abuse or neglect. Physical abuse includes any assault or sex crime (Welfare and Institutions Code 15610.63). Financial abuse includes taking personal or real property by undue influence or intent to defraud (Welfare and Institutions Code 15610.30). Notification is also made in cases of abandonment, abduction, isolation and neglect (Welfare and Institutions Code 15610.5l Welfare and Institutions Code 15610.06; Welfare and Institutions Code 15610.43; Welfare and Institutions Coe 15610.57.)

The Probation Supervisor is responsible for ensuring that proper notifications have occurred to the District Attorney's Office and any other regulatory agency that may be applicable based upon where the abuse took place (e.g. care facility, hospital) per Welfare and Institutions Code § 15630(b).

Notification should also be made to the following agencies as soon as practicable or as provided below (Welfare and Institutions Code 15630):

- (a) If the abuse is physical abuse and occurred in a long-term care facility (not a state mental health hospital or a state developmental center) notification shall be made as follows (Welfare and Institutions Code 15630(b)(1)):

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1. If there is serious bodily injury, notification shall be made by telephone and, within two hours, a written report shall be made to the local ombudsman and the corresponding licensing agency.
  2. If there is a physical abuse and no serious bodily injury, notification shall be made by telephone and, within 24 hours, a written report shall be made to the local ombudsman and the corresponding licensing agency.
  3. If the abuse is allegedly caused by a resident with dementia and there is no serious bodily injury, notification shall be made by telephone and a written report to the local ombudsman within 24 hours.
- (b) If the abuse is in a long-term care facility (not a state mental health or a state developmental center) and is other than physical abuse, a telephone report and a written report shall be made to the local ombudsman.
- (c) The State Department of Public Health shall be notified of all known or suspected abuse occurring in a long-term facility.
- (d) The Bureau of Medi-Cal Fraud and Elder Abuse shall be notified of all abuse that constitutes criminal activity in a long-term care facility.
- (e) The District Attorney's office shall be notified of all cases of physical abuse and financial abuse in a long-term care facility.
- (f) If the abuse occurred at a state mental hospital or a state developmental center, notification shall be made to the designated investigators of the State Department of State Hospitals or the State Department of Developmental Services.
- (g) If the abuse occurred at a residential care facility for the elderly or adult day program, the State Department of Social Services shall be notified.
- (h) If the abuse occurred in an adult day health care center, the State Department of Public Health and the California Department of Aging shall be notified.

Failure to make a report within two working days or as provided is a misdemeanor (Welfare and Institutions Code 15630(h)).

### **326.4 DEPUTY'S RESPONSE**

All incidents involving actual or suspected adult abuse shall be fully investigated and appropriately documented.

#### **326.4.1 SUPPORT PERSONNEL**

The following persons should be considered for notification if it appears an in-depth investigation is appropriate:

- Protective Services Agency personnel
- Ombudsman shall be called if the abuse is in a long-term care facility, to coordinate efforts to provide the most immediate and appropriate response (Welfare and Institutions Code § 15630(b)).

### **326.5 ADULT ABUSE REPORTING**

Every allegation of adult abuse shall be documented in a report. When documenting elder/dependent abuse cases the following information should also be included in the report:

- Current location of the victim

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- Victim's condition/nature and extent of injuries, neglect or loss
- Names of agencies and personnel requested and on scene

Reporting cases of adult abuse is confidential and will only be released in accordance with the Release of Records and Information Policy.

Deputies investigating adult abuse shall complete a State of California form SOC 341 (Report of Suspected Dependent Adult/Elder Abuse).

# Discriminatory Harassment

## 328.1 PURPOSE AND SCOPE

This policy is intended to prevent department members from being subjected to discrimination or sexual harassment.

## 328.2 POLICY

The Contra Costa County Probation Department is an equal opportunity employer and is committed to creating and maintaining a work environment that is free of all forms of discriminatory harassment, including sexual harassment and retaliation. The Department will not tolerate discrimination against employees in hiring, promotion, discharge, compensation, fringe benefits and other privileges of employment. The Department will take preventive and corrective action to address any behavior that violates this policy or the rights it is designed to protect.

The non-discrimination policies of the Department may be more comprehensive than state or federal law. Conduct that violates this policy may not violate state or federal law but still could subject an employee to discipline.

## 328.3 DISCRIMINATION PROHIBITED

### 328.3.1 DISCRIMINATION

The Department prohibits all forms of discrimination, including any employment-related action by an employee that adversely affects an applicant or employee and is based on race, color, religion, sex, age, national origin or ancestry, genetic information, disability, military service, sexual orientation and other classifications protected by law.

Discriminatory harassment, including sexual harassment, is verbal or physical conduct that demeans or shows hostility or aversion toward an individual based upon that individual's protected class. It has the effect of interfering with an individual's work performance or creating a hostile or abusive work environment.

Conduct that may, under certain circumstances, constitute discriminatory harassment, can include making derogatory comments, crude and offensive statements or remarks, making slurs or off-color jokes, stereotyping, engaging in threatening acts, making indecent gestures, pictures, cartoons, posters or material, making inappropriate physical contact, or using written material or department equipment and/or systems to transmit or receive offensive material, statements or pictures. Such conduct is contrary to department policy and to the department's commitment to a discrimination free work environment.

Retaliation is treating a person differently or engaging in acts of reprisal or intimidation against the person because he/she has engaged in protected activity, filed a charge of discrimination, participated in an investigation or opposed a discriminatory practice. Retaliation will not be tolerated.

### 328.3.2 SEXUAL HARASSMENT

The Department prohibits all forms of discrimination and discriminatory harassment, including sexual harassment. It is unlawful to harass an applicant or an employee because of that person's sex.

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### *Discriminatory Harassment*

Sexual harassment includes, but is not limited to, unwelcome sexual advances, requests for sexual favors or other verbal, visual or physical conduct of a sexual nature when:

- (a) Submission to such conduct is made either explicitly or implicitly a term or condition of employment, position or compensation.
- (b) Submission to, or rejection of, such conduct is used as the basis for any employment decisions affecting the member.
- (c) Such conduct has the purpose or effect of substantially interfering with a member's work performance or creating an intimidating, hostile, or offensive work environment.

#### **328.3.3 ADDITIONAL CONSIDERATIONS**

Discrimination and discriminatory harassment do not include actions that are in accordance with established rules, principles or standards, including:

- (a) Acts or omission of acts based solely upon bona fide occupational qualifications under Equal Employment Opportunity Commission and the Department of fair Employment and Housing guidelines.
- (b) Bona fide requests or demands by a supervisor that an employee improve his/her work quality or output, that the employee report to the job site on time, that the employee comply with County or department rules or regulations, or any other appropriate work-related communication between supervisor and employee.

#### **328.4 RESPONSIBILITIES**

This policy applies to all department personnel. All members shall follow the intent of these guidelines in a manner that reflects department policy, professional law enforcement standards and the best interest of the Department and its mission.

Members are encouraged to promptly report any discriminatory, retaliatory or harassing conduct or known violations of this policy to a supervisor. Any member who is not comfortable with reporting violations of this policy to his/her immediate supervisor may bypass the chain of command and make the report to a higher ranking supervisor or manager. Complaints may also be filed with the Chief Probation Officer, or the County Affirmative Action Coordinator.

Any member who believes, in good faith, that he/she has been discriminated against, harassed, subjected to retaliation, or who has observed harassment or discrimination, is encouraged to promptly report such conduct in accordance with the procedures set forth in this policy.

Supervisors and managers receiving information regarding alleged violations of this policy shall determine if there is any basis for the allegation and shall proceed with resolution as stated below.

##### **328.4.1 SUPERVISOR RESPONSIBILITY**

Each supervisor and manager shall:

- (a) Continually monitor the work environment and strive to ensure that it is free from all types of unlawful discrimination, including harassment or retaliation.
- (b) Take prompt, appropriate action within their work units to avoid and minimize the incidence of any form of discrimination, harassment or retaliation.
- (c) Ensure that their subordinates understand their responsibilities under this policy.

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- (d) Ensure that members who make complaints or who oppose any unlawful employment practices are protected from retaliation and that such matters are kept confidential to the extent possible.
- (e) Notify the Chief Probation Officer or the County Affirmative Action Coordinator in writing of the circumstances surrounding any reported allegations or observed acts of discrimination, harassment or retaliation no later than the next business day.

#### **328.4.2 SUPERVISOR'S ROLE**

Because of differences in individual values, supervisors and managers may find it difficult to recognize that their behavior or the behavior of others is discriminatory, harassing or retaliatory. Supervisors and managers shall be aware of the following considerations:

- (a) Behavior of supervisors and managers should represent the values of our Department and professional law enforcement standards.
- (b) False or mistaken accusations of discrimination, harassment or retaliation can have negative effects on the careers of innocent members.
- (c) Supervisors and managers must act promptly and responsibly in the resolution of such situations.
- (d) Supervisors and managers shall make a timely determination regarding the substance of any allegation based upon all available facts.

Nothing in this section shall be construed to prevent supervisors or managers from discharging supervisory or management responsibilities, such as determining duty assignments, evaluating or counseling employees or issuing discipline, in a manner that is consistent with established procedures.

#### **328.5 INVESTIGATION OF COMPLAINTS**

Various methods of resolution exist. During the pendency of any such investigation, the supervisor of the involved member should take prompt and reasonable steps to mitigate or eliminate any continuing abusive or hostile work environment. It is the policy of the Department that all complaints of discrimination or harassment shall be fully documented and promptly and thoroughly investigated. The participating or opposing member should be protected against retaliation, and the complaint and related investigation should be kept confidential to the extent possible.

##### **328.5.1 SUPERVISORY RESOLUTION**

Members who believe they are experiencing discrimination, harassment or retaliation should be encouraged to inform the individual that his/her behavior is unwelcome. However, if the member feels uncomfortable, threatened or has difficulty expressing his/her concern, or if this does not resolve the concern, assistance should be sought from a supervisor or manager who is a rank higher than the alleged transgressor.

##### **328.5.2 FORMAL INVESTIGATION**

If the complaint cannot be satisfactorily resolved through the process described above, a formal investigation will be conducted.

The employee assigned to investigate the complaint will have full authority to investigate all aspects of the complaint. Investigative authority includes access to records and the cooperation of any members involved. No influence will be used to suppress any complaint

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and no member will be subject to retaliation or reprisal for filing a complaint, encouraging others to file a complaint or for offering testimony or evidence in any investigation.

Formal investigation of the complaint will be confidential to the extent possible and will include, but not be limited to, details of the specific incident, frequency dates of occurrences and names of any witnesses. Witnesses will be advised regarding the prohibition against retaliation, and that a disciplinary process, up to and including termination, may result if retaliation occurs.

Members who believe they have been discriminated against, harassed or retaliated against because of their protected status are encouraged to follow the chain of command but may also file a complaint directly with the Chief Probation Officer or county Affirmative Action Coordinator.

### **328.5.3 EQUAL OPPORTUNITY EMPLOYMENT COMPLAINTS**

No provision of this policy shall be construed to prevent any employee from seeking legal redress outside the Department. Employees who believe that they have been harassed or discriminated against are entitled to bring complaints of employment discrimination to federal, state and/or local agencies responsible for investigating such allegations. Specific time limitations apply to the filing of such charges. Employees are advised that proceeding with complaints under the provisions of this policy does not in any way affect those filing requirements.

### **328.6 NOTIFICATION OF DISPOSITION**

Complainant and/or victim will be notified in writing of the disposition of the investigation and action(s) taken to remedy the complaint.

### **328.7 DOCUMENTATION OF COMPLAINTS**

All complaints or allegations shall be thoroughly documented on forms and in a manner designated by the Chief Probation Officer. The outcome of all reports shall be:

- Approved by the Chief Probation Officer, the Presiding Juvenile Court Judge or the Director of Human Services if more appropriate
- Maintained for the period established in the department's records retention schedule

### **328.8 TRAINING**

All new employees shall be provided with a copy of this policy as part of their orientation. The policy shall be reviewed with each new employee. The employee shall certify by signing the prescribed form that he/she has been advised of this policy, is aware of and understands its contents and agrees to abide by its provisions during his/her term of employment.

All line staff shall receive on-line training every three years as provided by County's Risk Management and Probation Supervisors, Managers, Directors and Assistant Chief and Chief shall attend training every two years as provided by County's Risk Management.

### **328.8.1 QUESTIONS REGARDING DISCRIMINATION OR SEXUAL HARASSMENT**

Members with questions regarding discrimination or sexual harassment are encouraged to contact a supervisor, manager, the Chief Probation Officer, Director of Human Services or the Presiding Juvenile Court Judge, or they may contact the California Department of Fair Employment and Housing.

## Child Abuse Reporting

### 330.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidelines and procedures for reports of suspected child abuse.

### 330.2 DEFINITIONS

For purposes of this section the following definitions are provided:

**Child** - A person under the age of 18 years.

**Child abuse** - Any offense or attempted offense involving violence or neglect with a child victim when committed by a person responsible for the child's care or any other act that would mandate notification to a social service agency or law enforcement (Penal Code § 11165.9; Penal Code § 11166).

### 330.3 CHILD ABUSE REPORTING

- (a) The child protection agency shall be notified when (Penal Code § 11166):
1. There is a known or suspected instance of child abuse or neglect reported, which is alleged to have occurred as a result of the action of a person responsible for the child's welfare, or
  2. A person responsible for the child's welfare fails to adequately protect the child from abuse when the person knew or reasonably should have known that the child was in danger of abuse.
- (b) The District Attorney's office shall be notified in all instances of known or suspected child abuse or neglect reported to this department. Reports only involving neglect by a person, who has the care or custody of a child, to provide adequate food, clothing, shelter, medical care or supervision where no physical injury to the child has occurred should not be reported to the District Attorney (Penal Code 11166).
- (c) When the abuse or neglect occurs at a licensed facility or is alleged to have resulted from the actions of a person who is required to have a state license (e.g., foster homes, group homes, day care), notification shall also be made to the California Department of Social Services or other applicable licensing authority (Penal Code 11166.1; Penal Code 11166.2).
- (d) For purposes of notification, the abuse or neglect includes physical injury or death inflicted by other than accidental means upon a child by another person; sexual abuse (Penal Code § 11165.1); neglect (Penal Code § 11165.2); the willful harming or injuring of a child or the endangering of the person or health of a child (Penal Code § 11165.3); and unlawful corporal punishment or injury (Penal Code § 11165.4). Child abuse or neglect does not include a mutual affray between minors, nor does it include an injury caused by the reasonable and necessary force used by a peace officer acting within the course and scope of his/her employment as a peace officer.
- (e) The 24 hour emergency response hotline number of Child and Family Services in the County is: 1 (877) 881-1116
- (f) Pursuant to Penal Code 11166, any employee who encounters any child whom he or she reasonably suspects has been the victim of child abuse shall immediately

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### *Child Abuse Reporting*

or as soon as practicably possible report the suspected child abuse to the Contra Costa County Child Protective Services and the local police agency with jurisdiction if appropriate. The telephone report shall include:

1. Name, phone number and address of employee
2. Name, location and birth date (or age) of child
3. The child's home address and home phone number
4. Date of the incident
5. Description of the incident with specifics
6. An evaluation of medical and custody needs

- (g) A written follow up report shall be prepared and sent, fax, or electronically transmitted to the Contra Costa County Child Protective Services, police, and District Attorney within 36 hours of receiving the information concerning the incident. The written report shall be on the State Department of Justice form SS-8572 entitled Suspect Child Abuse Report. Instructions are on the reverse of this form. Retain the yellow copy in department files located in records. If the case is active with our department, make a copy of the report from and send it to the Supervising Deputy for the case file. The form can also be located on the P-Drive.

#### **330.3.1 MANDATORY NOTIFICATION**

Notification should occur as follows (Penal Code 11166):

- (a) Notification shall be made immediately, or as soon as practicable, by telephone, fax, or electronic transmissions.
- (b) A written follow-up report should be forwarded within 36 hours of receiving the information concerning the incident.

#### **330.3.2 RELEASE OF REPORTS**

Information related to incidents of child abuse or suspected child abuse shall be confidential and may only be disclosed pursuant to state law and the Release of Records and Information Policy (Penal Code 841.5; Penal Code § 11167.5).

## Sensitive/High Profile Cases

### 335.1 POLICY

Any case involving celebrities, well known members of the community, departmental employees or their families or other cases which have attracted special public attention are to be reviewed for classification as a sensitive case. Any time a case reaches the Department and by its nature appears to any employee to be a "sensitive case," this information shall be reported to the appropriate Probation Manager via Supervisor.

The Probation Department shall provide services to sensitive cases, the Court and the community consistent with the treatment of other cases, while making every effort to insure that no favoritism or bias enters into the casework. These cases shall not receive any special treatment or consideration with regard to casework decisions made by the Probation Department regarding any aspect of the case.

If necessary, to avoid charges or any questions of Ethics, a Director may determine that preparation of a juvenile dispositional report or an adult presentence investigation report dealing with an employee, any member of an employee's family or any other person with what might be perceived to be close ties to this department should be transferred to another county. Arrangements are to be made after discussion with the Assistant Chief Probation officer.

## Victim and Witness Assistance

### 336.1 PURPOSE AND SCOPE

The purpose of this policy is to ensure that crime victims and witnesses receive appropriate assistance, that they are provided with information from government and private resources, and that the agency meets all related legal mandates.

### 336.2 POLICY

The Contra Costa County Probation Department is committed to providing guidance and assistance to the victims and witnesses of crime. The employees of the Contra Costa County Probation Department will show compassion and understanding for victims and witnesses and will make reasonable efforts to provide the support and information identified in this policy.

### 336.3 CRIME VICTIMS

Deputies should provide all victims with the applicable victim information.

Deputies should never guarantee a victim's safety from future harm but may refer victims to victim/witness organizations. Deputies should never guarantee that a person qualifies as a victim for the purpose of compensation or restitution but may direct him/her to the proper written department material or available victim resources.

## Conduct Policy

### 340.1 PURPOSE AND SCOPE

This policy establishes standards of conduct that are consistent with the values and mission of this department/office and are expected of its members. The standards contained in this policy are not intended to be an exhaustive list of requirements and prohibitions but they do identify many of the important matters concerning member conduct. Members are also subject to provisions contained throughout this manual as well as any additional guidance on conduct that may be disseminated by the Department/Office or the member's supervisors. This policy applies to all employees (full- and part-time) and volunteers.

### 340.2 CONDUCT POLICY

The continued employment of every employee of this department shall be based on conduct that reasonably conforms to the guidelines set forth herein. Failure of any employee to meet the guidelines set forth in this policy, whether on-duty or off-duty, may be cause for disciplinary action.

An employee's off-duty conduct shall be governed by this policy to the extent that it is related to act(s) that may materially affect or arise from the employee's ability to perform official duties or to the extent that it may be indicative of unfitness for his/her position.

#### 340.2.1 PROHIBITED ASSOCIATIONS AND CONFLICT OF INTEREST-CASE WORK

- (a) Employees shall not have regular or continuous personal associations or dealings with persons whom they know to be under criminal investigation or indictment in any jurisdiction, who are on probation parole or supervised release in any legal jurisdiction, or who are detainees, inmates or residents of a County or State adult or juvenile correctional/detention facility. Employees are required to notify their immediate supervisor or an appropriate manager immediately if such associations or dealings occur.
1. This policy does not apply when an employee established a relationship prior to employment with the Department or when contact is unavoidable because of personal family relationships with the employee or where the department may require such contact with such persons for official duties. In any of these situations, an employee is required to notify his or her immediate supervisor immediately.
  2. If an employee has established an acquaintance or relationship with an individual, or with a member of the individual's family, who becomes or is a client of the Probation Department (including a minor detained/placed at a juvenile facility or an adult incarcerated in a detention facility), the employee shall notify his or her immediate supervisor as soon as he/she learns of the individual's client status. The immediate supervisor will review the situation with the affected employee an attempt to establish an acceptable solution to any potential conflict.
  3. Upon receiving information from an employee of a prohibited association or potential conflict or interest as described above, a supervisor shall inform the appropriate manager in writing. The manager shall consult with the Assistant Chief or Chief Probation Officer to determine appropriate action, including

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steps to be taken to avoid a conflict of interest or perception thereof, which may include:

- (a) Referral of a case to another county probation department for a courtesy preparation of a court report, courtesy supervision, courtesy detention, or other service to be provided by a collaborating county.
- (b) Reassignment of the case within the department to address any conflict that may exist.
- (b) Employees shall not knowingly trade, barter, lend or otherwise engage in any other personal transactions with any probationer, parolee or inmate of a correctional institution.
- (c) Employees shall not, directly or indirectly, give to or receive from any probationer, parolee, or inmate of a correctional institution, or family member thereof, anything in the nature of a gratuity, gift or promise of a gift.
- (d) Employees shall not take or send, either to or from, any detainee or inmate of a correctional institution any verbal or written message or any item except as part of the employee's official duties. All such correspondence shall be on Department letterhead and utilize a Department address. Juvenile Probation Officers and Probation Counselors may correspond with former detainees who are placed at the Department of Juvenile Justice upon approval and review of correspondence by their supervisor; this includes correspondence from the ward.
- (e) When an employee knows a detainee or inmate or a correctional institution through his or her official capacity with the Probation Department, the employee shall not visit the detainee or inmate in the correctional institution except when conducted as required by official duties. Any other visits must be approved by the Department through the immediate supervisor. This provision does not apply when an employee has a personal relationship with a detainee or inmate that was established outside of an official capacity.
- (f) Employees shall not manage, hold for safekeeping, sell or attempt to sell, any real or personal property of any probationer, parolee, detainee, or inmate of a correctional institution when not required by official Department duties, state law, county ordinance, or Court Order.
- (g) Employees may not be ordered or requested by supervisors or department managers to perform any work for the personal benefit of that supervisor or manager unless their participation is completely voluntary.
- (h) Probationers may be ordered to or may volunteer to perform certain work functions for rehabilitative purposes. Probationers may not perform any personal service pursuant to this program for any employee of the Probation Department, or their immediate families, or engage in any activity which would primarily benefit the employee or the employees family.

### **340.3 CONDUCT WHICH MAY RESULT IN DISCIPLINE**

The following list of causes for disciplinary action constitutes a portion of the disciplinary standards of this department. This list is not intended to cover every possible type of misconduct and does not preclude the recommendation of disciplinary action for specific action or inaction that is detrimental to efficient department service:

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#### **340.3.1 ATTENDANCE**

- (a) Leaving job to which assigned during duty hours without reasonable excuse and proper permission and approval.
- (b) Unexcused or unauthorized absence or tardiness on scheduled day(s) of work.
- (c) Failure to report to work or to place of assignment at time specified and fully prepared to perform duties without reasonable excuse.
- (d) Failure to notify the Department within 24 hours of any change in residence address, home phone number, or name change.

#### **340.3.2 CONDUCT**

- (a) Unauthorized or unlawful fighting, threatening or attempting to inflict unlawful bodily injury on another.
- (b) Initiating any civil action for recovery of any damages or injuries incurred in the course and scope of employment without first notifying the Chief Probation Officer of such action.
- (c) Using department resources in association with any portion of an independent civil action. These resources include, but are not limited to, personnel, vehicles, equipment and non-subpoenaed records.
- (d) Engaging in horseplay resulting in injury or property damage or the reasonable possibility thereof.
- (e) Unauthorized possession of, loss of or damage to department property or the property of others, or endangering it through unreasonable carelessness or maliciousness.
- (f) Failure of any employee to promptly and fully report activities on their own part or the part of any other employee where such activities may result in criminal prosecution or discipline under this policy.
- (g) Failure of any employee to promptly and fully report activities that have resulted in official contact by any other law enforcement agency.
- (h) Using or disclosing one's status as an employee with the Department in any way that could reasonably be perceived as an attempt to gain influence or authority for non-department business or activity.
- (i) The use of any information, photograph, video or other recording obtained or accessed as a result of employment with the Department for personal or financial gain or without the express authorization of the Chief Probation Officer or a designee may result in discipline under this policy.
- (j) Seeking restraining orders against individuals encountered in the line of duty without the express permission of the Chief Probation Officer.
- (k) Discourteous, disrespectful or discriminatory treatment of any member of the public or any member of this department.
- (l) Unwelcome solicitation of a personal or sexual relationship while on-duty or through the use of one's official capacity.
- (m) Engaging in on-duty sexual relations including, but not limited to, sexual intercourse, excessive displays of public affection or other sexual contact.

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#### **340.3.3 DISCRIMINATION**

- (a) Discriminate against any person because of age, race, color, creed, religion, sex, sexual orientation, national origin, ancestry, marital status, physical or mental disability or medical condition.

#### **340.3.4 INTOXICANTS**

- (a) Reporting for work or being at work following the use of intoxicants where such use may impair the employee's ability to perform assigned duties or where there is an immediate suspicion of ineffectiveness during public contact resulting from the use of intoxicants
- (b) Unauthorized possession or use of, or attempting to bring intoxicants to the work site, except as authorized in the performance of an official assignment.
- (c) Reporting for work or being at work following the use of a "controlled substance" or any drug (whether legally prescribed or otherwise) where such use may impair the employee's ability to perform assigned duties
- (d) Unauthorized possession, use of, or attempting to bring controlled substance or other illegal drug to any work site

#### **340.3.5 PERFORMANCE**

- (a) Sleeping during on-duty time or assignments.
- (b) Careless workmanship resulting in spoilage or waste of materials or work of an unacceptable nature as applicable to the nature of the work assigned.
- (c) Unsatisfactory work performance including, but not limited to, failure, incompetence, inefficiency or delay in performing and/or carrying out proper orders, work assignments or instructions of supervisors without a reasonable and bona fide excuse.
- (d) Concealing, attempting to conceal, removing or destroying defective or incompetent work.
- (e) Disobedience or insubordination to constituted authorities, including refusal or deliberate failure to carry out or follow lawful directives and orders from any supervisor or person in a position of authority.
- (f) The wrongful or unlawful exercise of authority on the part of any employee for malicious purpose, personal gain, willful deceit or any other improper purpose.
- (g) Disparaging remarks or conduct concerning duly constituted authority to the extent that such conduct disrupts the efficiency of the Department or subverts the good order, efficiency and discipline of the Department or which would tend to discredit any member thereof.
- (h) Knowingly making false, misleading or malicious statements that are reasonably calculated to harm or destroy the reputation, authority or official standing of the Department or members thereof.
- (i) The falsification of any work-related records, the making of misleading entries or statements with the intent to deceive, or the willful and unauthorized destruction and/or mutilation of any department record, book, paper or document.
- (j) Wrongfully loaning, selling, giving away or appropriating any department property for the personal use of the employee or any unauthorized person.
- (k) The unauthorized use of any badge, uniform, identification card or other department equipment or property for personal gain or any other improper purpose.

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- (l) The receipt or acceptance of a reward, fee or gift from any person for service incident to the performance of the employee's duties (lawful subpoena fees and authorized work permits excepted).
- (m) Any knowing or negligent violation of the provisions of the department manual or other written directive of an authorized supervisor. The Department shall make this manual available to all employees. Employees shall familiarize themselves with this manual and be responsible for compliance with each of the policies contained herein.
- (n) Work-related dishonesty, including attempted or actual theft of department property, services or the property of others, or the unauthorized removal or possession of department property or the property of another person.
- (o) Criminal, dishonest, infamous or disgraceful conduct adversely affecting the employee/employer relationship, whether on- or off-duty.
- (p) Failure to disclose or misrepresenting material facts, or the making of any false or misleading statement on any application, examination form, or other official document, report or form or during the course of any work-related investigation.
- (q) Failure to take reasonable action while on-duty and when required by law, statute, resolution or approved department practices or procedures.
- (r) Associating with or joining a criminal gang, organized crime and/or criminal syndicate when a department member knew or reasonably should have known of the criminal nature of the organization. This includes any organization involved in a definable criminal activity or enterprise, except as specifically directed and authorized by the Department.
- (s) Offer or acceptance of a bribe or gratuity.
- (t) Misappropriation or misuse of public funds.
- (u) Exceeding lawful peace officer powers by unreasonable, unlawful or excessive conduct.
- (v) Unlawful gambling or unlawful betting at any time or any place. Legal gambling or betting under any of the following conditions: while on department premises; at any work site; while on-duty or while in uniform; or while using any department equipment or system. Gambling activity undertaken as part of a deputy's official duties and with the express knowledge and permission of a direct supervisor is exempt from this prohibition.
- (w) Substantiated, active, continuing association on a personal rather than official basis with a person or persons who engage in or are continuing to engage in serious violations of state or federal laws, where the employee has or reasonably should have knowledge of such criminal activities, except where specifically directed and authorized by the Department.
- (x) Failing to report an immediate family member or person residing in the employees home who is arrested in Contra Costa County for a felony or misdemeanor.
- (y) Solicitations, speeches or distribution of campaign literature for or against any political candidate or position while on-duty, on department property or while in any way representing him/herself as a member of this agency, except as expressly authorized by the Chief Probation Officer.
- (z) Engaging in political activities during assigned working hours except as expressly authorized by the Chief Probation Officer.
- (aa) Violating any misdemeanor or felony statute.
- (ab) Any other on-duty or off-duty conduct which any employee knows or reasonably should know is unbecoming a member of the Department or which is contrary to

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good order, efficiency or morale, or which tends to reflect unfavorably upon the Department or its members.

- (ac) Any failure or refusal of an employee to properly perform the function and duties of an assigned position.
- (ad) Failure to maintain required and current licenses (e.g. driver's license) and certifications (e.g., first aid).
- (ae) Giving false or misleading statements, or misrepresenting or omitting material information to a supervisor, or other person in a position of authority, in connection with any investigation or in the reporting of any department-related business.
- (af) Submitting any petition, letter, or recommendation regarding leniency, pardon, probation, parole, or any other form of criminal case disposition in any jurisdiction, as a representative of the Department, without authorization from the Chief.

#### **340.3.6 SAFETY**

- (a) Failure to observe posted rules, signs and written or oral safety instructions while on duty and/or within department facilities or to use required protective clothing or equipment.
- (b) Knowingly failing to report any on-the-job or work-related accident or injury within 24 hours.
- (c) Substantiated employee record of unsafe or improper driving habits or actions in the course of employment.
- (d) Any personal action contributing to involvement in a preventable traffic collision, or other unsafe or improper driving habits or actions in the course of employment.
- (e) Violating departmental safety standards or safe working practices.

#### **340.3.7 SECURITY**

- (a) Unauthorized, intentional release of designated confidential information, materials, data, forms or reports

#### **340.3.8 SUPERVISOR RESPONSIBILITY**

- (a) Failure of a supervisor to take appropriate action to ensure that employees adhere to the policies and procedures of this department and the actions of all personnel comply with all laws
- (b) Failure of a supervisor to timely report known misconduct of an employee to his or her immediate supervisor or to document such misconduct appropriately or as required by policy
- (c) The unequal or disparate exercise of authority on the part of a supervisor toward any employee for malicious or other improper purpose

#### **340.4 INVESTIGATION OF DISCIPLINARY ALLEGATIONS**

Regardless of the source of an allegation of misconduct, all such matters will be investigated in accordance with Personnel Complaint Procedure Policy Manual § 1020. Pursuant to Government Code §§ 3304(d) and 3508.1, the investigation should be completed within one year of the discovery of the allegation unless such investigation falls within one of the exceptions delineated within those provisions.

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#### **340.5 POST INVESTIGATION PROCEDURES**

##### **340.5.1 DIRECTOR RESPONSIBILITIES**

Upon receipt of any completed personnel investigation, the Director of the involved employee shall review the entire investigative file, the employee's personnel file and any other relevant materials.

The Director may make recommendations regarding the disposition of any allegations and the amount of discipline, if any, to be imposed.

- (a) Prior to forwarding recommendations to the Assistant Chief Probation Officer, the Director may return the entire investigation to the assigned supervisor for further investigation or action
- (b) When forwarding any written recommendation to the Chief Probation Officer, the Assistant Chief shall include all relevant materials supporting the recommendation. Actual copies of an employee's existing personnel file need not be provided and may be incorporated by reference

##### **340.5.2 RESPONSIBILITIES OF THE CHIEF PROBATION OFFICER**

Upon receipt of any written recommendation for disciplinary action, the Chief Probation Officer shall review the recommendation and all accompanying materials.

The Chief Probation Officer may modify any recommendation and/or may return the file to the Assistant Chief for further investigation or action.

Once the Chief Probation Officer is satisfied that no further investigation or action is required by staff, the Chief Probation Officer shall determine the amount of discipline, if any, to be recommended.

In the event disciplinary action is recommended, the Chief Probation Officer shall provide the employee with written (Skelly) notice (as outlined in the applicable MOU) of the following information within one year of the date of the discovery of the alleged misconduct (absent an exception set forth in Government Code § 3304(d) or 3508.1):

- (a) Specific charges set forth in separate counts, describing the conduct underlying each count.
- (b) A statement that the employee has been provided with or given access to all of the materials considered by the Chief Probation Officer in recommending the proposed discipline.
- (c) An opportunity to respond orally or in writing to the Chief Probation Officer within seven days of receiving the Skelly notice.
  - 1. Upon a showing of good cause by the employee, the Chief Probation Officer may grant a reasonable extension of time for the employee to respond.

##### **340.6 EMPLOYEE RESPONSE**

The pre-discipline process is intended to provide the accused employee with an opportunity to present a written or oral response to the Chief Probation Officer after having had an opportunity to review the supporting materials and prior to imposition of any recommended discipline. The employee shall consider the following:

- (a) This Skelly response is not intended to be an adversarial or formal hearing.

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- (b) Although the employee may be represented by an uninvolved representative or legal counsel, the Skelly response is not designed to accommodate the presentation of testimony or witnesses.
- (c) The employee may suggest that further investigation could be conducted or the employee may offer any additional information or mitigating factors for the Chief Probation Officer to consider.
- (d) In the event that the Chief Probation Officer elects to cause further investigation to be conducted, the employee shall be provided with the results of such subsequent investigation prior to the imposition of any discipline.
- (e) The employee may thereafter have the opportunity to further respond orally or in writing to the Chief Probation Officer on the limited issue(s) of information raised in any subsequent materials.
- (f) Once the employee has completed his/her Skelly response or, if the employee has elected to waive any such response, the Chief Probation Officer shall consider all information received in regard to the recommended discipline. Once the Chief Probation Officer determines that discipline will be imposed, a timely written decision shall be provided to the employee within 30 days, imposing, modifying or rejecting the recommended discipline. In the event of a termination, the final notice of discipline shall inform the employee of the reason for termination.
- (g) Once the Chief Probation Officer has issued a written decision, the discipline shall become effective.

### **340.7 RESIGNATIONS/RETIREMENTS PRIOR TO DISCIPLINE**

In the event that an employee tenders a written retirement or resignation prior to the imposition of discipline, it shall be noted in the file.

The tender of a retirement or resignation by itself shall not serve as grounds for the termination of pending discipline.

## Department Technology Use

### 342.1 PURPOSE AND SCOPE

This policy describes the use of department computers, software and systems.

#### 342.1.1 PRIVACY POLICY

Any employee utilizing any computer, electronic storage device or media, Internet service, phone service, information conduit, system or other wireless service provided by or funded by the Department expressly acknowledges and agrees that the use of such service, whether for business or personal use, shall remove any expectation of privacy the employee, sender and recipient of any communication utilizing such service might otherwise have, including as to the content of any such communication. The Department also expressly reserves the right to access and audit any and all communications, including content that is sent, received and/or stored through the use of such service. ([County Administrative Policy 140, Internet Usage](#))

### 342.2 DEFINITIONS

The following definitions relate to terms used within this policy:

**Computer System** - Shall mean all computers (on-site and portable), hardware, software, and resources owned, leased, rented, or licensed by the Contra Costa County Probation Department, which are provided for official use by agency employees. This shall include all access to, and use of, Internet Service Providers (ISP) or other service providers provided by or through the agency or agency funding.

**Hardware** - Shall include, but is not limited to, computers, computer terminals, network equipment, modems or any other tangible computer device generally understood to comprise hardware.

**Software** - Shall include, but is not limited to, all computer programs and applications including "shareware." This does not include files created by the individual user.

**Temporary File or Permanent File or File** - Shall mean any electronic document, information or data residing or located, in whole or in part, whether temporarily or permanently, on the system, including but not limited to spreadsheets, calendar entries, appointments, tasks, notes, letters, reports or messages.

### 342.3 SYSTEM INSPECTION OR REVIEW

An employee's supervisor has the express authority to inspect or review the system, any and all temporary or permanent files and related electronic systems or devices, and any contents thereof when such inspection or review is in the ordinary course of his/her supervisory duties, or based on cause.

When requested by an employee's supervisor, or during the course of regular duties requiring such information, a member(s) of the agency's information systems staff may extract, download, or otherwise obtain any and all temporary or permanent files residing or located in or on the system.

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Reasons for inspection or review may include, but are not limited to system malfunctions, problems or general system failure, a lawsuit against the agency involving the employee, or related to the employee's duties, an alleged or suspected violation of a department policy, or a need to perform or provide a service when the employee is unavailable.

#### **342.4 AGENCY PROPERTY**

All information, data, documents, communications, and other entries initiated on, sent to or from, or accessed on any department computer, or through the department computer system on any other computer, whether downloaded or transferred from the original department computer, shall remain the exclusive property of the Department and shall not be available for personal or non-departmental use without the expressed authorization of an employee's supervisor.

#### **342.5 UNAUTHORIZED USE OF SOFTWARE**

Employees shall not copy or duplicate any copyrighted or licensed software except for a single copy for backup purposes in accordance with the software company's copyright and license agreement. To reduce the risk of computer virus or malicious software infection, employees shall not install any unlicensed or unauthorized software on any department computer. Employees shall not install personal copies of any software onto any department computer. Any files or software that an employee finds necessary to upload onto a department computer or network shall be done so only with the approval of the department IT specialist and only after being properly scanned for malicious attachments.

No employee shall knowingly make, acquire or use unauthorized copies of computer software not licensed to the agency while on agency premises or on an agency computer system. Such unauthorized use of software exposes the agency and involved employees to severe civil and criminal penalties.

#### **342.6 PROHIBITED AND INAPPROPRIATE USE**

Access to department technology resources including Internet access provided by or through the Department shall be strictly limited to department-related business activities. Data stored on, or available through department systems shall only be accessed by authorized employees who are engaged in an active investigation, assisting in an active investigation, or who otherwise have a legitimate law enforcement or department business related purpose to access such data. Any exceptions to this policy must be approved by a supervisor.

An Internet site containing information that is not appropriate or applicable to departmental use and which shall not be intentionally accessed include, but are not limited to, adult forums, pornography, chat rooms and similar or related Web sites. Certain exceptions may be permitted with the approval of a supervisor as a function of an assignment.

Downloaded information shall be limited to messages, mail and data files, which shall be subject to audit and review by the Department without notice. No copyrighted and/or unlicensed software program files may be downloaded.

Employees shall report any unauthorized access to the system or suspected intrusion from outside sources (including the Internet) to a supervisor.

#### **342.7 PROTECTION OF AGENCY SYSTEMS AND FILES**

All employees have a duty to protect the system and related systems and devices from physical and environmental damage and are responsible for the correct use, operation,

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care, and maintenance of the system. No staff may connect their personally owned devices to the County computer network system.

It is expressly prohibited for an employee to allow an unauthorized user to access the system at any time or for any reason.

#### **342.8 EMPLOYEE RESPONSIBILITIES**

- (a) Each employee is responsible for taking proper care of cellular devices and exercising reasonable precautions against damage, loss or theft.
  - 1. Once any device is issued to a staff member, they are responsible for the retention of the device and any other accessories received. In the event the device is lost or damaged due to negligence, the staff member will be required to reimburse the Department for its cost.
  - 2. However, if the device is lost during the commission of a crime (i.e., burglary, robbery, other theft) or in the performance of duties, the employee shall provide a crime report or other acceptable documentation and the Chief Probation Officer or his designee may waive the reimbursement required.
- (b) Only software approved administratively may be installed on devices and must be done so by the Department's IT staff.
- (c) County issued cellular devices are not intended for personal use. If a situation should arise during which a device is used for personal reasons, the employee shall report such used to their supervisor.
- (d) Using County issued cellular/electronic devices for commercial use is prohibited.
- (e) Staff members may be required to return County owned devices when there is a change in assignment and return the device when no longer working in the Department.
- (f) While traveling for County related business and or operating a county vehicle or machinery, the employee shall never operate a cellular/electronic device while the vehicle/machinery is in motion and must pull over to a safe and legal location prior to using the device.
- (g) Any staff person who uses any electronic device for personal use or other non-County business shall maintain a log and reimburse the County for all costs incurred.

## Critical Incident Reports

### 343.1 POLICY

Incident reports should be filled out by staff effecting arrests or searches, or staff involved in incidents considered unusual, possibly subject to litigation, or a focus of the media. Examples of incidents that would require an incident report are:

- A citizen stating he/she would be pursuing legal action against the Department
- Searches resulting in arrest, seized property, injury, or damage
- Any use of force
- Exposure to communicable disease
- Traffic accident
- Rendering first aid to an injured civilian
- Damage to personal property

Critical Incident Reports (IR) will be filed with the Immediate Supervisor by the end of the shift during which the incident occurred. The Supervisor will make appropriate review and comments and will forward the IR to the Probation Manager within 24 hours of the receipt of the IR. The Manager will then forward to the Incident Report to the Director.

## News Media Relations

### **346.1 PURPOSE AND SCOPE**

This policy provides guidelines for media releases and media access to scenes of disasters, criminal investigations, emergencies and other law enforcement activities.

### **346.2 RESPONSIBILITIES**

The ultimate authority and responsibility for the release of information to the media shall remain with the Chief Probation Officer, however, in situations not warranting immediate notice to the Chief Probation Officer and in situations where the Chief Probation Officer has given prior approval, the Assistant Chief, and Directors may prepare and release information to the media in accordance with this policy and the applicable law.

### **346.3 RESTRICTED INFORMATION**

It shall be the responsibility of the authorized employee dealing with media requests to ensure that restricted information is not inappropriately released to the media by this department. When in doubt, authorized and available legal counsel should be obtained.

## Court Appearance And Subpoenas

### 348.1 PURPOSE AND SCOPE

This procedure has been established to provide for the acceptance of subpoenas and to ensure that employees appear when subpoenaed, or are available to appear in court when requested and present a professional appearance.

### 348.2 COURT SUBPOENAS

Employees who receive subpoenas related to their employment with this department are subject to the provisions of this policy. Employees should be aware that their compliance is mandatory on all cases for which they have been properly subpoenaed, or properly notified. This policy applies to civil and criminal subpoenas. Employees are expected to cooperate with the prosecution to ensure the successful conclusion of a case.

#### 348.2.1 SERVICE OF SUBPOENA

Service of a subpoena requiring the appearance of any department employee in connection with a matter arising out of the employee's course and scope of official duties may be accomplished by personal service on the employee or by delivery of two copies of the subpoena on the employee's supervisor or other authorized departmental agent (Government Code § 68097.1; Penal Code § 1328(c)). Subpoena service is also acceptable by courier or court liaison from the court to this department.

#### 348.2.2 VALID SUBPOENAS

No subpoena shall be accepted for an employee of this department unless it has been properly served and verified to have originated from a recognized legal authority.

#### 348.2.3 ACCEPTANCE OF SUBPOENA

Any employee shall be authorized to accept service of a subpoena.

- Penal Code § 1328(c): Any employee accepting a subpoena shall immediately provide a copy to the named employee and the employees supervisor.

#### 348.2.4 REFUSAL OF SUBPOENA

Except where previous arrangements with the issuing court exist, training, vacations and regularly scheduled days off are not valid reasons for refusing a subpoena or missing court. If, due to illness or injury, the named employee is unable to appear in court as directed by a previously served subpoena, he/she shall, at least one hour before the appointed date and time, inform the District Attorney or issuer of the subpoena of his/her absence.

If the immediate supervisor or other authorized individual knows that he/she will be unable to deliver a copy of the subpoena to the named employee within sufficient time for the named employee to comply with the subpoena, the supervisor or other authorized individual may refuse to accept service (Penal Code § 1328(d)).

If a subpoena is presented for service to an immediate supervisor or other authorized individual less than five working days prior to the date listed for an appearance and the supervisor or other authorized individual is not reasonably certain that the service can be completed, he/she may refuse to accept service (Penal Code § 1328(e)).

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If, after initially accepting service of a subpoena, a supervisor or other authorized individual determines that he/she will be unable to deliver a copy of the subpoena to the individually named employee within sufficient time for the named employee to comply with the subpoena, the supervisor shall notify the server or the attorney named on the subpoena of such not less than 48 hours prior to the date listed for the appearance (Penal Code § 1328(f)).

#### **348.2.5 OFF-DUTY RELATED SUBPOENAS**

Employees receiving valid subpoenas for actions taken off-duty not related to their employment with Contra Costa County Probation Department shall comply with the requirements of the subpoena. Employees receiving these subpoenas are not compensated for their appearance and arrangements for time off shall be coordinated through their immediate supervisor.

#### **348.2.6 FAILURE TO APPEAR**

Any employee who fails to comply with the terms of any valid and properly served subpoena may be subject to discipline as well as court imposed civil and/or criminal sanctions.

#### **348.3 OVERTIME APPEARANCES**

If the deputy appeared on his/her off-duty time, he/she will be compensated in accordance with the current employee Memorandum of Understanding.

Employees who receive a work related subpoena on his/her scheduled day off, requiring overtime for the appearance, will be compensated for a reasonable amount of time from the time the deputy left his/her residence until he/she returned to his residence.

#### **348.4 COURTROOM PROTOCOL**

Employees must be punctual when appearing in court and shall be prepared to proceed immediately with the case for which they are subpoenaed.

##### **348.4.1 PREPARATION FOR TESTIMONY**

Before the date of testifying, the subpoenaed deputy shall request a copy of relevant reports and become familiar with their content in order to be prepared for court. The Deputy will ensure he has advised his supervisor of the subpoena and reviewed case notes and file.

##### **348.4.2 COURTROOM ATTIRE**

Employees shall dress in uniform or business attire. Suitable business attire for men would consist of a coat, tie, and dress pants. Suitable business attire for female employees would consist of a dress jacket, dress blouse, and skirt or slacks.

#### **348.5 COURTHOUSE DECORUM**

Employees shall observe all rules of the court in which they are appearing, refrain from smoking or chewing gum in the courtroom, and shall remain alert to changes in the assigned courtroom where their matter is to be heard.

#### **348.6 TESTIFYING AGAINST THE INTEREST OF THE PEOPLE OF THE STATE**

Any member or employee who is subpoenaed to testify, who has agreed to testify, or who anticipates testifying or providing information on behalf of or at the request of any party other than the People of the State of California, any county, any city, or any of their officers and

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employees in which any of those entities are parties, will notify their immediate supervisor without delay. The supervisor will then notify the Chief Probation Officer, District Attorney's Office in criminal cases, County Counsel or City Attorney, as may be indicated by the case.

This includes, but is not limited to the following situations:

- (a) Providing testimony or information for the defense in any criminal trial or proceeding;
- (b) Providing testimony or information for the plaintiff in a civil proceeding against any county, any city, or their officers and employees; or
- (c) Providing testimony or information on behalf of or at the request of any party other than any County, city, or any county or city official in any administrative proceeding, including but not limited to personnel and/or disciplinary matter.

## Major Incident Notification

### 358.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidance to members of this department in determining when, how and to whom notification of major incidents should be made.

### 358.2 POLICY

The Contra Costa County Probation Department recognizes that certain incidents should be brought to the attention of supervisors or other specified personnel of this department to facilitate the coordination of activities and ensure that inquiries from the media and the public may be properly addressed.

### 358.3 MINIMUM CRITERIA FOR NOTIFICATION

Most situations where the media show a strong interest are also of interest to the Chief Probation Officer, Assistant Chief and the affected Director. The following list of incident types is provided as a guide for notification and is not intended to be all inclusive:

- Homicides
- Traffic accidents with fatalities
- Significant injury or death to employee - on or off duty
- Death of a prominent Contra Costa official
- Arrest of a department employee or prominent Contra Costa official
- Aircraft crash with major damage and/or injury or death
- In-custody deaths

### 358.4 DIRECTOR RESPONSIBILITY

The Director is responsible for making the appropriate notifications. The Director shall make reasonable attempts to obtain as much information on the incident as possible before notification. The Director shall attempt to make the notifications as soon as practicable. Notification should be made by calling the home telephone number first and then by any other available contact numbers.

#### 358.4.1 STAFF NOTIFICATION

In the event an incident occurs described in Policy Manual § 358.2, the Chief Probation Officer shall be notified along with the Assistant Chief and the Director of the affected Division.

## Child and Dependent Adult Safety

### 380.1 PURPOSE AND SCOPE

This policy provides guidelines to ensure that children and dependent adults are not left without appropriate care in the event their caregiver or guardian is arrested or otherwise prevented from providing care due to actions taken by an employee of this department. (Penal Code § 833.2(a)).

This policy does not address the actions to be taken during the course of a child abuse or dependent adult investigation. These are covered in the Child Abuse Policy and the Adult Abuse Policy.

#### 380.1.1 POLICY

It is the policy of this department to mitigate, to the extent reasonably possible, the stressful experience individuals may have when their parent or caregiver is arrested. The Contra Costa County Probation Department will endeavor to create a strong cooperative relationship with local, state and community-based social services to ensure an effective, collaborative response that addresses the needs of those affected.

### 380.2 PROCEDURES DURING AN ARREST

When encountering an arrest or prolonged detention situation, deputies should make reasonable attempts to determine if the arrestee is responsible for children or dependent adults. In some cases this may be obvious, such as when children or dependent adults are present. However, deputies should inquire if the arrestee has caregiver responsibilities for any children or dependent adults who are without appropriate supervision. The following steps should be taken (Penal Code § 13517.7(b)(1)):

- (a) Inquire about and confirm the location of any children or dependent adults.
- (b) Look for evidence of children and dependent adults. Deputies should be mindful that some arrestees may conceal the fact that they have a dependent for fear the individual may be taken from them.
- (c) Consider inquiring of witnesses, neighbors, friends and relatives of the arrestee as to whether the person is responsible for a child or dependent adult.

Whenever reasonably possible, deputies should take reasonable steps to accomplish the arrest of a parent, guardian, or caregiver out of the presence of his/her child or dependent adult. Removing children or dependent adults from the scene in advance of the arrest will generally ensure the best outcome for the individual.

Whenever it is safe to do so, deputies should allow the parent or caregiver to assure children or dependent adults that they will be provided care. If this is not safe or if the demeanor of the parent or caregiver suggests this conversation would be non-productive, the deputy at the scene should explain the reason for the arrest in age-appropriate language and offer reassurance to the child or dependent adult that he/she will receive appropriate care.

#### 380.2.1 AFTER AN ARREST

Whenever an arrest is made, the deputy should take all reasonable steps to ensure the safety of the arrestee's disclosed or discovered, children or dependent adults.

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Deputies should allow the arrestee reasonable time to arrange for care of children and dependent adults. Temporary placement with family or friends may be appropriate. However, any decision should give priority to a child-care solution that is in the best interest of the child or dependent adult. In such cases the following guidelines should be followed:

- (a) Allow the person reasonable time to arrange for the care of children and dependent adults with a responsible party, as appropriate.
  1. Unless there is evidence to the contrary (e.g., signs of abuse, drug use, unsafe environment), deputies should respect the parent or caregiver's judgment regarding arrangements for care. It is generally best if the child or dependent adult remains with relatives or family friends that he/she knows and trusts because familiarity with surroundings and consideration for comfort, emotional state and safety are important.
  2. Except when a court order exists limiting contact, the deputy should attempt to locate and place children or dependent adults with the non-arrested parent, guardian or caregiver.
- (b) Provide for the immediate supervision of children or dependent adults until an appropriate caregiver arrives.
- (c) Notify Child Protective Services (925-646-1680) or the Division of Aging and Adult Services (877-839-4347), if appropriate
- (d) Notify the Supervisor or Manager of the disposition of children or dependent adults.

If children or dependent adults are at school or another known location outside the household at the time of arrest, the arresting deputy should attempt to contact the school or other known location and inform the principal or appropriate responsible adult of the caregiver's arrest and of the arrangements being made for the care of the arrestee's dependent. The result of such actions should be documented in the associated report.

### **380.2.2 REPORTING**

- (a) For all arrests where children are present or living in the household, the reporting employee will document the following information:
  1. Name
  2. Sex
  3. Age
  4. How, where, and with home or which agency the child was placed
- (b) For all arrests where dependent adults are present or living in the household, the reporting employee will document the following information:
  1. Name
  2. Sex
  3. Age
  4. Whether he/she reasonably appears able to care for him/herself
  5. Disposition or placement information if he/she is unable to care for him/herself

### **380.3 CHILD WELFARE SERVICES**

Whenever an arrestee is unwilling or incapable of arranging for the appropriate care of any dependent minor children, the handling deputy should consider taking children into

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protective custody and placing them with the appropriate county child welfare service or other department-approved social service (Welfare and Institutions Code § 305).

Only when other reasonable options are exhausted should a child be transported to the sheriff's facility, transported in a marked patrol car or taken into formal protective custody.

Under no circumstances should a child be left unattended or without appropriate care.

#### **380.3.1 SUPPORT AND COUNSELING REFERRAL**

If, in the judgment of the handling deputies, the child or dependent adult would benefit from additional assistance, such as counseling services, contact with a victim advocate or a crisis telephone number, the appropriate referral information may be provided.

## Service Animals

### 382.1 PURPOSE AND SCOPE

Service animals play an important role in helping to overcome the limitations often faced by people with disabilities. The Contra Costa County Probation Department recognizes this need and is committed to making reasonable modifications to its policies, practices, and procedures in accordance with Title II of the Americans with Disabilities Act of 1990 (ADA) to permit the use of service animals that are individually trained to assist a person with a disability.

### 382.2 SERVICE ANIMALS

The ADA defines a service animal as any dog or miniature horse that is individually trained to do work or perform tasks for the benefit of an individual with a disability, including a physical, sensory, psychiatric, intellectual or other mental disability. The work or tasks performed by a service animal must be directly related to the owner's disability (28 CFR 35.104).

California expands the definition of a service animal to include other animals that are individually trained to provide assistance to an individual with a disability (Healthy and Safety Code § 113903).

#### 382.2.1 USE OF SERVICE ANIMALS

Some service animals may be readily identifiable. However, many do not have a distinctive symbol, harness or collar. Service animals are not pets and may be trained by an individual or organization to assist people with disabilities.

The following examples are some of the ways service animals may be used to provide assistance:

- Guiding people who are blind or have low vision.
- Alerting people who are deaf or hard of hearing.
- Retrieving or picking up items, opening doors or flipping switches for people who have limited use of their hands, arms or legs.
- Pulling wheelchairs.
- Providing physical support and assisting with stability and balance.
- Doing work or performing tasks for persons with traumatic brain injury, intellectual disabilities or psychiatric disabilities, such as reminding a person with depression to take medication.
- Alerting a person with anxiety to the onset of panic attacks, providing tactile stimulation to calm a person with post-traumatic stress disorder, assisting people with schizophrenia to distinguish between hallucinations and reality, and helping people with traumatic brain injury to locate misplaced items or follow daily routines.

### 382.3 MEMBER RESPONSIBILITIES

Service animals that are assisting individuals with disabilities are permitted in all public facilities and areas where the general public is allowed. Department members are expected to treat individuals with service animals with the same courtesy and respect that the Contra Costa County Probation Department affords to all members of the public.

# Contra Costa County Probation Department

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### *Service Animals*

If an animal exhibits vicious behavior, poses a direct threat to the health of others or unreasonably disrupts or interferes with normal business operations, a deputy may direct the owner to remove the animal from the premises. Barking alone is not a threat nor does a direct threat exist if the person takes prompt, effective action to control the animal. Each incident must be considered individually and past incidents alone are not cause for excluding a service animal. Removal of a service animal may not be used as a reason to refuse service to an individual with disabilities. Members of this department are expected to provide all services as are reasonably available to an individual with the disability.

If it is apparent or if a deputy is aware the animal is a service animal, the owner should not be asked any questions as to the status of the animal. If it is unclear whether an animal meets the definition of a service animal, the deputy should ask the individual only the following questions:

- Is the animal required because of a disability?
- What task or service has the service animal been trained to perform?

If the individual explains that the animal is required because of a disability and has been trained to work or perform at least one task, the animal meets the definition of a service animal and no further questions as to the animal's status should be asked. The person should not be questioned about his/her disabilities nor should the person be asked to provide any license, certification or identification card for the service animal.

Service animals are not pets. Department members should not interfere with the important work performed by a service animal by talking to, petting or otherwise initiating contact with a service animal.

# Volunteer Program

## **384.1 PURPOSE AND SCOPE**

It is the policy of this department to use qualified volunteers for specified tasks and duties in order to create efficiencies for the Department and improve services to the community. Volunteers are intended to supplement and support, rather than supplant, sworn deputies and civilian personnel. Volunteers can be an important part of any organization and are proven to be a valuable asset to law enforcement agencies. Volunteers help to increase departmental responsiveness, delivery of services and information input, and provide new program opportunities. In addition, volunteers bring new skills and expertise to the Department and prompt new enthusiasm.

### **384.1.1 DEFINITION OF VOLUNTEER**

An individual who performs a service for the Department without promise, expectation or receipt of compensation for services rendered. This may include unpaid chaplains, interns, persons providing administrative support, among others.

## **384.2 VOLUNTEER MANAGEMENT**

### **384.2.1 VOLUNTEER COORDINATOR**

The function of the Volunteer Coordinator is to provide a central coordinating point for effective volunteer management within the Department, and to direct and assist staff and volunteer efforts to jointly provide more productive services. The Volunteer Coordinator should work with other Department staff on an ongoing basis to assist in the development and implementation of volunteer-staffed positions.

The Volunteer Coordinator, or his/her designee, shall be responsible for the following:

- (a) Recruiting, selecting and training qualified volunteers for various positions.
- (b) Facilitating the implementation of new volunteer activities and assignments.
- (c) Maintaining records for each volunteer.
- (d) Tracking and evaluating the contribution of volunteers.
- (e) Maintaining the volunteer handbook and outlining expectations, policies and responsibilities for all volunteers.
- (f) Maintaining a record of volunteer schedules and work hours.
- (g) Completion and dissemination as appropriate of all necessary paperwork and information.
- (h) Planning periodic recognition events.
- (i) Maintaining liaison with other volunteer-utilizing programs in the community and assisting in community-wide efforts to recognize and promote volunteering.

### **384.2.2 RECRUITMENT**

Volunteers should be recruited on a continuous and ongoing basis consistent with department policy on equal opportunity nondiscriminatory employment. A primary qualification for participation in the application process should be an interest in, and an ability to assist the Department in serving the public.

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### *Volunteer Program*

Requests for volunteers should be submitted in writing by interested staff to the Volunteer Coordinator through the requester's immediate supervisor. A complete position description and a requested time-frame should be included in the request. All parties should understand that the recruitment of volunteers is enhanced by creative and interesting assignments. The Volunteer Coordinator may withhold assignment of any volunteer until such time as the requesting unit is prepared to make effective use of volunteer resources.

#### **384.2.3 SCREENING**

All prospective volunteers should complete the volunteer application form. The Volunteer Coordinator or designee should conduct a face-to-face interview with an applicant under consideration.

A documented background investigation shall be completed on each volunteer applicant and shall include, but not necessarily be limited to, the following:

- (a) Traffic and criminal background check. Fingerprints shall be obtained from all applicants and processed through the California Criminal Information Index.
- (b) Employment
- (c) References

#### **384.2.4 SELECTION AND PLACEMENT**

Service as a volunteer with the Department shall begin with an official notice of acceptance or appointment to a volunteer position. Notice may only be given by an authorized representative of the Department, who will normally be the Volunteer Coordinator. No volunteer should begin any assignment until they have been officially accepted for that position and completed all required screening and paperwork. At the time of final acceptance, each volunteer should complete all required enrollment paperwork and will receive a copy of their position description and agreement of service with the Department. All volunteers shall receive a copy of the volunteer handbook and shall be required to sign a volunteer agreement.

Volunteers should be placed only in assignments or programs that are consistent with their knowledge, skills, abilities and the needs of the Department.

#### **384.2.5 TRAINING**

Volunteers will be provided with an orientation program to acquaint them with the Department, personnel, policies and procedures that have a direct impact on their work assignment.

Volunteers should receive position-specific training to ensure they have adequate knowledge and skills to complete tasks required by the position and should receive periodic ongoing training as deemed appropriate by their supervisor or the Volunteer Coordinator.

Training should reinforce to volunteers that they may not intentionally represent themselves as, or by omission infer that they are sworn deputies or other full-time members of the Department. They shall always represent themselves as volunteers.

All volunteers shall comply with the rules of conduct and with all orders and directives, either oral or written, issued by the Department.

# Contra Costa County Probation Department

## Policy Manual

### *Volunteer Program*

#### **384.2.6 FITNESS FOR DUTY**

No volunteer shall report to work or be on-duty when his/her judgment or physical condition has been impaired by alcohol, medication, other substances, illness or injury.

Volunteers shall report to their supervisor any changes in status that may affect their ability to fulfill their duties. This includes, but is not limited to, the following:

- (a) Driver license
- (b) Medical condition
- (c) Arrests
- (d) Criminal investigations

All volunteers shall adhere to the guidelines set forth by this department regarding drug and alcohol use.

#### **384.3 SUPERVISION OF VOLUNTEERS**

Each volunteer who is accepted to a position with the Department must have a clearly identified supervisor who is responsible for direct management of that volunteer. This supervisor will be responsible for day-to-day management and guidance of the work of the volunteer and should be available to the volunteer for consultation and assistance.

A volunteer may be assigned as and act as a supervisor of other volunteers provided that the supervising volunteer is under the direct supervision of a paid staff member.

Functional supervision of volunteers is the responsibility of the supervisor in charge of the unit where the volunteer is assigned. Following are some considerations to keep in mind while supervising volunteers:

- (a) Take the time to introduce volunteers to employees on all levels.
- (b) Ensure volunteers have work space and necessary office supplies.
- (c) Make sure the work is challenging. Do not hesitate to give them an assignment or task that will tap these valuable resources.

#### **384.4 CONFIDENTIALITY**

With appropriate security clearance, volunteers may have access to confidential information such as criminal histories or investigative files. Unless otherwise directed by a supervisor or departmental policy, all information shall be considered confidential. Only that information specifically identified and approved by authorized personnel shall be released. Confidential information shall be given only to persons who have a need and a right to know as determined by departmental policy and supervisory personnel.

Each volunteer will be required to sign a nondisclosure agreement before being given an assignment with the Department. Subsequent unauthorized disclosure of any confidential information, verbally, in writing or by any other means, by the volunteer is grounds for immediate dismissal and possible criminal prosecution.

Volunteers shall not address public gatherings, appear on radio or television, prepare any article for publication, act as correspondents to a newspaper or other periodical, release or divulge any information concerning the activities of the Department, or maintain that they represent the Department in such matters without permission from the proper department personnel.

# Contra Costa County Probation Department

## Policy Manual

### *Volunteer Program*

#### **384.5 PROPERTY AND EQUIPMENT**

Volunteers will be issued an identification card that must be worn at all times while on-duty. Any fixed and portable equipment issued by the Department shall be for official and authorized use only. Any property or equipment issued to a volunteer shall remain the property of the Department and shall be returned at the termination of service.

#### **384.6 DISCIPLINARY PROCEDURES/TERMINATION**

A volunteer may be removed from the volunteer program at the discretion of the Chief Probation Officer or the Probation Manager. Volunteers shall have no property interests in their continued appointment.

Volunteers may resign from volunteer service with the Department at any time. It is requested that volunteers who intend to resign provide advance notice of their departure and a reason for their decision.

##### **384.6.1 EXIT INTERVIEWS**

Exit interviews, where possible, should be conducted with volunteers who are leaving their positions. The interview should ascertain why the volunteer is leaving the position and solicit the volunteer's suggestions on improving the position. When appropriate, the interview should also include a discussion on the possibility of involvement in some other capacity with the Department.

#### **384.7 EVALUATION**

An evaluation of the overall volunteer program will be conducted on an annual basis by the Volunteer Coordinator. Regular evaluations should be conducted with volunteers to ensure the best use of human resources available, to ensure personnel problems can be identified and dealt with promptly and fairly, and to ensure optimum satisfaction on the part of volunteers.

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**Chapter 4 - Field Operations**

# Hazardous Material Response

## 412.1 PURPOSE AND SCOPE

Hazardous materials present a potential harm to employees resulting from their exposure. To comply with Title 8, California Code of Regulations, § 5194, the following is to be the policy of this department.

### 412.1.1 HAZARDOUS MATERIAL DEFINED

A hazardous material is a substance which by its nature, containment and reactivity, has the capability of inflicting harm during exposure; characterized as being toxic, corrosive, flammable, reactive, an irritant or strong sensitizer and thereby posing a threat to health when improperly managed.

### 412.2 HAZARDOUS MATERIAL RESPONSE

Employees may encounter situations involving suspected hazardous materials, such as at the scene of a traffic accident, chemical spill or fire. When employees come into contact with a suspected hazardous material, certain steps should be taken to protect themselves and citizens.

The following steps should be considered at any scene involving suspected hazardous materials:

- (a) Attempt to identify the type of hazardous substance. (Identification can be determined by placard, driver's manifest or statements from the person transporting).
- (b) Notify the Fire Department.
- (c) Provide first-aid for injured parties if it can be done safely and without contamination.
- (d) Begin evacuation of the immediate area and surrounding areas, depending on the substance. Voluntary evacuation should be considered; however, depending on the substance, mandatory evacuation may be necessary.
- (e) Notify the Office of Emergency Services (925-228-5000). Such notification is mandatory when a spilled or released item is a pesticide (Health and Safety Code § 105215).
- (f) Notify the Department of Toxic Substances Control. This is mandatory when a deputy comes in contact with, or is aware of, the presence of a suspected hazardous substance at a site where an illegal controlled substance is or was manufactured (Health and Safety § 25354.5).

### 412.3 REPORTING EXPOSURE(S)

Department personnel who believe that they have been exposed to a hazardous material shall immediately report the exposure to a supervisor. Each exposure shall be documented by the employee in an incident report that shall be forwarded via chain of command to the Personnel Manager. Should the affected employee be unable to document the exposure for any reason, it shall be the responsibility of the notified supervisor to complete the memorandum.

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## Policy Manual

### *Hazardous Material Response*

Injury or illness caused or believed to be caused from exposure to hazardous materials shall be reported the same as any other on-duty injury or illness in addition to a crime report or incident report.

#### **412.3.1 SUPERVISOR RESPONSIBILITY**

When a supervisor has been informed that an employee has been exposed to a hazardous material, he/she shall ensure that immediate medical treatment is obtained and appropriate action is taken to lessen the exposure. The supervisor must complete the required Risk Management documentation and notify the safety coordinator of the incident.

# Reporting Police Activity Outside of Jurisdiction

## 426.1 PURPOSE AND SCOPE

This policy provides general guidelines for reporting police activity while on or off-duty and occurring outside the jurisdiction of the Contra Costa County Probation Department.

### 426.1.1 ASSISTANCE TO AGENCIES OUTSIDE THE COUNTY

When a deputy is on-duty and is requested by an allied agency to participate in law enforcement activity in another jurisdiction, he/she shall obtain prior approval from the immediate supervisor or the Probation Manager.

### 426.1.2 LAW ENFORCEMENT ACTIVITY OUTSIDE THE COUNTY

Any on-duty deputy, who engages in law enforcement activities of any type outside the immediate jurisdiction of the Contra Costa shall notify his or her supervisor or the Probation Manager at the earliest possible opportunity.

The supervisor shall determine if a case report or other documentation of the deputy's activity is required. The report or other documentation shall be forwarded to the Probation Manager.

# Immigration

## 428.1 DEFINITIONS

1. **Individual** – An “individual” is any person with whom the Probation Department interacts or otherwise encounters while in performance of the authorized functions of the Department, including, but not limited to, adults or juveniles under the Department’s supervision, juveniles in the custody of the Department, victims, witnesses, and those defendants in the criminal courts for whom the Department prepares reports.
2. **ICE** – “ICE” is the United States Immigration and Customs Enforcement.
3. **Probation ICE Liaison** – The “Probation ICE Liaison” is the Probation Manager designated by the Chief Probation Officer as the person responsible for communicating with ICE on matters pertaining to immigration. The Chief Probation Officer will inform staff of who she/he has designated as the Probation ICE Liaison.

## 428.2 PURPOSE AND SCOPE

The purpose of this policy is to provide guidelines to Contra Costa County Probation staff concerning cooperation with ICE on matters involving the immigration status of individuals.

## 428.3 POLICY

Contra Costa County is committed to treating everyone fairly, without regard to immigration status. The County also has an obligation to follow state and federal law including, but not limited to, 8 U.S.C. Section 1373. It is the policy of this Department not to inquire into or report the immigration status of any individual, absent a legal mandate to do so. The staff of the Probation Department are not to perform any of the functions of an immigration officer. The purpose of this policy is to clarify this Department’s legal responsibilities and delineate the role of Probation staff in responding to immigration matters.

## 428.4 VICTIMS AND WITNESSES

To encourage crime reporting and cooperation in the investigation of criminal activity, all individuals, regardless of their immigration status, must feel secure that contacting or being addressed by members of the Probation Department will not lead to immigration inquiry and/or deportation. Staff shall treat all individuals equally and without regard to race, color, national origin or immigration status.

## 428.5 PROVIDING INFORMATION/ASSISTANCE TO ICE

Probation staff shall refer all ICE inquiries to the Probation ICE Liaison, or in the absence of the Probation ICE Liaison, to the Assistant Chief Probation Officer or Chief Probation Officer. The primary role of the Probation ICE Liaison is to respond to ICE requests about an individual’s citizenship or immigration status.

The Probation Department shall not use Department resources or personnel to investigate, interrogate, detain, detect or arrest persons for immigration enforcement purposes, including any of the following:

- A) Providing information regarding a person's release date(s), except as set forth in section 428.7 below;
- B) Providing Probation appointment date(s)
- C) Providing personal information as defined in Section 1798.3 of the Civil Code, about an individual, including, but not limited to, the individual's home address, work address or telephone number unless the information is available to the public

The Probation ICE liaison shall keep a written record of all communication with ICE that includes the following information: who requested information and the type of information requested, the ICE contact, the date and type of information that was disseminated and by whom, the identifying information about the individual who is the subject of the inquiry that includes Probation ID Number (PID), name and date of birth, current charges, and the name of the assigned Deputy Probation Officer.

Sworn Probation Department staff who are in the field may choose to render mutual aid per Penal Code Section 830.5(a)(5)(A) to any law enforcement agents, including ICE agents, when there is a threat to public safety or the ICE agent's safety. If such assistance is rendered, the staff shall complete an Incident Report. Such aid should not result in Probation staff arresting individuals for civil immigration violations.

#### **428.6 CONFIDENTIAL JUVENILE MATTERS**

ICE detainers, notification requests and/or transfer requests for individuals involved in juvenile cases will not be honored at the John A. Davis Juvenile Hall or the Orin Allen Youth Rehabilitation Facility. The individual who is the subject of the ICE detainer, notification request and/or transfer request, and his or her guardian, if applicable, shall be given a copy of the documentation received from ICE regarding his or her detainer, notification request or transfer request, along with written notice that the Probation Department will not be complying with that ICE request. (Gov. Code Section 7283.1.)

Pursuant to Welfare and Institutions Code Section 831, Probation staff shall not provide information regarding an individual involved in a juvenile case to any Federal Agency absent a court order, as required by Welfare and Institutions Code Section 827.

#### **428.7 NOTICE TO INDIVIDUALS IN PROBATION CUSTODY WHO ARE CHARGED AS ADULTS**

In all cases other than those set forth in section 428.6, above, when ICE has issued a hold, notification, or transfer request for an individual charged as an adult who is being housed at Juvenile Hall, that individual shall be given a copy of the documentation received from ICE regarding his or her hold, notification, or transfer request, along with written notice as to whether the Probation Department will or will not comply with that ICE request. If the Probation Department notifies ICE that an individual in its custody is being or will be released on a certain date, a copy of that notification shall be provided in writing to the individual and his/her attorney or to one additional person who the individual may designate (Gov. Code Section 7283.1).

No individual who is otherwise ready to be released from custody will be detained solely for the purpose of making notification to immigration authorities, except in cases where the Probation Department is in possession of a valid arrest warrant.

#### **428.8 ICE INTERVIEWS FOR INDIVIDUALS IN PROBATION CUSTODY**

## **AND**

### **WHO ARE CHARGED AS ADULTS**

In advance of any interview regarding civil immigration violations between ICE and an individual charged as an adult in the Probation Department's custody, the Probation Department shall provide the individual with a written consent form that explains the purpose of the interview, that the interview is voluntary, and that he/she may decline to be interviewed or may choose to be interviewed only with his/her attorney present. (Gov. Code Section 7283.1(a).) Upon request of an ICE interview and prior to obtaining the individual's signature on a consent form, the Juvenile Hall Intake staff will notify the individual's attorney of record. The attorney of record will be given the opportunity to provide advice regarding their client's consent to the requested interview before the Probation Department proceeds.

Any interview for an individual in the Probation Department's custody shall be facilitated through the Probation ICE Liaison, after consultation with the Assistant Chief Probation Officer or the Chief Probation Officer.

### **428.9 IMMIGRATION STATUS IN REPORTS AND FILE DOCUMENTATION**

Probation staff shall not ask an individual about his or her immigration status or document an individual's immigration status in a Court report. Staff may ask an individual about his or her language skills, place of birth, and related social history factors and may document that information in Court reports.

### **428.10 STAFF INQUIRIES WITH ICE – WHEREABOUTS**

If Probation staff suspects that an individual under the Probation Department's supervision has been deported or is in the custody of ICE, and that individual's matter is still active, staff shall contact the ICE Liaison. The ICE Liaison may obtain information on the individual's whereabouts by utilizing the ICE Online Detainee Locator System (<https://locator.ice.gov/odls/#/index>), in addition to any other available means to check whereabouts which may include, contacting the individual's attorney of record, and checking other available records/information sources. Probation staff shall discuss the matter with their supervisor to determine the appropriate course of action in order to retain jurisdiction and/or toll time in the event that individual returns to the United States. Appropriate actions may include submitting a petition to revoke with a warrant request for adult cases or file a Welfare and Institutions Code Section 777 notice of violation for juvenile cases.

**Revision Date – 12/11/2017**

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**Chapter 7 - Equipment**

# Department Owned and Personal Property

## 700.1 PURPOSE AND SCOPE

Department employees are expected to properly care for department property assigned or entrusted to them. Employees may also suffer occasional loss or damage to personal or department property while performing their assigned duty. Certain procedures are required depending on the loss and ownership of the item.

## 700.2 CARE OF DEPARTMENTAL PROPERTY

Employees shall be responsible for the safekeeping, serviceable condition, proper care, use and replacement of department property assigned or entrusted to them. An employee's intentional or negligent abuse or misuse of department property may lead to discipline including, but not limited to the cost of repair or replacement.

- (a) Employees shall promptly report through their chain of command, any loss, damage to, or unserviceable condition of any department issued property or equipment assigned for their use.
- (b) The use of damaged or unserviceable department property should be discontinued as soon as practical and replaced with comparable Department property as soon as available and following notice to a supervisor.
- (c) Except when otherwise directed by competent authority or required by exigent circumstances, department property shall only be used by those to whom it was assigned. Use should be limited to official purposes and in the capacity for which it was designed.
- (d) Department property shall not be thrown away, sold, traded, donated, destroyed, or otherwise disposed of without proper authority.
- (e) In the event that any Department property becomes damaged or unserviceable, no employee shall attempt to repair the property without prior approval of a supervisor.

### 700.2.1 BASIS FOR REIMBURSEMENT

Reimbursement will be considered under the following conditions:

- (a) The loss or damage must have occurred within the line of duty.
- (b) Negligence or lack of proper care by the employee was not a contributory cause for the damage or loss.
- (c) The personal property was necessarily worn or carried by the employee in order to adequately fulfill the duties and requirements of the job.
- (d) The loss of or damage to eyeglasses, dentures, or prosthetic device did not occur simultaneously with a job injury covered by worker's compensation.

## 700.3 FILING CLAIMS FOR PERSONAL PROPERTY

Claims for reimbursement for damage or loss of personal property must be made on the proper form (AK-130) via email. ([County Administrative Bulletin #518.2, Property and Equipment](#)) This form is submitted to the employee's immediate supervisor. The supervisor may require a separate written report of the loss or damage.

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### *Department Owned and Personal Property*

The amount of compensation allowed will be the actual cost to repair damages. Reimbursement for items damaged beyond repair will be limited to the actual cash value of the item at the time of loss or damage but not more than the original cost, and items may be depreciate because of age or wear.

The supervisor shall direct a memo to the Assistant Chief, which shall include the results of his/her investigation and whether the employee followed proper procedures. The supervisor's report shall address whether reasonable care was taken to prevent the loss or damage.

Upon review by staff and a finding that no misconduct or negligence was involved, repair or replacement may be recommended by the Chief Probation Officer who will then forward the claim to the Finance Department.

The Department will not replace or repair luxurious or overly expensive items (jewelry, exotic equipment, etc.) that are not reasonably required as a part of work.

#### **700.3.1 REPORTING REQUIREMENT**

A verbal report shall be made to the employee's immediate supervisor as soon as circumstances permit.

A written report shall be submitted before the employee goes off duty or within the time frame directed by the supervisor to whom the verbal report is made.

#### **700.4 LOSS OR DAMAGE OF PROPERTY OF ANOTHER**

Deputies and other employees intentionally or unintentionally may cause damage to the real or personal property of another while performing their duties. Any employee who damages or causes to be damaged any real or personal property of another while performing any law enforcement functions, regardless of jurisdiction, shall report it as provided below.

- (a) A verbal report shall be made to the employee's immediate supervisor as soon as circumstances permit.
- (b) A written report shall be submitted before the employee goes off duty or within the time frame directed by the supervisor to whom the verbal report is made.

#### **700.4.1 DAMAGE BY PERSON OF ANOTHER AGENCY**

If employees of another jurisdiction cause damage to real or personal property belonging to the County, it shall be the responsibility of the employee present or the employee responsible for the property to make a verbal report to his/her immediate supervisor as soon as circumstances permit. The employee shall submit a written report before going off duty or as otherwise directed by the supervisor.

These written reports, accompanied by the supervisor's written report, shall promptly be forwarded to the Assistant Chief.

## Personal Communication Devices

### 702.1 PURPOSE AND SCOPE

The purpose of this policy is to establish guidelines for the use of mobile telephones and communication devices, whether issued by the Department or personally owned, while on-duty or when used for authorized work-related purposes.

This policy generically refers to all such devices as Personal Communication Devices (PCD) but is intended to include all mobile telephones, personal digital assistants (PDA) and similar wireless two-way communications and/or portable Internet access devices. PCD use includes, but is not limited to, placing and receiving calls, text messaging, blogging and microblogging, emailing, using video or camera features, playing games and accessing sites or services on the Internet.

#### 702.1.1 PRIVACY POLICY

Employees shall have no expectation of privacy with regard to any communication made with or stored in or through PCDs issued by the Department and shall have no expectation of privacy in their location should the device be equipped with location detection capabilities. The use of any department-provided or -funded PCD, computer, Internet service, telephone service or other wireless service while on-duty is without any expectation of privacy that the employee might otherwise have in any communication, including the content of any such communication. Communications or data reception on personal, pass-word protected, web-based e-mail accounts and any other services are subject to monitoring if department equipment is used.

In accordance with this policy, supervisors are with manager approval, authorized to conduct a limited administrative search of electronic files without prior notice, consent or a search warrant, on department-issued PCDs. Administrative searches can take place of work-related purposes that may be unrelated to investigations of employee misconduct and, as practicable, will be done in the presence of the affected employee. Prior to conducting any search of personally owned devices, supervisors shall consult with the Chief. All such searches shall be fully documented in a written report.

#### 702.1.2 POLICY

The Contra Costa Probation Department allows employees to utilize department-issued PCDs and to possess personally owned PCDs in the workplace, subject to certain limitations. Any PCD used while on -duty, or used off-duty in any manner reasonably related to the business of the Department, will be subject to monitoring and inspection consistent with the standards set forth in this policy.

The inappropriate use of a PCD while on-duty may impair officer safety. Additionally, employees are advised and cautioned that the use of a personally owned PCD either on-duty or after duty hours for business-related purposes may subject the employee and the employee's PCD records to civil or criminal discovery or disclosure under applicable public records laws.

Employees who have questions regarding the application of this policy of the guidelines contained herein are encouraged to seek clarification from supervisory personnel.

# Contra Costa County Probation Department

## Policy Manual

### *Personal Communication Devices*

#### **702.2 DEPARTMENTALLY ISSUED PCD**

Depending on an employee's assignment and needs of the position, the Department may, at its discretion, issue a PCD. Department-issued PCDs are provided as a convenience to facilitate on-duty performance only. Such devices and the associated telephone number shall remain the sole property of the Department and shall be subject to inspection or monitoring (including all related records and content) at any time without notice and without cause.

##### **702.2.1 INDIVIDUALLY OWNED PCD**

Employees may carry a personally owned PCD while on-duty, subject to the following conditions and limitations:

- (a) The Department accepts no responsibility for loss of or damage to a personally owned PCD.
- (b) The PCD and any associated services shall be purchased, used and maintained solely at the employee's expense.
- (c) The device should not be used for work-related purposes except in exigent circumstances (e.g., unavailability of radio communications). Employees will have a reduced expectation of privacy when using a personally owned PCD in the workplace and have no expectation of privacy with regard to any department business-related communication.
- (d) The device shall not be utilized to record or disclose any business-related information, including photographs, video or the recording transmittal of any information or material obtained or made accessible as a result of employment with the Department, without the express authorization of the Chief or authorized designee.
- (e) Use of a personally owned PCD constitutes consent for the Department to access the PCD to inspect and copy data to meet the needs of the Department, which may include litigation, public records retention and release obligations and internal investigations. If the PCD is carried on-duty, employees will provide the Department with all telephone access numbers for the device.

Except with prior express authorization from their supervisor, employees are not obligated or required to carry, access, monitor or respond to electronic communications using a personally owned PCD, while off-duty. If an employee is an authorized status that allows for appropriate compensation consistent with policy or existing collective bargaining agreements, or if the employee has prior express authorization from his/her supervisor, the employee may engage in business-related communications. Should employees engage in such approved off-duty communications or work, employees entitled to compensation shall promptly provide the Department with a copy of such records to ensure accurate record keeping.

##### **702.2.2 USE OF PERSONAL COMMUNICATION DEVICES**

The following protocols shall apply to all PCDs that are carried while on-duty or used to conduct department business:

- (a) All PCDs in the workplace should be set to silent or vibrate mode.
- (b) A PCD may not be used to conduct personal business while on-duty, except for brief personal communications (e.g., informing family of extended hours). Employees shall endeavor to limit their use of PCDs to authorized break times, unless an emergency exists.

# Contra Costa County Probation Department

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### *Personal Communication Devices*

- (c) Deputies are prohibited from taking pictures, video or making audio recording or making any such picture or recording media unless it is directly related to official department business. Disclosure of any such information to any third party through any means, without the express authorization of the Chief or the authorized designee, may result in discipline.
- (d) Employees will not access social networking sites for any purpose that is not official department business.
- (e) Using PCDs to harass, threaten, coerce or otherwise engage in inappropriate conduct with any third party is prohibited. Any employee having knowledge of such conduct shall promptly notify a supervisor.

#### **702.2.3 USE WHILE DRIVING**

The use of a PCD while driving can adversely affect safety, cause unnecessary distraction and present a negative image to the public. Employees who are operating vehicles shall not use a PCD while driving.

#### **702.2.4 OFFICIAL USE**

Employees are reminded that PCDs are not secure devices and conversations may be intercepted or overheard. Caution should be exercised while utilizing PCDs to ensure that sensitive information is not inadvertently transmitted. As soon as reasonably possible, employees shall conduct sensitive or private communications on a land-based or other department communications network.

#### **702.2.5 SUPERVISORY RESPONSIBILITIES**

Supervisors should ensure that members under their command are provided appropriate training on the use of PCDs consistent with this policy. Supervisors should monitor, to the extent practicable, PCD use in the workplace and take prompt corrective action if an employee is observed or reported to be improperly using a PCD. An investigation into improper conduct would be promptly initiated when circumstances warrant.

## Vehicles

### 706.1 PURPOSE & SCOPE

The Department utilizes County owned motor vehicles in a variety of applications operated by department personnel. Employees are responsible in maintaining Department vehicles so that they are properly equipped, properly maintained, properly refueled and present a clean appearance. In order to maintain a system of accountability and ensure County owned vehicles are used appropriately, regulations relating to the use of these vehicles have been established. ([County Administrative Bulletin 507.8, County Vehicle Operation](#)) The term "County owned" as used in this section also refers to any vehicle leased or rented by the County.

### 706.2 USE OF VEHICLES

#### 706.2.1 SCHEDULED USE OF VEHICLES

County owned vehicles are made available to authorized persons for use in conducting official county business. The only exceptions are Court Deputies who will be expected to use their own vehicle for transportation to and from their Court duties. They will be reimbursed for this use in accordance with policy.

Employees shall be responsible for inspecting the interior and exterior of any assigned vehicle before taking the vehicle into service and at the conclusion of their shift. Any previously unreported damage, mechanical problems, unauthorized contents or other problems with the vehicle shall be promptly reported to a supervisor and documented as appropriate.

#### 706.2.2 OPERATION OF VEHICLES

County owned vehicles may be operated only by persons authorized by the Chief Probation Officer or his designee under the following guidelines:

The individual possesses a valid California Driver's License for the type of vehicle to be operated. The driver's license number and expiration date are recorded in the department's files. The individual is complying with all driving restriction and regulations which have been imposed by the California Department of Motor Vehicles. Each individual authorized to operate a vehicle on County business is to immediately notify his or her Supervisor, Manager, or Assistant Chief of any change in the status of his/her driver's license.

Authorized drivers on County business may use vehicle to transport only those persons and/or equipment as are required to carry out official County Business. Drivers shall observe traffic rules and regulations at all times. Fines and punitive measure imposed for violations are the personal responsibility of the driver. Drivers of county vehicles should not eat, drink or smoke in the vehicle. Additionally, operating a cell phone while driving is prohibited. Drivers are to ensure that all persons riding in County vehicles wear seat belts. When finished driving the vehicle, a driver is responsible for removing and disposing of all trash and litter, ensuring that the vehicle is legally parked, with the emergency brake set, and that the vehicle is locked. Drivers should return vehicle with an ample amount of gasoline in the tank (minimum 1/4 tank). The user is responsible for checking the interior for items left behind, particularly if clients were transported in the vehicle and may have stashed items in or under the seats. All malfunctions/problems should be noted in the

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vehicle sign in sheet and immediately reported to the Manager/Supervisor responsible for the vehicle.

#### **706.2.3 DEFECTIVE VEHICLES**

When a Department vehicle becomes inoperative or in need of repair that affects the safety of the vehicle, that vehicle shall be removed from service for repair. Proper documentation shall be promptly completed by the employee who first becomes aware of the defective condition, describing the correction needed, and promptly forwarding the paperwork to the appropriate Probation Supervisor.

#### **706.2.4 AUTHORIZED PASSENGERS**

Personnel operating department owned vehicles shall not permit persons other than County employees or persons required to be conveyed in the performance of duty or as otherwise authorized to ride as a passenger in their vehicle.

#### **706.2.5 INSPECTIONS**

The interior of any vehicle that has been used to transport any person other than an employee should be inspected prior to placing another person in the vehicle and again after the person is removed. This is to ensure that unauthorized items have not been left in the vehicle.

### **706.3 MAINTENANCE**

- (a) All vehicles shall be kept clean at all times and weather conditions permitting, shall be washed as necessary to enhance their appearance.
- (b) Employees using a vehicle shall remove any trash or debris at the end of their shift. Confidential material should not be left in vehicles.
- (c) Supervisors assigned to fleet maintenance shall make, at a minimum, monthly inspections of vehicles to ensure the vehicles are being maintained in accordance with policy.
- (d) Routine maintenance and oil changes shall be done in accordance with the fleet maintenance schedule. The vehicles will normally be serviced at the County maintenance shop.

#### **706.3.1 ACCESSORIES AND/OR MODIFICATIONS**

No modifications, additions or deletions of any equipment or accessories shall be made to the vehicle without written permission from the assigned vehicle program manager.

#### **706.3.2 BRIDGE TOLL**

County vehicles are not exempt from incurring toll charges. To avoid unnecessary toll violation charges, all employees operating a County owned vehicle across a toll plaza shall adhere to the following:

- (a) All employees operating a County owned vehicle shall stop and pay the appropriate toll charge. Employees may submit for reimbursement from the County for all toll fees.
- (b) If the vehicle is equipped with a Fast Trak transponder, the employee may travel in the lanes identified for Fast Trak use.

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#### **706.4 COLLISION DAMAGE, ABUSE AND MISUSE**

When a County-owned or leased vehicle is involved in a traffic collision, notify local police (or "911" if emergency condition exists). Cooperate with the responding police agency but refrain from discussing the cause of the accident with the other driver or witnesses. The involved employee shall promptly notify a supervisor. All accidents involving County Vehicles and privately owned vehicles used to conduct County business are required to make timely reports. A written accident report shall be submitted to his/her supervisor as soon as possible on a Vehicle Accident Form. Upon review by the Chief Probation Officer or designee, a copy of the report will be forwarded within 24-hours to Risk Management and Fleet Management. Management will review all accidents on an individual basis. If it is the conclusion that the employee's inattention, poor judgment and /or negligence contributed to the accident the employee shall be subject to disciplinary/corrective action.

##### **706.4.1 CITATIONS IN COUNTY VEHICLES**

All citations in County vehicles shall be reported immediately. Citations in County vehicles shall be reviewed by Department Management on an individual basis. If it is the conclusion of management, based on the facts of the citation/infraction that the employee's inattention, poor judgment or negligence contributed to the citation then the employee shall be subject to disciplinary/corrective action. Management will also consider the gravity of the citation/infraction and the employee's past driving record in evaluating the matter.

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**Chapter 8 - Support Services**

## Release of Records and Information

### 810.1 PURPOSE AND SCOPE

The purpose of this section is to establish a comprehensive reference and procedure for the maintenance and release of Department reports and records in accordance with applicable law.

### 810.2 PUBLIC REQUESTS FOR RECORDS

The California Public Records Act (Government Code § 6250, et seq.) provides that records created by a public agency shall be subject to inspection and release pursuant to request, except pursuant to exemptions set forth in the Act or otherwise established by statute. ([County Administrative Bulletin 120.5, Public Access to County Record](#)) Public requests for records of this department shall be processed as follows:

#### 810.2.1 PROCESSING OF REQUESTS

Any member of the public, including the media and elected officials, may access unrestricted records of this department by submitting a written and signed request for each record sought and paying any associated fees (Government Code § 6253).

The processing of requests is subject to the following limitations:

- (a) The employee processing the request shall determine if the requested record is available and, if so, whether the record is exempt from disclosure. Either the requested record or the reason for non-disclosure will be provided promptly, but no later than 10 days from the date of request, unless unusual circumstances preclude doing so. If more time is needed, an extension of up to 14 additional days may be authorized by the Chief Probation Officer or the authorized designee. If an extension is authorized, the Department shall provide written notice of the extension to the requesting party (Government Code § 6253(c)).
- (b) In accordance with the Public Records Act, the Department is not required to create records that do not otherwise exist in order to accommodate a request under the Act.

Requests by elected officials for records that are not open to public inspection should be referred to the Assistant Chief for a determination as to whether the records will be released.

### 810.3 REPORT RELEASE RESTRICTIONS

Absent a valid court order or other statutory authority, records and/or unrestricted portions of such records of this department shall be made public subject to the following restrictions:

#### 810.3.1 ADULT PROBATION FILES

Adult Probation Files (Records) constitute a part of the records of the Court and shall at all times be open to the inspection of the Court or any person appointed by the Court for that purpose, as well as all magistrates and Chiefs of police, unless, otherwise ordered by the Court (Penal Code 1203.10)

#### 810.3.2 ADULT PROBATION FILES

Adult Probation reports filed by the Probation Officer with the Court may be inspected or copied as follows:

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### *Release of Records and Information*

- (a) By any person, from the date judgment is pronounced or probation granted, up to and including 60 days from the date judgment is pronounced or probation is granted, whichever is earlier
- (b) By any person, at any time, by order of the Court, upon filing a petition by such a person
- (c) By the general public, if the Court upon its own motion order that a report shall be open or that the contents of the report shall be disclosed
- (d) By any person authorized or required by law to inspect or receive copies of the report

Any copies requested by the general public under the above provisions shall be obtained from the Court Clerk and shall not be provided by the Probation Officer

#### **810.3.3 JUVENILE PROBATION RECORDS**

Juvenile Probation records, including all petitions filed, reports of the Probation Officer, and all other documents contained in the file that are submitted to the Court may be inspected by the following:

- (a) Court personnel
- (b) The minor who is subject of the proceedings
- (c) The minor's parents or guardian
- (d) The attorneys for the parties
- (e) Any other person as may be designated by the W&I Code
- (f) District Attorney in conducting a criminal investigation
- (g) Child Protective Services in conducting dependency proceedings
- (h) School officials pursuant to the provision of Sections 827 (b)(1) though Section 827(e) W&I code

#### **810.3.4 PERSONNEL RECORDS**

Personnel records, medical records and similar records which would involve personal privacy shall not be made public (Government Code § 6254((c): Penal Code 832.7; Penal Code 832.8).

Peace officer personnel records are deemed confidential (Penal Code § 832.7, et seq.) and shall not be made public or otherwise released to unauthorized individuals or entities absent a valid court order (Evidence Code § 1043, et seq.).

The identity of any deputy subject to any criminal or administrative investigation shall not be released without the consent of the involved deputy, prior approval of the Chief Probation Officer or as required by law.

#### **810.4 OTHER RECORDS**

Any other record not addressed in this policy shall not be subject to release where such record is exempt or prohibited from disclosure pursuant to state or federal law, including, but not limited to, provisions of the Evidence Code relating to privilege or to the security of the department's electronic technology systems (Government Code § 6254(k); Government Code 6254.19).

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### *Release of Records and Information*

The Department maintains the right to refuse to disclose or release any other record when it would appear that the public's interest in accessing such record is outweighed by the need for nondisclosure (Government Code § 6255).

Any record which was created exclusively in anticipation of potential litigation involving this department shall not be subject to public disclosure (Government Code § 6254(b)).

#### **810.4.1 PERSONAL IDENTIFYING INFORMATION**

Employees shall not access, use or disclose personal identifying information, including an individual's photograph, social security number, driver identification number, name, address, telephone number and the individual's medical or disability information, which is contained in any driver license record, motor vehicle record or any department record except as authorized by the Department and only when such use or disclosure is permitted or required by law to carry out a legitimate law enforcement purpose (18 USC § 2721 and 18 USC § 2722).

#### **810.5 SUBPOENA DUCES TECUM**

Any Subpoena Duces Tecum (SDT) should be promptly provided to a supervisor for review and processing. While a Subpoena Duces Tecum may ultimately be subject to compliance, it is not an order from the Court that will automatically require the release of the requested information.

All questions regarding compliance with any Subpoena Duces Tecum should be promptly referred to legal counsel for the Department so that a timely response can be prepared.

#### **810.6 RELEASED RECORDS TO BE STAMPED**

Each page of any record released pursuant to a Public Records Act request or Subpoena Duces Tecum shall be stamped or written in red ink with a departmental stamp identifying the individual to whom the record was released.

#### **810.7 RELEASE OF INFORMATION TO CRIME VICTIMS**

Crime Victims have a constitutional right to be included in the Court process as their case is being adjudicated. Deputy Probation Officers have certain statutory obligations in felony cases to notify victims of their right to appear at Sentencing Hearings, their right to make a statement to the Court, the right to restitution and/or civil recovery for losses, and the right to review the recommendation of the Probation Officer.

Given the general rights of crime victims, there is an inherent right to certain information relating to the offense and its adjudication. Thus, Crime Victims may be furnished the address of the probationers if their interest is to pursue civil litigation. The Deputy Probation Officer should carefully screen such requests. The Crime Victim may be furnished with dispositional information regarding a case if it has impact on restitution or any potential danger that they may face.

#### **810.8 RELEASE OF INFORMATION DURING FIELD CONTACTS**

During the course of supervising a probationer, especially while making field contacts, the Deputy Probation Officer may interact with friends, neighbors, or employers of the probationer. During such incidental contact, it may be necessary for the Deputy Probation Officer to identify oneself, leading by implication to the conclusion that the subject of the inquiry is a probationer. The mere fact that an individual is subject to probation jurisdiction

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is not protected in the same manner as Criminal Offender Record Information. Such incidental revelation is therefore permissible, and should be handled with discretion.

The key element for field officers is to properly identify themselves and the scope of their duties in making the field contact. In this context, the release of information would be limited to the establishment of probation jurisdiction and not for a specific release of Criminal Offender Record Information.

#### **810.9 RELEASE OF INFORMATION DURING TELEPHONE CALLS**

Confidential information should not be released via the telephone unless the identity of the caller has been established and they meet the criteria of both the need to know and the right to know. When a routine telephone inquiry begins with an open-ended request such as "May I speak to John Doe's Probation Officer?" or "Is John Doe on Probation?" Such requests should be transferred to a Probation Officer who must carefully scrutinize, and verify the circumstances of the caller to determine if they are authorized to receive any confidential information. If not authorized, no such information will be released.

This does not preclude the officer from receiving information from the caller regarding a probationer. It is important that the Probation officer take the call seriously even if the caller does not want to be identified. The officer is to document the information received and then check it out. This may include conducting a search, drug testing a probationer, interviewing witnesses, etc. Much information regarding the behavior of the probationer is available from the public and confidentiality is not an issue as long as the officer does not discuss the case with the caller.

#### **810.10 RELEASE OF INFORMATION - DUTY TO WARN**

Under general tort law, an individual who has a special custodial relationship or control of another person owes a duty of care to any third party or the public in general who may be endangered by a breach of this duty of care. A probation officer has this type of relationship to a probationer under his/her care, custody, or control.

This duty to warn would occur when a threat of harm is directed toward a specific victim. In *Tarasoff v. Regents of the University of California*, the California Supreme Court held that a psychologist owed a duty to the victim of a patient's direct threat to her, in spite of the confidential relationship between a psychotherapist and patient.

#### **810.11 RELEASE OF INFORMATION WITH A SIGNED WAIVER**

If a probationer or former probationer has signed a waiver specifically designated to release their Criminal Record and/or probation status to a specific person or entity and the release would assist in furthering the rehabilitation of the probationer, the Criminal History Information may be released.

A military recruiter is not an authorized release entity according to the Attorney General; thus a signed release is required to furnish such information.

An employment, job, training, or educational program is not necessarily an authorized release entity according to the Attorney General; thus a signed release is required to furnish such information.

# Criminal Offender Record Information (CORI)

## 812.1 PURPOSE & SCOPE

This policy provides guidelines for the release of criminal offender information, security of that information, and persons authorized to release that information.

## 812.2 AUTHORITY

This policy is established pursuant to the mandate of the Regulations Regarding Security of Criminal Offender Record Information in California, Title 11, California Code of Regulations. Other authority includes Penal Code § 11105, which delineates who has access to Criminal Offender Record Information (CORI), and Penal Code §§ 11140 through 11144, which establishes penalties for the improper use of rap sheets. All employees shall be aware of the confidential and sensitive nature of information with which they work and shall sign the use of CLETS form which will be maintained in the employees personnel file.

## 812.3 DEFINITIONS

**Criminal Offender Record Information** - (CORI) shall include CII manual/automated rap sheets and abstracts, CII crime summaries, CII criminal history transcripts, FBI rap sheets, and any Contra Costa County Probation Department documents containing a list of prior arrests.

**Criminal Justice Agency** - A public agency or component thereof which performs a criminal justice activity as its principal function.

**Authorized Recipient** - Any person or agency authorized by court order, statute or case law to receive CORI.

**Right to Know** - Persons or agencies authorized by court order, statute or decisional case law to receive the information.

**Need to Know** - A necessity exists to obtain CORI in order to execute official responsibilities.

## 812.4 AUTHORIZED RECIPIENTS OF CORI

CORI may be released only to authorized recipients who have both a right to know and a need to know. All law enforcement personnel with proper identification are authorized recipients, if they have an official need to know.

The California Department of Justice has issued a list of agencies authorized to receive criminal history information. Persons not included in the Department of Justice list are not authorized recipients and shall not receive CORI.

### 812.4.1 CRIMINAL RECORD SECURITY OFFICER

The Personnel Manager is the designated Criminal Record Security Officer for the Contra Costa County Probation Department. This supervisor is responsible for ensuring compliance with this procedure and with applicable records security regulations and

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### *Criminal Offender Record Information (CORI)*

requirements imposed by federal and state law. The Criminal Record Security Officer will resolve specific questions that arise regarding authorized recipients of CORI.

#### **812.4.2 RELEASE OF CORI**

Only the persons listed below are authorized to release CORI. Each authorized person releasing CORI is responsible to ensure that each request granted appears legitimate and that the requester is an authorized recipient with a right and need to know.

- (a) Personnel Manager or his/her designee

#### **812.5 JUVENILE RECORDS**

Nothing in this procedure is intended to alter existing statutes, case law, or the policies and orders of the Juvenile Court regarding the release of juvenile offender records.

#### **812.6 REVIEW OF CRIMINAL OFFENDER RECORD**

Penal Code §§ 11120 through 11127 provide the authority and procedure whereby an individual may review his/her own California Department of Justice (CII) rap sheet.

Individuals shall be allowed to review their arrest or conviction record on file with the Department after complying with all legal requirements.

#### **812.7 PROTECTION OF CORI**

CORI shall be stored in the Records Section where constant personnel coverage will be provided. CORI stored elsewhere shall be secured in locked desks, locked file cabinets, or in locked rooms.

Direct access to CORI stored in the Records Section shall be restricted to the Records Section personnel authorized to release it. Direct access to CORI stored in desks, file cabinets, and rooms outside the Records Section shall be restricted to those persons who possess both the right to know and the need to know the information. Every Deputy is responsible for his/her files. Any person employed by the Probation Department normally has access to these files and must exercise every precaution to protect the security of the files and the information contained therein.

Any department employee taking a file out of the office is responsible at all times for its security to avoid violation of the regulations governing CORI. Persons from another agency authorized to inspect the files should do so in the Probation Department and under the direct supervision of the person release the information. Hard Copies of Summary Criminal History Information shall not be retained in a Deputy Probation Officer's personal file or kept in private vehicles or private residences.

##### **812.7.1 COMPUTER TERMINAL SECURITY**

One Computer terminal equipment capable of providing access to automated criminal offender record information is located in each field office. No employee shall be authorized to operate computer terminal equipment with access to CORI until the operator has completed the appropriate training.

##### **812.7.2 DESTRUCTION OF CORI**

When any document providing CORI has served the purpose for which it was obtained, it shall be destroyed by shredding.

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### *Criminal Offender Record Information (CORI)*

Each employee shall be responsible for destroying the CORI documents they receive.

#### **812.7.3 CUSTODIAN OF CRIMINAL RECORDS**

The Personnel Manager, unless otherwise directed by the Assistant Chief, shall be the Department's official Custodian of Criminal Records. The Custodian of Criminal Records shall be responsible for the security, storage, dissemination and destruction of criminal records, and will serve as a primary contact for the California Department of Justice for any related issues. The Assistant Chief may appoint other department employees to the role of Custodian of Criminal Records, who will share the same responsibilities regarding criminal records.

The Field Service Director will ensure that he/she makes the appropriate applications and notifications to the California Department of Justice regarding the Department's Custodian of Criminal Record appointments, per the requirements of Penal Code § 11102.2.

This subsection is not intended to interfere with any other employee acting as a custodian of records for other statutory purposes but is narrowly tailored to address issues of criminal history records.

#### **812.8 TRAINING PROGRAM**

All personnel authorized to process or release CORI shall be required to complete a training program prescribed by the Personnel/Training Manager. The Training Bureau shall coordinate the course to provide training in the proper use, control, and dissemination of CORI.

#### **812.9 PENALTIES FOR MISUSE OF RECORDS**

Penal Code §§ 11140 and 11144 make it a misdemeanor to furnish, buy, receive, or possess Department of Justice rap sheets without authorization by a court, statute, or case law.

Title 11, California Administrative Code § 702 provides that authorized persons or agencies violating the Regulations Regarding the Security of Criminal Offender Record Information in California may lose direct access to CORI maintained by the California Department of Justice.

Divulging the content of any criminal record to anyone other than authorized personnel is a violation of Policy Manual § 340.3.7(a).

Employees who obtain, or attempt to obtain, information from the department files other than that to which they are entitled in accordance with their official duties is a violation of Policy Manual § 340.3.7(a).

#### **812.9.1 SEALED RECORDS**

Information from these records shall not, under any circumstances, be released or placed in court reports unless a court order is issued opening the sealed record. Under the Welfare and Institutions Code Section 793 (c), if the minor is successfully completes Deferred Entry of Judgment, the DEJ offense is sealed by statute. This is different than the record sealed under Welfare & Institutions Code 781 where the entire record is sealed. According to Section 793, the arrest charges, and court action on the DEJ case is deemed never to have occurred and shall be sealed. There is one exception to the statute. The Probation Department and the District Attorney will have access to the DEJ sealed records for the purpose of determining DEJ eligibility in the future. If determining DEJ eligibility is not an

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## Policy Manual

### *Criminal Offender Record Information (CORI)*

issue, then information about a sealed DEJ record cannot be put in any prior record section of any Juvenile or Adult probation report.

## **Destruction of Probation Files**

### **813.1 POLICY**

As authorized by the Contra Costa County Board of Supervisors on February 7, 2012, Probation files generally will be destroyed five years after the Probation Department has closed its interest in the case.

The authority for the destruction of probation files are as follows:

- Adult files - PC 1203.7 (c) and PC 1203.10 - "...Five years after termination of probation in any case subject to this section, the probation officer may destroy any records and papers in his or her possession relating to such a case."
- Juvenile files - W&I 826 (a) - "...After five years from the date on which the jurisdiction of the juvenile court over a minor is terminated, the probation officer may destroy all records and papers in the proceedings concerning the minor."

#### **813.1.1 EXCEPTION**

The exception to this policy is that probation files containing any information regarding sex offenses will be reviewed by the Field Service Director prior to destruction.

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**Chapter 10 - Personnel**

## Recruitment and Selection

### PURPOSE AND SCOPE

The employment policy of Contra Costa shall provide equal opportunities for applicants and its employees regardless of race, sexual orientation, age, pregnancy, religion, creed, color, national origin, ancestry, physical or mental handicap, marital status, veteran status, or sex, and shall not show partiality or grant any special favors to any applicant, employee or group of employees. The rules governing employment practices for this department are maintained by the Contra Costa Department of Human Resources.

### APPLICANT QUALIFICATIONS

- (a) Candidates for job openings will be selected based on merit, ability, competence and experience.
- (b) All peace officer candidates must meet the minimum standards described in California Government Code § 1031 in addition to the employment standards established by this department.
  - 1. Citizenship
  - 2. Age 18 or above
  - 3. No Disqualifying Criminal Record
  - 4. Good Moral Character
  - 5. Education
  - 6. Physical and Mental adequacy, as determined from a physical exam by the county physician and a psychological exam conducted by a competent psychologist selected by the Department
- (c) To determine "Good Moral Character" the Probation Department will conduct a thorough background investigation, either directly or through a contractual agreement, to assess the acts of behavior of the candidate which bear a relationship to the applicant's fitness for employment as a peace officer. These job dimensions include:
  - 1. Integrity
  - 2. Dependability
  - 3. Credibility as a Witness
  - 4. Interpersonal Sensitivity
  - 5. Illegal use or Possession of Drugs
  - 6. Motor Vehicle Operation
  - 7. Judgment under Pressure
  - 8. Learning Ability
- (d) Assessment of these dimensions will be accomplished by considering the applicant's personal history, education, employment, criminal history, driving record, financial history, military experience, use of drugs and alcohol, and the applicant's conduct in the community.

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### *Recruitment and Selection*

#### **1000.2.1 VETERAN'S PREFERENCE**

Qualifying veterans of the armed forces of the United States shall receive a veteran's preference as applicable. Preference points shall be added after the applicant has received a passing score on an entrance exam and is qualified for placement on the employment list (Government Code 18978).

#### **STANDARDS**

Employment standards shall be established for each job classification and shall include minimally, the special training, abilities, knowledge and skills required to perform the duties of the job in a satisfactory manner. The Contra Costa Department of Human Resources maintains standards for all positions.

#### **INTEGRITY**

- (a) Refusing to yield to the temptation of bribes, gratuities, payoffs, etc.
- (b) Refusing to tolerate unethical or illegal conduct on the part of other law enforcement personnel
- (c) Showing strong moral character and integrity in dealing with the public
- (d) Being honest in dealing with the public
- (e) The following shall be disqualifying:
  - 1. Any material misstatement of fact or significant admission during the application or background process shall be disqualifying, including inconsistent statements made during the initial background interview (Personal History Statement or Supplemental Questionnaire) or discrepancies between this background investigation and other investigations conducted by other law enforcement agencies.
  - 2. Any forgery, alteration, or intentional omission of material facts on an official employment application document or sustained episodes of academic cheating.

#### **CREDIBILITY AS A WITNESS IN A COURT OF LAW**

- (a) The ability to give testimony in a court of law without being subject to impeachment due to his/her honesty or veracity (or their opposites) or due to prior felony conviction.
- (b) The following shall be disqualifying:
  - 1. Conviction of a felony or conviction of any offense in any other jurisdiction which would have been a felony if committed in California.
  - 2. Conviction of any criminal offense classified as a misdemeanor under California law within three years prior to application
  - 3. Conviction for two or more misdemeanor offenses under California law as an adult
  - 4. Conviction of any offense classified as a misdemeanor under California law while employed as a peace officer (including military police officers)
  - 5. Admission(s) of having committed any act amounting to a felony (including felony-misdemeanor offenses) under California law as an adult, within five years prior to application or while employed as a peace officer (including military police officers)
  - 6. Admission(s) of administrative conviction of any act while employed as a peace officer (including military police officers) involving lying, falsification of any official report or document, or theft

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### *Recruitment and Selection*

7. Admission(s) of any act of domestic violence as defined by law, committed as an adult
8. Admission(s) of any criminal act, whether misdemeanor or felony, committed against children including but not limited to: molesting or annoying children, child abduction, child abuse, lewd and lascivious acts with a child, or indecent exposure. Acts of consensual unlawful intercourse accomplished between two minors shall not be included, unless more than four years difference in age existed at the time of the acts
9. Any history of actions resulting in civil lawsuits against the applicant or his/her employer may be disqualifying

### **DEPENDABILITY**

- (a) Having a record of submitting reports on time and not malingering on calls, etc.
- (b) A record of being motivated to perform well
- (c) A record of dependability and follow through on assignments
- (d) A history of taking the extra effort required for complete accuracy in all details of work
- (e) A willingness to work the hours needed to complete a job
- (f) The following shall be disqualifying:
  1. Missing any scheduled appointment during the process without prior permission
  2. Having been disciplined by any employer (including military) as an adult for abuse of leave, gross insubordination, dereliction of duty, or persistent failure to follow established policies and regulations
  3. Having been involuntarily dismissed (for any reason other than lay-off) from two or more employers as an adult
  4. Having held more than seven paid positions with different employers within the past four years, or more than 15 paid positions with different employers in the past ten years (excluding military). Students who attend school away from their permanent legal residence may be excused from this requirement
  5. Having undergone personal bankruptcy more than once, having current financial obligations for which legal judgments have not been satisfied, currently having wages garnished, or any other history of financial instability
  6. Resigning from any paid position without notice shall be disqualifying, except where the presence of a hostile work environment is alleged.
  7. Having any outstanding warrant of arrest at time of application.

### **LEARNING ABILITY**

- (a) The ability to comprehend and retain information
- (b) The ability to recall information pertaining to laws, statutes, codes, etc.
- (c) The ability to learn and to apply what is learned
- (d) The ability to learn and apply the material, tactics and procedures that are required of a law enforcement officer
- (e) The following shall be disqualifying:
  1. Being under current academic dismissal from any college or university where such dismissal is still in effect and was initiated within the past two years prior to the date of application

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### *Recruitment and Selection*

2. Having been academically dismissed from any POST certified basic law enforcement academy wherein no demonstrated effort has been made to improve in the deficient areas, except: subsequent successful completion of another POST basic law enforcement academy shall rescind this requirement

#### **PERSONAL SENSITIVITY**

- (a) The ability to resolve problems in a way that shows sensitivity for the feelings of others.
- (b) Empathy
- (c) Discretion, not enforcing the law blindly
- (d) Effectiveness in dealing with people without arousing antagonism
- (e) The ability to understand the motives of people and how they will react and interact
- (f) The following shall be disqualifying:
  1. Having been disciplined by any employer (including the military and/or any law enforcement training facility) for acts constituting racial, ethnic or sexual harassment or discrimination
  2. Uttering any epithet derogatory of another person's race, religion, gender, national origin or sexual orientation
  3. Having been disciplined by any employer as an adult for fighting in the workplace

#### **JUDGMENT UNDER PRESSURE**

- (a) The ability to apply common sense during pressure situations
- (b) The ability to make sound decisions on the spot
- (c) The ability to use good judgment in dealing with potentially explosive situations
- (d) The ability to make effective, logical decisions under pressure
- (e) The following shall be disqualifying:
  1. Admission(s) of administrative conviction or criminal convictions for any act amounting to assault under color of authority or any other violation of federal or state Civil Rights laws
  2. Any admission(s) of administrative conviction or criminal conviction for failure to properly report witnessed criminal conduct committed by another law enforcement officer

#### **ILLEGAL USE OR POSSESSION OF DRUGS**

- (a) The following examples of illegal drug use or possession will be considered automatic disqualifiers for public safety applicants, with no exceptions:
  1. Any adult use or possession of a drug classified as a hallucinogenic within seven years prior to application for employment
  2. Any adult use or possession of marijuana within one year prior to application for employment
  3. Any other illegal adult use or possession of a drug not mentioned above (including cocaine) within three years prior to application for employment
  4. Any illegal adult use or possession of a drug while employed in any law enforcement capacity, military police, or as a student enrolled in college-accredited courses related to the criminal justice field
  5. Any adult manufacture or cultivation of a drug or illegal substance

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### *Recruitment and Selection*

6. Failure to divulge to the Department any information about personal illegal use or possession of drugs
  7. Any drug test of the applicant, during the course of the hiring process, where illegal drugs are detected
- (b) The following examples of illegal drug use or possession will be considered in relationship to the overall background of that individual and may result in disqualification:
1. Any illegal use or possession of a drug as a juvenile
  2. Any illegal adult use or possession of a drug that does not meet the criteria of the automatic disqualifiers specified above (e.g., marijuana use longer than one year ago or cocaine use longer than three years ago.)
  3. Any illegal or unauthorized use of prescription medications

# Evaluation of Employees

## PURPOSE AND SCOPE

The Department's employee performance evaluation system is designed to record work performance for both the Department and the employee, providing recognition for good work and developing a guide for improvement.

## POLICY

The Contra Costa County Probation Department utilizes a performance evaluation report to measure performance and to use as a factor in making personnel decisions that relate to merit increases, promotion, reassignment, discipline, demotion and termination. The evaluation report is intended to serve as a guide for work planning and review by the supervisor and employee. It gives supervisors a way to create an objective history of work performance based on job standards.

The Department evaluates employees in a non-discriminatory manner based upon job-related factors specific to the employee's position, without regard to sex, race, color, national origin, religion, age, disability or other protected classes.

## EVALUATION PROCESS

Evaluation reports will cover a specific period of time and should be based on documented performance during that period. Evaluation reports will be completed by each employee's immediate supervisor. Other supervisors directly familiar with the employee's performance during the rating period should be consulted by the immediate supervisor for their input.

All sworn and non-sworn supervisory personnel shall attend an approved supervisory course that includes training on the completion of performance evaluations within one year of the supervisory appointment.

Each supervisor should discuss the tasks of the position, standards of performance expected and the evaluation criteria with each employee at the beginning of the rating period. Supervisors should document this discussion in the prescribed manner.

Assessment of an employee's job performance is an ongoing process. Continued coaching and feedback provides supervisors and employees with opportunities to correct performance issues as they arise.

Non-probationary employees demonstrating substandard performance shall be notified in writing of such performance as soon as possible in order to have an opportunity to remediate the issues. Such notification should occur at the earliest opportunity, with the goal being a minimum of 90 days written notice prior to the end of the evaluation period.

Employees who disagree with their evaluation and who desire to provide a formal response or a rebuttal may do so in writing in the prescribed format and time period.

## RESERVE DEPUTY EVALUATIONS

Reserve deputy evaluations are covered under the Reserve Deputies Policy.

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### *Evaluation of Employees*

#### **FULL TIME PROBATIONARY PERSONNEL**

Probationary period of new field probation employees or employees entering a new probation series shall have monthly evaluations completed for the first six months. After 6 months the evaluations can be every three months. Probationary period of new institutional employees will have monthly evaluations for the first three months. After three months the evaluations can be quarterly. Employees who "flex" to a new classification within a series shall have evaluations completed at three month intervals during the probationary period. Nothing in this chapter shall prohibit a supervisor from completing monthly evaluations during the entire probationary period.

#### **FULL-TIME PERMANENT STATUS PERSONNEL**

Permanent employees are subject to three types of performance evaluations:

**Regular** - An Employee Performance Evaluation shall be completed once each year by the employee's immediate supervisor on the anniversary of the employee's date of hire except for employees who have been promoted in which case an Employee Performance Evaluation shall be completed on the anniversary of the employee's date of last promotion. Probation Department employees at top step in their classification or series, and who have been in their position for over one year may receive evaluations at least every two years.

**Transfer** - If an employee is transferred from one assignment to another in the middle of an evaluation period and less than six months have transpired since the transfer, then an evaluation shall be completed by the current supervisor with input from the previous supervisor.

**Exit** - An exit evaluation must be prepared when an employee leaves the Department. This evaluation should summarize the person's experience with the Probation Department and should comment on the overall performance quality.

#### **RATINGS**

When completing the Employee Performance Evaluation, the rater will place a check mark in the column that best describes the employee's performance.

Any below standard rating noted on the evaluation form must be supported with written documentation received by the employee at the time the incident(s) occurred. Any secondary information (i.e., compliment from an outside source) should be considered by the supervisor when completing the evaluation.

#### **WRITTEN EVALUATION REVIEW**

After the performance evaluation meeting, the written evaluation should be prepared. The evaluation will be reviewed by the second line supervisor, and administrator, prior to presentation to assure that comparable standards are used and adequate documentation is included. The employee may add comments in the space provided. The employee's signing of an evaluation form does not necessarily mean that the employee agrees with the evaluation, but it does mean that the employee has had an opportunity to discuss the evaluation with his/her evaluator.

#### **EVALUATION DISTRIBUTION**

The original performance evaluation shall be maintained in the employee's personnel file in the office of the Chief Probation Officer for the tenure of the employee's employment. A copy will be given to the employee.

# Drug and Alcohol-Free Workplace

## PURPOSE AND SCOPE

The intent of this policy is to deter the misuse or abuse of legal or illegal substances that create a threat to the safety and health of any employee or member of the public. The Contra Costa County Probation Department discourages alcohol and drug abuse and strives to achieve a workforce free from the influence of drugs and alcohol.

## GENERAL GUIDELINES

The Contra Costa County Probation Department is a Drug Free Workplace as required by federal statute. Employees shall not possess, use, store or bring into any Department facility or vehicle, alcoholic beverages or controlled substances as enumerated in Sections 11054 through 11058 of the Health and Safety Code except when prescribed by a licensed physician or dentist.

- (a) Employees shall not be under the influence of alcohol and/or controlled substances, which would impair their job performance, upon arrival or return to duty.
- (b) Employees shall not consume intoxicating beverages while on duty. This includes training days.

## STAFF RESPONSIBILITY

Employees shall report for work in an appropriate mental and physical condition. Employees are prohibited from purchasing, manufacturing, distributing, dispensing, possessing or using controlled substances or alcohol on department premises or on department time. (41 USC 8103) The lawful possession or use of prescribed medications or over-the-counter remedies is excluded from this prohibition.

Employees shall notify a supervisor immediately if they observe behaviour or other evidence that they believe demonstrates that a fellow employee poses a risk to the health and safety of the employee or to others due to drug or alcohol use.

## USE OF PRESCRIBED MEDICATIONS

Any employee who is required to take any medication with side effects which might impair his/her ability to fully and safely perform all requirements of the position shall report the need for such medication to the immediate supervisor prior to commencing any on-duty status. No employee shall be permitted to work or drive a department-owned or department-leased vehicle while taking such potentially impairing medication without a written release from his/her physician.

Possession of medical marijuana or being under the influence of marijuana on- or off-duty is prohibited and may lead to disciplinary action.

## EMPLOYEE ASSISTANCE PROGRAM

The Employee Assistance Program is voluntary and available to assist employees who wish to seek help for alcohol and drug problems. ([County Administrative Bulletin, 422, Employee Counseling Program](#)) There are also available a variety of insurance coverages which provide treatment for drug and alcohol abuse. Employees may contact the

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### *Drug and Alcohol-Free Workplace*

Department of Human Resources, their insurance provider, or the Employee Assistance Program for additional information.

Employees who experience drug or alcohol problems are encouraged to seek referral for rehabilitation through the Employee Assistance Programs or their insurance provider. It is the responsibility of each employee to seek assistance before alcohol or drug problems lead to performance problems.

#### **WORK RESTRICTIONS**

If any personnel inform a supervisor that he/she has consumed any alcohol, drug or medication that could interfere with the safe and efficient performance of his/her duties, the employee may be required to obtain clearance from his/her physician before he/she continues to work.

If a supervisor reasonably believes, based upon objective facts, that any person's ability to perform his/her duties safely and efficiently may be impaired by the consumption of alcohol or other drugs, the supervisor may ask the person whether he/she has consumed any alcohol or other drugs and, if so the amount and type of alcohol or other drug consumed and the time of consumption, and the name of the person who prescribed the controlled substance.

If the supervisor reasonably believes, based on objective facts, that a person is impaired by the consumption of alcohol or other drugs, the supervisor shall prevent the person from continuing work and shall transport him/her or cause him/her to be transported safely away from the Department.

#### **REQUESTING SCREENING TESTS**

The Department may request an employee to submit to a screening test if the Department:

- (a) Reasonably believes, based upon objective facts, that the employee is under the influence of alcohol or drugs that are impairing his/her ability to perform duties safely and efficiently. (Use the Reasonable Suspicion Documentation Checklist.) The employee can have someone present if the employee so chooses. If a decision is made to test the employee, the employee shall be driven to the lab for testing by a supervisor or manager.
- (b) The employee discharges a firearm, other than by accident, in the performance of his/her duties.
- (c) During the performance of his/her duties, the employee drives a motor vehicle and becomes involved in an incident that results in bodily injury to him/herself or another person, or substantial damage to property.

The Department will inform the employee of the specific facts and prepare a written record of those facts, and:

- (a) Informs the employee in writing whether the test will be for alcohol or drugs or both. (Be specific as to which drugs will be tested.)
- (b) Informs the employee that the result of the test is not admissible in any criminal proceeding against him/her.
- (c) Informs the employee that he/she may refuse the test but that refusal may result in dismissal or other disciplinary action.

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### *Drug and Alcohol-Free Workplace*

#### **1012.5.1 SCREENING TEST REFUSAL**

An employee is subject to disciplinary action if he/she:

- (a) Fails or refuses to submit to a screening test as requested.
- (b) After taking a screening test that indicates the presence of a controlled substance, fails to provide proof, within 72 hours after being requested by his/her appointing authority, that he/she took the controlled substance as directed, pursuant to a current and lawful prescription issued in his/her name.
- (c) Violates any provisions of this policy.

#### **COMPLIANCE WITH THE DRUG-FREE WORKPLACE ACT**

No later than 30 days following notice of any drug statute conviction for a violation occurring in the workplace involving an employee, the Department will take appropriate disciplinary action, up to and including dismissal, and/or requiring the employee to satisfactorily participate in a drug abuse assistance or rehabilitation program (41 USC § 8104).

#### **CONFIDENTIALITY**

The Department recognizes the confidentiality and privacy due to its employees. Disclosure of any information relating to substance abuse treatment, except on a need-to-know basis, shall only be with the express written consent of the member involved or pursuant to lawful process.

The written results of any screening tests and all documents generated by the employee assistance program are considered confidential medical records and shall be maintained separately from the employee's other personnel files.

# Attendance Policy

## PURPOSE AND SCOPE

Regular and prompt attendance by every employee is important and necessary to the success of the Department in carrying out its responsibilities and is a requirement that must be met by all employees. The administration of sick leave, vacation, holiday and compensatory time off and unpaid leave is the responsibility of the Department Head and his designated managers and supervisors and is governed by this policy and the applicable Board of Supervisor Resolutions and Ordinances, Personnel Management Regulations, M.O.U. Agreements, and County Administrative Bulletins.

In order to provide proper administration of attendance, there needs to be a clear policy statement which is made known to all employees. Supervisors need to understand and discharge their responsibilities, adequate records need to be maintained, attendance needs to be viewed as part of the employee's performance, and procedures need to be uniformly applied.

## GENERAL GUIDELINES

Maintaining good attendance is a condition of employment and an essential function of every employee's job. Each employee has a work schedule including a time to start and finish the work day. Each employee is expected to comply with his or her work schedule. All absences or deviations from a work schedule require prior approval by the employee's immediate supervisor. Unauthorized or excessive absence, including tardiness, may lead to disciplinary action, up to and including termination.

Supervisors may require staff to sign in and out, giving their exact whereabouts, at a designated site, such as the supervisor's office. Supervisors may require staff to begin and end each work day at their primary work site. Any variations in schedule require advance approval from the employee's immediate supervisor.

Employees who wish to occasionally adjust their work times within the 5 day, 8 hour framework (usually 8 a.m. to 5 p.m.), may submit such requests to their supervisor for review and approval. Requests for significant or "permanent" work schedule changes (9/80, 4/10 schedules, etc.) must be submitted to the supervisor for review and are to be forwarded by the supervisor through regular channels for Administrative review and/or approval.

## EMPLOYEE RESPONSIBILITY

Employees who will not be at their work station as scheduled due to vacation, sick leave or other authorized leave, must request permission to use such leave from their immediate supervisor or other designated supervisor in advance. Planned absence should be requested with as much advance notice as is practical. Early notice may be required where extended absence will necessitate replacement.

## SUPERVISOR RESPONSIBILITY

Supervisors are responsible for orienting their staff to appropriate phone-in procedures to report absences and forms and/or procedures used to request advance time off including scheduled sick leave and vacation. Supervisors are also responsible for monitoring attendance. Supervisors should work closely with their staff to eliminate excessive

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### *Attendance Policy*

absenteeism, and advise their manager of those persons exceeding attendance guidelines as well as any mitigating factors, and recommending further action to correct excessive absenteeism

#### **AUTHORIZATION OF PLANNED ABSENCE**

Approval of an employee's request for leave of absence will be subject to individual needs, workload requirements and applicable M.O.U. provisions.

#### **EMERGENCY DUTY**

In the event of emergencies, urgent need for completion of specific assignments, or critical staff shortages, employees may be required to work overtime and may be called back to work during non-duty hours. Previously approved time off may also be cancelled in these situations. Emergencies include, but are not limited to, serious incidents within Juvenile Institutions which require additional staff, and national, state, or local disasters, such as natural disasters.

## Sick Leave

### PURPOSE AND SCOPE

Employees of this department are provided with a sick leave benefit that gives them continued compensation during times of absence due to personal or family illness. ([County Administrative Bulletin, 411.7, Sick Leave Policy](#)) The number of hours available is detailed in the employee's applicable collective bargaining agreement. Employees may also be entitled to additional paid or unpaid leave for certain family and medical reasons as provided for in the Family and Medical Leave Act (FMLA) (29 CFR 825).

This policy is not intended to cover all types of sick or other leaves. For example, employees may be entitled to additional paid or unpaid leave for certain family and medical reasons as provided for in the Family Medical Leave Act (FMLA), the California Family Rights Act or for organ or bone marrow donor procedures (29 CFR 825; Government Code 12945.2; Labor Code 1510).

### EMPLOYEE RESPONSIBILITIES

Employees must notify their supervisor or another supervisor (if their supervisor is unavailable) of an absence prior to the commencement of their work shifts or as soon thereafter as possible. If no supervisor is available, notify reception and request a return call from a supervisor. The employee shall provide the reason for the absence and expected duration of absence to a supervisor. The employee shall keep his/her supervisor informed on a continuing basis of their condition and probable date of return to work. Pre-arranged personal or family medical and dental appointments must be approved in advance by the employee's supervisor. Employees must ensure that their home telephone number on file with the Department is current.

### EXTENDED ABSENCES

Employees on extended absences shall, if possible, contact their unit supervisor at three-day intervals to provide an update on their absence and expected date of return. Employees absent from duty due to personal illness in excess of three consecutive days may be required to furnish a statement from their health care provider supporting the use of sick leave and/or the ability to return to work. Nothing in this section precludes a supervisor, with cause, from requiring a physician's statement if three or fewer sick days are taken.

### EXCESSIVE ABSENTEEISM

Absenteeism (including sick leave use) may be considered excessive when there are frequent and often unscheduled absences. Excessive absenteeism usually reflects an exhaustion of sick leave accruals and frequent use of other leave balances, such as vacation or floating holiday for sick leave purposes. In general, repeated depletion of sick leave accruals as they are earned may be an indicator of excessive absenteeism including the frequent placement in a absent without pay (AWOP) status. Supervisors need to evaluate whether the absenteeism is excessive or if there are acceptable reasons for the use of sick leave, other accruals in lieu of sick leave, and/or AWOL or AWOP status. If an employee has exhausted sick leave accruals, after consulting with his/her manager, the supervisor will meet with the employee to discuss the use of sick leave. The employee will be expected to improve attendance.

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### *Sick Leave*

#### **ATTENDANCE IMPROVEMENT**

An employee who is excessively absent will be given a counseling memo and will be provided a reasonable opportunity (6 months) to correct and/or significantly reduce his/her absenteeism. The written counseling will include:

- (a) The requirement to provide medical verification for all absences due to sick leave.
- (b) Notice that the employee will not be allowed to use other accruals (such as vacation) in lieu of sick leave when the sick leave accruals are exhausted.
- (c) Notice that the employee will not be allowed the use of other accruals for an unscheduled absence.

Note: Absences without proper verification (Item A) will result in an absent without leave (AWOL) status, which is a sufficient cause for action that can result in disciplinary action. Items A and B will result in an AWOP status when the criteria are met.

If the supervisor determines that it is appropriate, they may refer the employee to the County's Employee Assistance Program (EAP). EAP is always available to any employee who may wish to make an appointment.

Abuse of sick leave on the part of the employee is cause for disciplinary action. Failure of the employee to cease excessive absenteeism after written counseling will result in progressive discipline, up to and including termination.

#### **SUPERVISOR RESPONSIBILITY**

The use of sick leave may be denied if the aforementioned procedures are not followed. Departmental approval of sick leave is a certification of the legitimacy of the sick leave claim. The Department Head or designee may make reasonable inquiries about the employee's absence. Medical verification may be required if the absence lasts more than three (3) working days. The Department may also require medical verification for absences of less than three (3) working days for probable cause if the employee has been notified in advance in writing that sick leave verification is necessary. Inquiries of the employee may be made in the following ways:

- Calling the employee's home telephone number or other contact telephone number if telephone notification was not made per departmental sick leave call-in guide lines.
- Obtaining the employee's signature on the Absence/Overtime record as employee certification of the legitimacy of the claim.
- Obtaining the employee's written statement of explanation regarding the sick leave claim.
- Requiring the employee to obtain a physician's certificate or verification of the employee's illness, including the date the employee was incapacitated, expected return to work date, and employee's ability to return to work.

Supervisors should monitor attendance and the sick leave use of their staff on an ongoing basis. They should also review attendance statistics at least semiannually. Patterns of excessive absenteeism discerned by a supervisor should be reviewed with the supervisor's manager to determine the appropriate course of action. Sick leave accrual use should be referenced in the employee's performance evaluation. Qualified time off, such as FMLA, Workers Compensation or pregnancy leave, will not be included in the performance evaluation reference.

# Communicable Diseases

## PURPOSE AND SCOPE

This policy is intended to provide guidelines for department personnel to assist in minimizing the risk of contracting and/or spreading communicable diseases and to minimize the incidence of illness and injury. The policy will offer direction in achieving the following goals:

- (a) To manage the risks associated with blood borne pathogens (BBP), aerosol transmissible diseases, and other potentially infectious substances.
- (b) To assist department personnel in making decisions concerning the selection, use, maintenance, limitations, storage, and disposal of personal protective equipment (PPE).
- (c) To protect the privacy rights of all department personnel who may be exposed to or contract a communicable disease during the course of their duties.
- (d) To provide appropriate treatment and counseling should an employee be exposed to a communicable disease.

## PROCEDURES FOR EXPOSURE TO BLOOD, BODILY FLUIDS OR AEROSOL TRANSMISSIBLE DISEASES

All department personnel who are exposed to another person's blood, bodily fluids or an aerosol transmissible disease (e.g., during an altercation or while attending to any injured person) shall follow these procedures and guidelines.

Exposure to blood or other potentially infectious materials includes, but is not limited to, the contact of such substances with the eye, mouth, other mucous membranes, non-intact skin, needle sticks, human bites, cuts or abrasions or any exposure that otherwise qualifies under Health and Safety Code § 121060.1 or 8 CCR § 5193.

Exposure to an aerosol transmissible disease is any event in which all of the following have occurred (8 CCR 5199):

- (a) An employee has been exposed to an individual who is a case or a suspected case of a reportable aerosol transmissible disease, or to a work area or to equipment that is reasonably expected to contain aerosol transmissible pathogens associated with a reportable aerosol transmissible disease.
- (b) The exposure occurred without the benefit of applicable exposure controls required by this policy.
- (c) It reasonably appears from the circumstances of the exposure that transmission of disease is sufficiently likely to require medical evaluation.

## PERSONNEL MANAGER

The Personnel Manager shall be responsible for the following:

- (a) The overall management of the Blood Borne Pathogen Plan (BBP).
- (b) Establishing written procedures and a training program related to aerosol transmissible diseases, as required by 8 CCR § 5199.

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### *Communicable Diseases*

- (c) Working to develop and administer any additional related policies and practices necessary to support the effective implementation of this plan.
- (d) Remaining current on all legal requirements concerning bloodborne pathogens and other communicable diseases, as required by 8 CCR § 5193.
- (e) Acting as a liaison during OSHA inspections, conducting program audits to maintain an up-to-date BBP and ensuring exposure report forms are available and adequate for employees to properly report incidents of exposure.
- (f) Maintaining an up-to-date list of personnel requiring training. Developing and implementing a training program, maintaining class rosters, and periodically reviewing and updating the training program.
- (g) Reviewing and updating the BBP annually. Department supervisors are responsible for exposure control in their respective areas. They shall work directly with the Personnel Manager and any affected employees to ensure that the proper exposure control procedures are followed.

### **UNIVERSAL PRECAUTIONS**

All human blood and body fluids such as saliva, urine, semen, and vaginal secretions are to be treated as if they are known to be infectious. Where it is not possible to distinguish between body fluid types, all body fluids are to be assumed potentially infectious.

### **IMMUNIZATIONS**

All department personnel who, in the line of duty, may be exposed to or have contact with a communicable disease shall be offered appropriate treatment immunization.

### **WORK PRACTICES**

All personnel shall use the appropriate barrier precautions to prevent skin and mucous membrane exposure whenever contact with blood or body fluid is anticipated.

Disposable gloves shall be worn on all medical emergency responses. Disposable gloves shall be worn before making physical contact with any patient and/or when handling items (e.g., evidence, transportation vehicle) soiled with blood or other body fluids. Should one's disposable gloves become contaminated with blood or other body fluids, the gloves shall be disposed of as contaminated waste. Care should be taken to avoid touching other items (e.g., pens, books, and personal items in general) while wearing the disposable gloves in a potentially contaminated environment.

All procedures involving blood or other potentially infectious materials shall be done in a way to minimize splashing, spraying, or otherwise generating droplets of those materials.

Eating, drinking, smoking, applying lip balm, and handling contact lenses shall be prohibited in areas where a potential for an exposure exists.

### **DISPOSAL AND DECONTAMINATION**

The following procedures will apply to the disposal and decontamination after responding to an event that involved contact with a person's blood or body fluids:

### **USE OF WASTE CONTAINERS**

The biohazard waste container located at the station shall be collapsible, leakproof, red in color or appropriately labeled with a biohazard warning and routinely emptied.

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### *Communicable Diseases*

#### **DECONTAMINATION OF SKIN AND MUCOUS MEMBRANES**

Personnel shall wash their hands immediately (on-scene if possible), or as soon as possible following the removal of potentially contaminated gloves. Antibacterial soap and warm water or an approved disinfectant shall be used to wash one's hands, paying particular attention to the fingernails.

If an employee's intact skin contacts someone else's blood or bodily fluids or other potentially infectious materials, the employee shall immediately wash the exposed part of his/her body with soap and warm water and/or an approved disinfectant, as soon as possible. If the skin becomes grossly contaminated, body washing shall be followed by an approved hospital strength disinfectant. If large areas of the employee's skin are contaminated, the employee shall shower as soon as possible, using warm water and soap and/or an approved disinfectant. Medical treatment should be obtained.

Contaminated non-intact skin (e.g., injured skin, open wound) shall be cleaned using an approved disinfectant and then dressed or bandaged as required. Medical treatment is required.

All hand, skin, and mucous membrane washing that takes place in the station shall be done in the designated cleaning or decontamination area. Cleaning shall not be done in the kitchen, bathrooms, or other locations not designated as the cleaning or decontamination area.

#### **SHARPS AND ITEMS THAT CUT OR PUNCTURE**

All personnel shall avoid using or holding sharps (needles) unless needed to do so while assisting a paramedic, or collecting them for evidence. Unless required for evidentiary reasons related to evidence preservation, employees are not to recap sharps. If recapping is necessary, a one-handed method shall be employed to avoid a finger prick. Disposal, when practicable, shall be into a puncture proof biohazard container.

All sharps and items that cut or puncture (e.g., broken glass, razors, and knives) shall be treated cautiously to avoid cutting, stabbing, or puncturing one's self or any other person. In addition, if a sharp object contains known or suspected blood or other bodily fluids, that item is to be treated as a contaminated item. If the item is not evidence, touching it with the hands shall be avoided. Rather, use a device such as tongs, or a broom and a dustpan to cleanup debris. If the material must be hand held, protective gloves must be worn.

#### **DISPOSABLE PROTECTIVE EQUIPMENT**

Contaminated disposable supplies (gloves, dressings, CPR mask) shall be transported with the patient or suspect in the ambulance or Probation vehicle. The waste material shall then be disposed of in a biohazard waste container at the hospital or Probation office. Disposable gloves are to be worn while placing the waste into the waste biohazard container, placing the gloves in with the waste when through. (Refer to BBP regarding transporting water material to Juvenile Hall, our Department Collection site.)

#### **DECONTAMINATION OF PERSONAL PROTECTIVE EQUIPMENT**

After using any reusable personal protective equipment, it shall be washed or disinfected and stored appropriately. If the personal protective equipment is non-reusable (e.g., disposable gloves), it shall be discarded in a biohazard waste container as described in Policy Manual § 1016.3.4.

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Any personal protective equipment that becomes punctured, torn, or loses its integrity, shall be removed as soon as feasible. The employee shall wash up and replace the personal protective equipment if the job has not been terminated. If this situation resulted in a contaminated non-intact skin event, Policy Manual § 1016.3.2 shall be implemented.

Contaminated reusable personal protective equipment that must be transported prior to cleaning it shall be placed into a biohazard waste bag and transported in the ambulance, paramedic truck or sheriff's vehicle. Gloves shall be worn while handling the biohazard waste bag and during placement into the biohazard waste container, and then included in with the waste.

#### **DECONTAMINATION OF NON-DISPOSABLE EQUIPMENT**

Contaminated non-disposable equipment (e.g., flashlight, gun, baton, clothing, portable radio) shall be decontaminated as soon as possible. If it is to be transported, it shall be done by first placing it into a biohazard waste bag.

Grossly contaminated non-disposable equipment items shall be transported to a hospital, fire station, or Probation office for proper cleaning and disinfecting. Porous surfaces such as nylon bags and straps shall be brushed and scrubbed with a detergent and hot water, laundered and allowed to dry. Non-porous surfaces (e.g., plastic or metal) shall be brushed and scrubbed with detergent and hot water, sprayed with a bleach solution, rinsed, and allowed to dry. Delicate equipment (e.g., radios) should be brushed and scrubbed very carefully using a minimal amount of a type of germicide that is approved by Environmental Protection Agency (EPA) .

While cleaning equipment, pay close attention to handles, controls, portable radios, and corners (tight spots). Equipment cleaning shall not be done in the kitchen, bathrooms, or other areas not designated as the cleaning/decontamination area.

Contaminated equipment should be cleaned using an approved EPA germicide or a 1:100 solution of chlorine bleach (one-quarter-cup of bleach per one gallon of water) while wearing disposable gloves and goggles. Large particles of contaminants such as, vomit, feces, blood clots, etc. should first be removed (using a disposable towel or other means to prevent direct contact) and properly disposed of.

#### **DECONTAMINATION OF CLOTHING**

Contaminated clothing shall be removed as soon as feasible and rinsed in cold water to prevent the setting of bloodstains. If the clothing may be washed in soap and hot water, do so as soon as possible. If the clothing must be dry cleaned, place it into a biohazard waste bag and give it to the Personnel Manager. The BBP will secure a dry cleaner that is capable of cleaning contaminated clothing, and inform them of the potential contamination. This dry cleaning will be done at the Department's expense.

Contaminated leather boots shall be brushed and scrubbed with detergent and hot water. If the contaminant soaked through the boot, the boot shall be discarded.

#### **DECONTAMINATION OF VEHICLES**

Contaminated vehicles and components such as the seats, radios, and doors shall be washed with soap and warm water and disinfected with an approved germicide as soon as feasible.

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#### **DECONTAMINATION OF STATION AND CLEANING AREA**

The BBP shall designate a location at each office that will serve as the area for cleaning/decontamination. This area is to be used to keep equipment clean and sanitary and for the employees to wash any potential contamination from their bodies. This area is to be thoroughly cleaned after each use and to be maintained in a clean and sanitary order at all times between each use. The application of cosmetics, smoking cigarettes, consuming food and drink are prohibited in this designated area at all times.

#### **POST-EXPOSURE REPORTING AND FOLLOW-UP REQUIREMENTS**

In actual or suspected exposure incidents, proper documentation and follow-up action must occur to limit potential liabilities and to ensure the best protection and care for the employee(s).

#### **EMPLOYEE RESPONSIBILITY TO REPORT EXPOSURE**

To provide appropriate and timely treatment should exposure occur, all employees shall verbally report the exposure to their immediate supervisor and complete a written exposure report as soon as possible following the exposure or suspected exposure. That report shall be submitted to the employee's immediate supervisor. Additionally, employees should document in the exposure report whether they would like the person who was the source of the exposure to be tested for communicable diseases.

#### **SUPERVISOR REPORTING REQUIREMENTS**

The supervisor on-duty shall investigate every exposure that occurs as soon as possible following the incident, while gathering the following information:

- (a) Name and social security number of the employee(s) exposed.
- (b) Date and time of incident.
- (c) Location of incident.
- (d) What potentially infectious materials were involved.
- (e) Source of material or person.
- (f) Current location of material or person.
- (g) Work being done during exposure.
- (h) How the incident occurred or was caused.
- (i) PPE in use at the time of the incident.
- (j) Actions taken post-event (e.g., clean-up, notifications).

The supervisor shall advise the employee of the laws and regulations concerning disclosure of the identity and infectious status of a source, and Policy § 1016.5, which addresses source testing.

If the Personnel Manager is unavailable to seek testing of the person who was the source of the exposure, it is the responsibility of the exposed employee's supervisor to ensure testing is sought (Policy § 1016.5).

#### **MEDICAL CONSULTATION, EVALUATION AND TREATMENT**

Any employee who was exposed or who suspects he/she was exposed to HIV or to hepatitis B or C should be seen by a physician or qualified health care provider as soon as possible.

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The doctor or qualified health care provider should be provided with the supervisor's report and the employee's medical records relevant to the visit and examination. The blood of the exposed employee shall be tested.

The health care professional will provide the BBP and/or the County's Risk Manager with a written opinion/evaluation of the exposed employee's medical condition. This opinion should only contain the following information:

- If a post-exposure treatment is indicated for the employee.
- If the employee received a post-exposure treatment.
- Confirmation that the employee received the evaluation results.
- Confirmation that the employee was informed of any medical condition resulting from the exposure incident and whether further treatment or evaluation will be required.
- Whether communicable disease testing from the source is warranted, and if so, which diseases should the testing include.

All other findings or diagnosis shall remain confidential and are not to be included in the written report.

### **COUNSELING**

The Department shall provide the exposed employee (and his/her family if necessary) the opportunity for counseling and consultation.

### **CONFIDENTIALITY OF REPORTS**

Most of the information involved in this process must remain confidential. The Personnel Manager shall ensure that all records and reports are kept in the strictest confidence.

The Personnel Manager shall be responsible for maintaining records containing the employee's treatment status and the results of examinations, medical testing and follow-up procedures.

The Risk Manager shall be responsible for maintaining the name and social security number of the employee and copies of any information provided to the consulting health care professional.

This information is confidential and shall not be disclosed to anyone without the employee's written consent (except as required by law). Test results from persons who may have been the source of an exposure are to be kept confidential as well.

### **SOURCE TESTING**

Testing for communicable diseases of a person who was the source of an exposure should be sought when it is desired by the exposed employee or when it is otherwise appropriate. There are five methods to obtain such testing. It is the responsibility of the Personnel Manager to ensure that the proper testing and reporting occur. These methods are:

- (a) Obtaining voluntary consent from any person who may be the source of an exposure to cover testing for any communicable disease.
- (b) Filing a report with the county health officer when an employee is exposed to the bodily fluids of an arrestee. The county health officer may pursue testing for HIV or hepatitis B or C (Penal Code § 7510 et seq.).

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- (c) Seeking consent for testing or applying for a court order for HIV, hepatitis B and hepatitis C testing (Health and Safety Code § 121060 et seq.).
- (d) Seeking a court order when the person who may be the source of an exposure will not consent to testing and the exposure does not fall under the statutory schemes for testing. This covers testing for any communicable disease as deemed appropriate by a health care professional and documented in the request for the court order.
- (e) Under certain circumstances, a court may issue a search warrant for the purpose of HIV testing an adult or juvenile when an employee of the Contra Costa County Probation Department qualifies as a crime victim (Penal Code § 1524.1).

#### **EXPOSURE FROM A NON-PROBATIONER**

Upon notification of an employee's exposure to a person who is not on probation, the Personnel Manager should attempt to determine if the person who was the source of the exposure will voluntarily consent to testing. If consent is indicated, the following steps should be taken:

- (a) A licensed health care provider should notify the person to be tested of the exposure and make a good faith effort to obtain voluntary informed consent from the person or his/her authorized legal representative to perform a test for HIV, hepatitis B, hepatitis C and other communicable diseases the health care provider deems appropriate.
- (b) The voluntary informed consent obtained by the health care provider must be in writing and include consent for three specimens of blood for testing. The ECO should document the consent as a supplement to the Exposure Control Report.
- (c) The results of the tests should be made available to the source and the exposed employee.

If consent is not obtained, the Personnel Manager should promptly consult with County Counsel and consider requesting that a court order be sought for appropriate testing.

#### **EXPOSURE FROM A PROBATIONER**

Upon notification of an exposure to an employee by a person who was arrested, the Personnel Manager should take the following steps:

- (a) Comply with the statutory scheme of Health and Safety Code § 121060. This includes seeking consent from the person who was the source of the exposure and seeking a court order if consent is not given.
- (b) Take reasonable steps to immediately contact the County Health Officer and provide preliminary information regarding the circumstances of the exposure and the status of the involved individuals to determine whether the County Health Officer will order testing (Penal Code § 7510).
- (c) In all cases, comply with the reporting and testing scheme of Penal Code § 7510 et seq. This includes completing a State Department of Health Services Form CDPH 8479 and submitting it to the County Health Officer with a copy of the Exposure Control Report by the end of the employee's shift. If submission by the end of the shift is not practicable, it must occur as soon as possible but no later than two days after the incident. The exposed employee's name should not appear on this form.
- (d) Remain in contact with the County Health Officer to determine whether testing of the arrestee will occur and whether the testing satisfies the medical needs of the employee.

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- (e) The results of the tests should be made available to the donor and the exposed employee.

Since there is potential for overlap between the two statutory schemes, the Personnel Manager is responsible for coordinating the testing with the County Health Officer to prevent unnecessary or duplicate testing.

In the rare event that the exposed employee is not covered by either statutory scheme, the Personnel Manager should seek consent or a court order in the same manner as for a non-arrestee.

## Smoking and Tobacco Use

### PURPOSE AND SCOPE

This policy establishes limitations on the use of tobacco products by employees and others while on-duty or while in Contra Costa County Probation Department facilities or vehicles.

### POLICY

Smoking and other use of tobacco products is not permitted inside department facilities or any department vehicle. ([County Administrative Bulletin, 123.5, Smoking Policy](#)) It shall also be the responsibility of all employees to ensure that no person smokes or uses any tobacco product inside department facilities and vehicles.

### EMPLOYEE USE

Smoking and the use of other tobacco products is not permitted inside any County facility, office or vehicle (California Labor Code § 6404.5).

It shall be the responsibility of each employee to ensure that no person under his/her supervision smokes or uses any tobacco product inside County facilities and vehicles.

### ADDITIONAL PROHIBITIONS

No person shall use tobacco products within 20 feet of a main entrance, exit, or operable window of any public building (including any department facility), or buildings on the campuses of the University of California, California State University and California community colleges, whether present for training, enforcement, or any other purpose (Government Code § 7596 et seq.).

## Staff in Need of Mental Health Assistance

### POLICY

When staff appear in need of assistance with their own Mental Health issues, use the following guidelines:

- (a) If the condition is acute (suicidal, violent, etc.) call 911 immediately.
- (b) If the staff person's condition is not acute and he/she is under the care of a provider for Mental Health Services, help that person make arrangements for service even if it means transporting the staff to the service provider. Be sure the employees supervisor is advised of the situation.

### EMPLOYEE ASSISTANCE PROGRAM

Supervisors and Managers should refer staff to the Employee Assistance Program when it appears that an employee is in need of assistance. ([County Administrative Bulletin, 422, Employee Counseling Program](#)) The types of issues the Employee Assistance Program can address include but are not limited to the following:

- Marital and family problems
- Alcohol abuse
- Drug dependency
- Credit concerns
- Stress issues
- Emotional problems

In the event that a referral of a staff is made to the Employee's Assistance Program, please notify the Office of the Chief via chain of command.

# Personnel Complaints

## PURPOSE AND SCOPE

The purpose of this procedure is to provide guidelines for the reporting, investigation and disposition of complaints regarding the conduct of members and employees of this department.

## PERSONNEL COMPLAINTS DEFINED

Personnel complaints consist of any allegation of misconduct or improper job performance against any department employee that, if true, would constitute a violation of department policy, federal, state or local law.

Inquiries about employee conduct which, even if true, would not qualify as a personnel complaint may be handled informally by a department supervisor and shall not be considered complaints.

This policy shall not apply to any interrogation, counseling, instruction, informal verbal admonishment or other routine or unplanned contact of an employee in the normal course of duty, by a supervisor or any other employee, nor shall this policy apply to an investigation concerned solely and directly with alleged criminal activities (Cal. Govt. Code 3303(i)).

Personnel Complaints shall be classified in one of the following categories:

**Informal** - A matter in which the complaining party is satisfied that appropriate action has been taken by a department supervisor of rank greater than the accused employee. Informal complaints need not be documented on a personnel complaint form and the responsible supervisor shall have the discretion to handle the complaint in any manner consistent with this policy.

**Formal** - A matter in which the complaining party requests further investigation or which a department supervisor determines that further action is warranted. Such complaints may be investigated by a department supervisor of rank greater than the accused employee or referred to the Probation Manager depending on the seriousness and complexity of the investigation.

**Incomplete** - A matter in which the complaining party either refuses to cooperate or becomes unavailable after diligent follow-up investigation. At the discretion of the Probation Manager, such matters need not be documented as personnel complaints, but may be further investigated depending on the seriousness of the complaint and the availability of sufficient information.

## AVAILABILITY AND ACCEPTANCE OF COMPLAINTS

### AVAILABILITY OF COMPLAINT FORMS

Personnel complaint forms will be handed to those who request them or mailed to members of the public making a request for the document.

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#### **SOURCE OF COMPLAINTS**

- (a) A department employee becoming aware of alleged misconduct shall immediately notify a supervisor.
- (b) A supervisor receiving a complaint from any source alleging misconduct of an employee which, if true, could result in disciplinary action.
- (c) Anonymous complaints and third party complaints should be accepted and investigated to the extent that sufficient information is provided.

#### **ACCEPTANCE OF COMPLAINTS**

A complaint may be filed in person, in writing, or by telephoning the Department. Although not required, every effort should be made to have the complainant appear in person. The following should be considered before taking a complaint:

- (a) Complaints shall not be prepared unless the alleged misconduct or job performance is of a nature which, if true, would normally result in disciplinary action
- (b) When an uninvolved supervisor or the Manager determines that the reporting person is satisfied that their complaint required nothing more than an explanation regarding the proper/improper implementation of department policy or procedure, a complaint need not be taken
- (c) When the complainant is intoxicated to the point where his/her credibility appears to be unreliable, identifying information should be obtained and the person should be provided with a Personnel Complaint form
- (d) Depending on the urgency and seriousness of the allegations involved, complaints from juveniles should generally be taken only with their parents or guardians present and after the parents or guardians have been informed of the circumstances prompting the complaint

#### **COMPLAINT DOCUMENTATION**

Formal complaints of alleged misconduct shall be documented on a personnel complaint form. Complaints may also be submitted verbally through any employee.

A supervisor may elect to document informal complaints as a supervisor or working file entry.

When a Personnel Complaint form is completed in person, the complainant should legibly write a detailed narrative of his/her complaint. If circumstances indicate that this is not feasible, the supervisor may write the complaint. In an effort to ensure accuracy in any complaint, it is recommended that a recorded statement be obtained from the reporting party. A refusal by a party to be recorded shall not alone be grounds to refuse to accept a complaint. Whether handwritten or dictated, the complainant's signature should be obtained at the conclusion of the statement. The complainant should be provided with a copy of his/her own original complaint per Penal Code § 832.7.

#### **SUPERVISOR RESPONSIBILITY**

A supervisor who becomes aware of alleged misconduct shall take reasonable steps to prevent aggravation of the situation. Moreover, supervisors shall also maintain the ability to engage in the interrogation of an employee in the normal course of duty, counseling, instruction, or informal verbal admonishment, or other routine or unplanned contact (Cal. Govt. Code 3303(i)).

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In general, the primary responsibility for the investigation of a personnel complaint shall rest with the employee's immediate supervisor. The Chief Probation Officer or authorized designee may, however, direct that another supervisor investigate it. The supervisor shall be responsible for the following:

- (a) A supervisor receiving a formal complaint involving allegations of a potentially serious nature shall ensure that the Probation Manager and Director are notified as soon as practicable.
- (b) A supervisor receiving or initiating any formal complaint shall ensure that a Personnel Complaint form has been completed as fully as possible. The original complaint form will then be directed to the Probation Manager of the accused employee, via the chain of command, who will take appropriate action.
- (c) During the preliminary investigation of any complaint, the supervisor should make every reasonable effort to obtain names, addresses and telephone numbers of additional witnesses.
  1. Once immediate medical attention has been provided, photographs of alleged injuries as well as accessible areas of non-injury should be taken.
  2. In circumstances where the integrity of the investigation could be jeopardized by reducing the complaint to writing or where the confidentiality of a complainant is at issue, a supervisor shall orally report the matter to the Assistant Chief or the Chief Probation Officer who will initiate appropriate action.
- (d) A supervisor dealing with an accused employee shall ensure that the procedural rights of the employee are followed pursuant to Government Code § 3303, et seq.
- (e) When the nature of a personnel complaint relates to sexual, racial, ethnic, or other forms of prohibited harassment or discrimination, the supervisor receiving the complaint shall promptly contact the Director for direction regarding their role in investigation and/or addressing the complaint.

### **ASSIGNMENT TO ADMINISTRATIVE LEAVE**

When a complaint of misconduct is of a serious nature or when circumstances practically dictate that it would impose an unreasonable risk to the Department, the employee, other employees or the public, the Chief Probation Officer may direct the accused employee be placed on Administrative Leave pending completion of the investigation or the filing of administrative charges.

### **ADMINISTRATIVE LEAVE**

An employee placed on administrative leave may be subject to the following guidelines:

- (a) Under such circumstances, an employee placed on administrative leave shall continue to receive regular pay and benefits pending the imposition of any discipline
- (b) An employee placed on administrative leave may be required to relinquish any badge, departmental identification, and any other departmental equipment
- (c) An employee placed on administrative leave may be ordered to refrain from taking any action as a departmental employee or in an official capacity. The employee shall be required to continue to comply with all policies and lawful orders of a supervisor
- (d) An employee placed on administrative leave must remain in his place of residence and respond immediately to any contact from the Department during the pendency of the investigation during work hours and report as ordered

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- (e) At such time as any employee placed on administrative leave is returned to full and regular duty, the employee shall be returned all badges, identification card and other equipment returned

#### **ALLEGATIONS OF CRIMINAL CONDUCT**

Any separate administrative investigation may parallel a criminal investigation.

The Chief Probation Officer shall be notified as soon as practical when an employee is formally accused of criminal conduct. In the event of serious criminal allegations, the Chief Probation Officer may request a criminal investigation by an outside law enforcement agency.

An employee accused of criminal conduct shall be provided with all rights and privileges afforded to a civilian and the employee may not be administratively ordered to provide any information to a criminal detective.

No information or evidence administratively coerced from an employee may be provided to a criminal detective.

Any law enforcement agency is authorized to release information concerning the arrest or detention of a peace officer, which has not led to a conviction, however, no disciplinary action, other than paid administrative leave shall be taken against the accused employee based solely on an arrest or crime report (Labor Code § 432.7(b)). An independent administrative investigation shall be conducted based upon the allegations in the report in accordance with department policy.

#### **ADMINISTRATIVE INVESTIGATION OF COMPLAINT**

Whether conducted by a supervisor or a manager, the following procedures shall be followed with regard to the accused employee(s):

- (a) Interviews of accused employees shall be conducted during reasonable hours and, if the employee is off-duty, the employee shall be compensated (Government Code § 3303(a)).
- (b) No more than two interviewers may ask questions of an accused employee (Government Code § 3303(b)).
- (c) Prior to any interview, an employee shall be informed of the nature of the investigation (Government Code § 3303(c)).
- (d) All interviews shall be for a reasonable period and the employee's personal needs shall be accommodated (Government Code § 3303(d)).
- (e) No employee shall be subjected to offensive or threatening language, nor shall any promises, rewards or other inducements be used to obtain answers. Any employee refusing to answer questions directly related to the investigation may be ordered to answer questions administratively or be subject to discipline for insubordination. Nothing administratively ordered may be provided to a criminal investigator (Government Code § 3303(e)).
- (f) Absent circumstances preventing it, the interviewer should record all interviews of employees and witnesses. The employee may also record the interview. If the employee has been previously interviewed, a copy of that recorded interview shall be provided to the employee prior to any subsequent interview (Government Code § 3303(g)).

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- (g) If the allegations involve potential criminal conduct, the employee shall be advised of his/her Constitutional rights pursuant to *Lybarger*. This admonishment shall be given administratively whether or not the employee was advised of these rights during any separate criminal investigation. (Government Code § 3303(h)).
- (h) All employees subjected to interviews that could result in punitive action shall have the right to have an uninvolved representative present during the interview. However, in order to maintain the integrity of each individual employee's statement, involved employees shall not consult or meet with a representative or attorney collectively or in groups prior to being interviewed (Government Code § 3303(i)).
- (i) All employees shall provide complete and truthful responses to questions posed during interviews.
- (j) No employee may be compelled to submit to a polygraph examination, nor shall any refusal to submit to such examination be mentioned in any investigation (Government Code § 3307).

### **ADMINISTRATIVE SEARCHES**

Any employee may be compelled to disclose personal financial information pursuant to proper legal process; if such information tends to indicate a conflict of interest with official duties, or, if the employee is assigned to or being considered for a special assignment with a potential for bribes (Government Code § 3308).

Employees shall have no expectation of privacy when using telephones, computers, radios or other communications provided by the Department.

Assigned desks and storage spaces may only be administratively searched in the employee's presence, with the employee's consent, with a valid search warrant or where the employee has been given reasonable notice that the search will take place (Government Code § 3309).

All other departmentally assigned areas (e.g., desks, office space, assigned vehicles) may be administratively searched by a supervisor, in the presence of an uninvolved witness, for non-investigative purposes. (e.g., obtaining a needed report or radio). An investigative search of such areas shall only be conducted upon a reasonable suspicion that official misconduct is involved.

### **ADMINISTRATIVE INVESTIGATION FORMAT**

Investigations of personnel complaints shall be detailed, complete and essentially follow this format:

**Introduction** - Include the identity of the employee(s), the identity of the assigned investigator(s), the initial date and source of the complaint.

**Synopsis** - Provide a very brief summary of the facts giving rise to the investigation.

**Summary Of Allegations** - List the allegations separately (including applicable policy sections) with a very brief summary of the evidence relevant to each allegation. A separate recommended finding should be provided for each allegation.

**Evidence As To Each Allegation** - Each allegation should be set forth with the details of the evidence applicable to each allegation provided, including comprehensive summaries of employee and witness statements. Other evidence related to each allegation should also be detailed in this section.

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**Exhibits** - A separate list of exhibits (recordings, photos, documents, etc.) should be attached to the report.

#### **DISPOSITION OF PERSONNEL COMPLAINTS**

Each allegation shall be classified with one of the following dispositions:

**Unfounded** - When the investigation discloses that the alleged act(s) did not occur or did not involve department personnel. Complaints which are determined to be frivolous will fall within the classification of unfounded (Penal Code § 832.5(c)).

**Exonerated** - When the investigation discloses that the alleged act occurred, but that the act was justified, lawful and/or proper.

**Not Sustained** - When the investigation discloses that there is insufficient evidence to sustain the complaint or fully exonerate the employee.

**Sustained** - When the investigation discloses sufficient evidence to establish that the act occurred and that it constituted misconduct.

If an investigation discloses misconduct or improper job performance which was not alleged in the original complaint, the investigator shall take appropriate action with regard to any additional allegations.

#### **COMPLETION OF INVESTIGATIONS**

Every investigator or supervisor assigned to investigate a personnel complaint or other alleged misconduct shall proceed with due diligence in an effort to complete the investigation within one year from the date of discovery by an individual authorized to initiate an investigation. In the event that an investigation cannot be completed within one year of discovery, the assigned investigator or supervisor shall ensure that an extension or delay is warranted within the exceptions set forth in Government Code § 3304(d) or Government Code § 3508.1. If the nature of the allegations dictate that confidentiality is necessary to maintain the integrity of the investigation, the involved employee(s) need not be notified of the pending investigation unless and until the employee is interviewed or formally charged within one year of discovery.

Upon completion, the report should be forwarded through the chain of command to the Assistant Chief Probation Officer. Prior to the Assistant Chief receiving the report, the Director will make a recommendation regarding disposition.

Once received, the Chief Probation Officer may accept or modify the classification and recommendation for disciplinary action contained in the report.

Within 30 days of the final review by the Chief Probation Officer, written notice of the findings shall be sent to the complaining party. This notice shall indicate the findings, however, will not disclose the amount of discipline, if any imposed. The complaining party should also be provided with a copy of his/her own original complaint (Penal Code § 832.7).

Any complaining party who is not satisfied with the findings of the Department concerning their complaint may contact the Chief Probation Officer to discuss the matter further.

#### **1020.8.1 CONFIDENTIALITY OF PERSONNEL FILES**

All investigations of personnel complaints, whether originating from a citizen or internally, shall be considered confidential peace officer personnel files. The contents of such files

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shall not be revealed to other than the involved employee or authorized personnel except pursuant to lawful process.

In the event that an accused employee (or the representative of such employee) knowingly makes false representations regarding any internal investigation and such false representations are communicated to any media source, the Department may disclose sufficient information from the employee's personnel file to refute such false representations (Penal Code § 832.5).

All sustained citizen's complaints shall be maintained for a period of at least five years (Penal Code § 832.5). All internally initiated complaints shall be maintained at least two years (Government Code § 34090 et seq.).

Sustained complaints shall be maintained in the employee's personnel file. Complaints which are unfounded, exonerated or not sustained shall be maintained by the Internal Affairs Unit apart from the employee's personnel file.

## Seat Belts

### PURPOSE AND SCOPE

The use of seat belts and other safety restraints significantly reduces the chance of death or injury in case of a traffic collision. This policy establishes guidelines for seat belt and child safety seat use to promote maximum operator and passenger safety, thus reducing the possibility of death or injury as the result of a motor vehicle crash. This policy will apply to all employees operating or riding in department vehicles (Vehicle Code § 27315.5).

### WEARING OF SAFETY RESTRAINTS

All members shall wear properly adjusted safety restraints when operating or riding in a seat equipped with restraints, in any vehicle owned, leased or rented by this department while on- or off-duty, or in any privately owned vehicle while on-duty. The member driving such a vehicle shall ensure that all other occupants, including non-members, are also properly restrained.

Exceptions to the requirement to wear safety restraints may be made only in exceptional situations where, due to unusual circumstances, wearing a seat belt would endanger the member or the public. Members must be prepared to justify any deviation from this requirement.

#### 1022.2.1 TRANSPORTING CHILDREN

Children under the age of 8 should be transported in compliance with California's restraint system requirements (Vehicle Code § 27360).

A child may be transported by sworn personnel without the use of a child passenger restraint system in an authorized emergency vehicle if a child passenger restraint system is unavailable and the child is secured by a seat belt (Vehicle Code § 27363(b) and Vehicle Code § 165).

Members should deactivate, if available, the passenger side airbag when appropriate, such as when transporting a rear-facing infant or child in the front seat.

### TRANSPORTING PRISONERS

Whenever possible, prisoners should be secured in the prisoner restraint system in the rear seat of the Department vehicle or, when a prisoner restraint system is not available, by seat belts. The prisoner should be in seating position for which seat belts have been provided by the vehicle manufacturer. The prisoner restraint system is not intended to be a substitute for handcuffs or other appendage restraints.

### INOPERABLE SEAT BELTS

No person shall operate a department vehicle in which the seat belt in the driver's position is inoperable. No person shall be transported in a seating position in which the seat belt is inoperable.

No person shall modify, remove, deactivate or otherwise tamper with the vehicle safety belts, except for vehicle maintenance and repair staff who shall do so only with the express authorization of the Chief Probation Officer.

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Employees who discover an inoperable restraint system shall report the defect to the appropriate supervisor. Prompt action will be taken to replace or repair the system.

## Personnel Files

### PURPOSE AND SCOPE

This section governs the maintenance, retention and access to peace officer personnel files in accordance with established law. It is the policy of this department to maintain the confidentiality of peace officer personnel records pursuant to Penal Code § 832.7.

### PERSONNEL FILES DEFINED

Pursuant to Penal Code § 832.8, peace officer personnel records shall include any file maintained under an individual deputy's name relating to:

- (a) Personal data, including marital status, family members, educational and employment history, or similar information.
- (b) Medical history including medical leave of absence forms, fitness for duty examinations, workers compensation records, medical releases and all other records which reveal an employee's past, current or anticipated future medical conditions.
- (c) Election of employee benefits.
- (d) Employee advancement, appraisal, or discipline.
- (e) Complaints, or investigations of complaints, concerning an event or transaction in which the deputy participated, or which the deputy perceived, and pertaining to the manner in which the deputy performed official duties.
- (f) Any other information the disclosure of which would constitute an unwarranted invasion of personal privacy.

### EMPLOYEE RECORD LOCATIONS

Employee records will generally be maintained in any of the following:

**Department File** - That file which is maintained in the office of the Chief Probation Officer as a permanent record of a sworn deputy's employment with this department.

**Supervisor Working File** - Any file which is separately maintained internally by an employee's supervisor(s) within an assigned division for the purpose of completing timely performance evaluations.

**Supervisor Log Entries** - Any written comment, excluding actual performance evaluations, made by a supervisor concerning the conduct of an employee of this department.

**Internal Affairs Files** - Those files that contain complaints of employee misconduct and all materials relating to the investigation into such allegations, regardless of disposition.

**Medical File** - That file which is maintained separately that exclusively contains material relating to an employee's medical history.

**Background File** - That file contains pre-employment background information.

### CONFIDENTIALITY OF ALL PERSONNEL FILES

Pursuant to Penal Code § 832.7, all of the above-defined personnel records shall be deemed confidential and shall not be subject to disclosure except pursuant to the

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discovery procedures set forth in Evidence Code § 1043, et seq. or in accordance with applicable federal discovery laws. Nothing in this section is intended to preclude review of personnel files by the Presiding Juvenile Court Judge, County Counsel or other attorneys or representatives of the County in connection with official business.

#### **REQUESTS FOR DISCLOSURE**

Only written requests for the disclosure of any information contained in any peace officer personnel record will be considered. Since the format of such requests may be strictly governed by law with specific responses required, all such requests shall be promptly brought to the attention of the Personnel Manager, or other person charged with the maintenance of such records.

Upon receipt of any such request, the responsible person shall notify the affected employee(s) as soon as practicable that such a request has been made (Evidence Code § 1043(a)).

The responsible person shall further ensure that an appropriate response to the request is made in a timely manner, consistent with applicable law. In many cases, this will require assistance of approved and available legal counsel.

All requests for disclosure, which result in access to an employee's personnel file(s), shall be logged in the corresponding file.

#### **RELEASE OF CONFIDENTIAL INFORMATION**

Except as provided by this policy or pursuant to lawful process, no information contained in any confidential peace officer personnel file shall be disclosed to any unauthorized person(s) without the expressed prior consent of the involved deputy or written authorization of the Chief Probation Officer or his or her designee.

Any person who maliciously, and with the intent to obstruct justice or the due administration of the laws, publishes, disseminates, or otherwise discloses the residence address or telephone number of any member of this department may be guilty of a misdemeanor (Penal Code § 146e).

Pursuant to Penal Code § 832.7(e), the disposition of any citizen's complaint shall be released to the complaining party within 30 days of the final disposition. This release shall be limited to the disposition and shall not include what discipline, if any was imposed.

The Department may also release any factual information concerning a disciplinary investigation if the deputy who is the subject of the investigation (or the deputy's representative) publicly makes a statement which is published in the media and which the deputy (or representative) knew to be false. The disclosure of such information, if any, shall be limited to facts that refute any such false statement (Penal Code § 832.7(d)).

#### **EMPLOYEE ACCESS TO OWN FILE**

Any employee may request access to his/her own personnel file(s) during the normal business hours of the individual(s) responsible for maintaining such file(s). Any employee seeking the removal of any item from his/her personnel file shall file a written request to the Chief Probation Officer through the chain of command. The Department shall thereafter remove any such item if appropriate or within 30 days provide the employee with a written explanation why the contested item will not be removed (Government Code 3306.5). If the contested item is not removed from the file, the employee's request and the department's written response shall be retained with the contested item in the employee's personnel file.

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### *Personnel Files*

Employees may be restricted from accessing files containing any of the following information:

- (a) Ongoing Internal affairs investigations to the extent that it could jeopardize or compromise the investigation pending final disposition or notice to the employee of the intent to discipline.
- (b) Confidential portions of Internal Affairs files which have not been sustained against the employee.

### **TYPES OF PERSONNEL FILES**

Peace officer personnel files can be located in any of the following places:

#### **DEPARTMENT FILE**

The Department file should contain, but is not limited to, the following:

- (a) Performance evaluation reports regularly completed by appropriate supervisor and signed by the affected employee shall be permanently maintained.
- (b) Disciplinary action:
  - 1. Disciplinary action resulting from sustained internally initiated complaints or observation of misconduct shall be maintained in the individual employee's department file at least two years (Government Code § 34090).
  - 2. Disciplinary action resulting from a sustained citizen's complaint shall be maintained in the individual employee's department file at least five years (Penal Code § 832.5).
  - 3. Investigations of complaints which result in a finding of not-sustained, unfounded or exonerated shall not be placed in the employee's department file, but will be separately maintained for the appropriate retention period in the internal affairs file.
- (c) Adverse comments may be retained in the department file after the employee has had the opportunity to read and initial/sign the comment (Government Code § 3305).
  - 1. Once an employee has had an opportunity to read and initial any adverse comment prior to entry into a file, the employee shall be given the opportunity to respond in writing to such adverse comment within 30 days (Government Code § 3306).
  - 2. Any such employee response shall be attached to and retained with the original adverse comment.
  - 3. If an employee refuses to initial or sign an adverse comment, at least one supervisor should note the date and time of such refusal on the original comment. Such a refusal, however, shall not be deemed insubordination nor shall it prohibit the entry of the adverse comment into the employee's file.
- (d) Commendations shall be retained in the employee's department file, with a copy provided to the involved employee.
- (e) Personnel Action Reports reflecting assignments, promotions and other changes in the employee's employment status shall be permanently retained.
- (f) A photograph of the employee shall be permanently retained.

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### *Personnel Files*

#### **SUPERVISOR'S FILE**

The Division File should contain, but is not limited to, the following:

- (a) Supervisor log entries, notices to correct and other materials intended to serve as a foundation for the completion of timely Performance Evaluations
  1. All materials intended for this interim file shall be provided to the employee prior to being placed in the file in accordance with Government Code §§ 3305 and 3306.
  2. Duplicate copies of items that will also be included in the employee's department file may be placed in this interim file in anticipation of completing any upcoming performance evaluation.
  3. Once the permanent performance evaluation form has been made final, the underlying foundational material(s) and/or duplicate copies may be purged in accordance with this policy.
- (b) All rules of confidentiality and disclosure shall apply equally to the division file.

#### **INTERNAL AFFAIRS FILE**

Internal affairs files shall be maintained under the exclusive control of the office of the Chief Probation Officer. Access to these files may only be approved by the Chief Probation Officer or designee. These files shall contain:

- (a) The complete investigation of all formal complaints of employee misconduct, regardless of disposition.
  1. Each investigation file arising out of a formal citizen's complaint or a complaint involving a discriminatory harassment or hostile work environment shall be maintained no less than five years (Penal Code § 832.5(b)). Investigation files arising out of other internally generated complaints shall be maintained no less than two years (Government Code § 34090).

Investigations that result in other than a sustained finding shall be maintained for the minimum statutory period but may not be used by the Department to adversely affect an employee's career (Penal Code § 832.5 (c)).

#### **MEDICAL FILE**

A medical file shall be maintained separately from all other files and shall contain all documents relating to the employee's medical condition and history, including but not limited to the following:

- (a) Materials relating to medical leaves of absence.
- (b) Documents relating to workers compensation claims or receipt of short or long term disability benefits.
- (c) Fitness for duty examinations, psychological and physical examinations, follow-up inquiries and related documents.
- (d) Medical release forms, doctor's slips and attendance records which reveal an employee's medical condition.
- (e) Any other documents or material which reveals the employee's medical history or medical condition, including past, present, or future anticipated mental, psychological, or physical limitations.

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### *Personnel Files*

#### **PURGING OF FILES**

Formal citizen complaints and all related files not pending litigation or other ongoing legal proceedings may be purged no sooner than five years from the underlying complaint date (Penal Code § 832.5).

All other disciplinary files and investigations of non-citizen initiated complaints not pending litigation or other ongoing legal proceedings may be purged no sooner than two years from the underlying complaint date (Government Code § 34090 and Government Code § 26202).

- (a) Each supervisor responsible for completing the employee's performance evaluation shall also determine whether any prior sustained disciplinary file should be retained beyond the statutory period for reasons other than pending litigation or other ongoing legal proceedings.
- (b) If a supervisor determines that records of prior discipline should be retained beyond the applicable statutory period, approval for such retention shall be obtained through the chain of command from the Chief Probation Officer.
- (c) During the preparation of each employee's performance evaluation, all complaints and discipline should be reviewed to determine the relevancy, if any, to progressive discipline, training and career development. If, in the opinion of the Chief Probation Officer, a complaint or disciplinary action beyond the statutory retention period is no longer relevant, all records of such matter may be destroyed pursuant to resolution.

#### **BRADY MATERIAL IN PERSONNEL FILES**

The purpose of this section is to establish a procedure for releasing potentially exculpatory information (so-called Brady material) contained within confidential peace officer personnel files.

#### **DEFINITIONS**

**Brady Material** - In the Brady v. Maryland decision ( 373 U.S. 83 (1963)) the United States Supreme Court held that the prosecution has an affirmative duty to disclose to the defendant evidence which is both favorable and material to the guilt and/or punishment of the defendant.

**The Prosecution** - Refers to the District Attorney and all investigative agencies involved in the criminal prosecution of a defendant, including this department.

**Penal Code § 1054.1** - California law also establishes a criminal defendant's right to access potentially exculpatory evidence.

#### **RELEASE OF PERSONNEL FILES TO DISTRICT ATTORNEY**

Pursuant to Penal Code § 832.7(a), the only time the District Attorney (Attorney General or Grand Jury) is entitled to access confidential peace officer personnel files without filing a so-called Pitchess motion (Evidence Code § 1043 et seq.) is when they are investigating the conduct of a deputy or this department. Such access shall not be considered a waiver of the confidentiality of the information contained in these files.

Absent a specific investigation of identified deputy(s) or a specific investigation of this department (or the consent of an involved deputy), no confidential information from any deputy's personnel file shall be released to the District Attorney or Grand Jury without full compliance with the Pitchess process. The prosecution of a criminal defendant is not considered an investigation of any involved deputy.

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### *Personnel Files*

Should a deputy's credibility or other issues related to a deputy's personnel file arise in the context of a deputy acting as a witness for the prosecution, access to that deputy's personnel file by either the District Attorney or the criminal defendant shall be limited to that which is authorized by the process set forth in Evidence Code § 1043, et seq.

#### **PROCEDURE**

If a deputy is a material witness in a criminal case, a person or persons designated by the Chief Probation Officer may examine the subject deputy's personnel file to determine whether there are Brady materials contained therein (e.g., evidence which is both favorable and material to the guilt and/or punishment of the defendant). If Brady material is located, the following procedure shall apply:

- (a) In the event that a Pitchess motion has not already been filed by the criminal defendant or other party, the District Attorney shall be notified of the potential presence of Brady material in the deputy's personnel file.
- (b) The District Attorney should be instructed to file a Pitchess motion in order to initiate an in camera review by the court.
- (c) As with any Pitchess motion, and prior to any review of the files by the court, subject deputy(s) shall be notified in writing that a Pitchess motion has been filed.
- (d) The responsible Custodian of Records shall accompany all relevant personnel files during any in camera inspection and address any issues or questions raised by the court in determining whether or not any material contained in the file is both material and favorable to the criminal defendant.
- (e) If the court determines that there is relevant Brady material contained in the file(s), only that material ordered released will be copied and released to the parties filing the Pitchess motion.
  1. Prior to the release of any materials pursuant to this process, the Custodian of Records should request a protective order from the Court limiting the use of such materials to the involved case and requiring the return of all copies upon completion of the case.

#### **1026.10 TIME LIMITS FOR RETAINING FILES**

The time limits for maintaining files containing personnel information are as follows:

**Background Information Files** - If the individual is hired as a department employee the background investigation information becomes an adjunct to the personnel file and will be retained for as long as the person is employed by the department. All background investigation files will be maintained in a separate locked file cabinet in the administrative offices of the Probation Department. For those persons who are not hired, the background file will be retained for a period of two (2) years before it can be destroyed.

**Personnel Files** - Personnel Files will be retained for five (5) years after a person leaves employment with the department. It can then be destroyed.

**Results of Psychological Exam** - Results of psychological evaluations performed in the process of peace officer background investigations will be kept in separate, locked cabinet located in the Administrative offices. For employees who are hired by the department and will be retained for a period of five (5) years after the employee leaves employment. For those persons who are not hired, the results of the psychological examination will be retained for a period of two (2) years before it can be destroyed.

# Employee Commendations

## PURPOSE AND SCOPE

Special recognition may be in order whenever an employee performs his/her duties in an exemplary manner. This procedure provides general guidelines for the commending of exceptional employee performance.

## WHO MAY MAKE COMMENDATIONS

A written commendation may be made by any supervisor regarding any other employee of the Department, provided the reporting person is superior in rank or is the person-in-charge of the individual being commended. Any employee may recommend a commendation to the supervisor of the employee subject to commendation.

## COMMENDABLE ACTIONS

A meritorious or commendable act by an employee of this department may include, but is not limited to, the following:

- Superior handling of a difficult situation by an employee
- Conspicuous bravery or outstanding performance by any employee of the Department
- Any action or performance that is above and beyond the typical duties of an employee

### 1030.3.1 COMMENDATION MEMO

The Commendation Memo shall be used to document the commendation of the employee and shall contain the following:

- (a) Employee name and assignment at the date and time of the commendation
- (b) A brief account of the commendable action shall be documented on the memo
- (c) Signature of the commending supervisor

Completed memos shall be forwarded to the Director for his/her review. The Director shall forward the report to the Assistant Chief Probation Officer for his/her review.

The Assistant Chief Probation Officer will return the commendation to the Director. The report will then be returned to the Personnel Clerk for distribution to the employee and entry into the employee's personnel file.

## Fitness for Duty

### PURPOSE AND SCOPE

All deputies are required to be free from any physical, emotional, or mental condition which might adversely affect the exercise of peace officer powers. The purpose of this policy is to ensure that all deputies of this department remain fit for duty and able to perform their job functions (Government Code § 1031).

### EMPLOYEE RESPONSIBILITIES

- (a) It shall be the responsibility of each member of this department to maintain good physical condition sufficient to safely and properly perform essential duties of their position.
- (b) Each member of this department shall perform his/her respective duties without physical, emotional, and/or mental constraints which would prohibit the full performance of the essential functions of their position.
- (c) During working hours, all employees are required to be alert, attentive, and capable of performing his/her assigned responsibilities.
- (d) Any employee who feels unable to perform his/her duties shall promptly notify a supervisor. In the event that an employee believes that another employee is unable to perform his/her duties, such observations and/or belief shall be promptly reported to a supervisor.

### SUPERVISOR RESPONSIBILITIES

- (a) A supervisor observing an employee, or receiving a report of an employee who is perceived to be, unable to safely perform his/her duties due to a physical or mental condition shall take prompt and appropriate action in an effort to resolve the situation.
- (b) Whenever feasible, the supervisor should attempt to ascertain the reason or source of the problem and in all cases a preliminary evaluation should be made in an effort to determine the level of inability of the employee to perform his/her duties.
- (c) In the event the employee appears to be in need of immediate medical or psychiatric treatment, all reasonable efforts should be made to provide such care.
- (d) In conjunction with the Personnel Manager and/or Probation Director, a determination should be made whether or not the employee should be temporarily relieved from his/her duties.
- (e) The Chief Probation Officer will make the final decision in the event that any employee is relieved from duty.

### NON-WORK RELATED CONDITIONS

Any employee suffering from a non-work related condition which warrants a temporary relief from duty will be required to use sick leave or other paid time off (PTO) in order to obtain medical treatment or other reasonable rest period.

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### *Fitness for Duty*

#### **WORK RELATED CONDITIONS**

Any employee suffering from a work related condition which warrants a temporary relief from duty shall be required to comply with personnel rules and guidelines for processing such claims.

Upon the recommendation of the Personnel Manager or unit supervisor and concurrence of a Director, any employee whose actions or use of force in an official capacity result in death or serious injury to another may be temporarily removed from regularly assigned duties and/or placed on paid administrative leave for the well-being of the employee and until such time as the following may be completed:

- (a) A preliminary determination that the employee's conduct appears to be in compliance with policy and, if appropriate.
- (b) The employee has had the opportunity to receive necessary counseling and/or psychological clearance to return to full duty.

#### **PHYSICAL AND PSYCHOLOGICAL EXAMINATIONS**

- (a) Whenever circumstances reasonably indicate that an employee is unfit for duty, the Chief Probation Officer may serve that employee with a written order to undergo a physical and/or psychological examination in cooperation with Department of Human Resources or Risk Management to determine the level of the employee's fitness for duty. The order shall indicate the date, time and place for the examination.
- (b) The examining physician or therapist will provide the Department with a report indicating that the employee is either fit for duty or, if not, listing any functional limitations which limit the employee's ability to perform job duties (Civil Code § 56.10(c)(8)(A)). If the employee places his/her condition at issue in any subsequent or related administrative action/grievance, the examining physician or therapist may be required to disclose any and all information which is relevant to such proceeding (Civil Code § 56.10(c)(8)(B)).
- (c) In order to facilitate the examination of any employee, the Department will provide all appropriate documents and available information to assist in the evaluation and/or treatment.
- (d) All reports and evaluations submitted by the treating physician or therapist shall be part of the employee's confidential personnel file.
- (e) Any employee ordered to receive a fitness for duty examination shall comply with the terms of the order and cooperate fully with the examining physician or therapist regarding any clinical interview, tests administered or other procedures as directed. Any failure to comply with such an order and any failure to cooperate with the examining physician or therapist may be deemed insubordination and shall be subject to discipline up to and including termination.
- (f) Once an employee has been deemed fit for duty by the examining physician or therapist, the employee will be notified to resume his/her duties.

#### **APPEALS**

An employee who is separated from paid employment or receives a reduction in salary resulting from a fitness for duty examination shall be entitled to an administrative appeal as outlined in the Conduct Policy).

# Lactation Break Policy

## PURPOSE AND SCOPE

The purpose of this policy is to provide reasonable accommodations to employees desiring to express breast milk for the employee's infant child (29 USC § 207 and Labor Code §§ 1030-1032).

## POLICY

It is the policy of this department to provide, in compliance with the Fair Labor Standards Act, reasonable break time and appropriate facilities to accommodate any employee desiring to express breast milk for her nursing infant child (29 USC § 207 and Labor Code § 1030).

## LACTATION BREAK TIME

A rest period should be permitted each time the employee has the need to express breast milk (29 USC § 207). In general, lactation breaks that cumulatively total 30 minutes or less during any four-hour work period or major portion of a four-hour work period would be considered reasonable. However, individual circumstances may require more or less time. Such breaks, if feasible, should be taken at the same time as the employee's regularly scheduled rest or meal periods.

While a reasonable effort will be made to provide additional time beyond authorized breaks, any such time exceeding regularly scheduled and paid break time will be unpaid (Labor Code § 1030).

Employees desiring to take a lactation break shall notify a supervisor prior to taking such a break. Such breaks may be reasonably delayed if they would seriously disrupt department operations (Labor Code § 1032).

Once a lactation break has been approved, the break should not be interrupted except for emergency or exigent circumstances.

## PRIVATE LOCATION

The Department will make reasonable efforts to accommodate employees with the use of an appropriate room or other location to express milk in private. Such room or place should be in close proximity to the employee's work area and shall be other than a bathroom or toilet stall. The location must be shielded from view and free from intrusion from co-workers and the public (29 USC § 207 and Labor Code § 1031).

Employees occupying such private areas shall either secure the door or otherwise make it clear to others that the area is occupied with a need for privacy. All other employees should avoid interrupting an employee during an authorized break, except to announce an emergency or other urgent circumstance.

## STORAGE OF EXPRESSED MILK

Any employee storing expressed milk in any authorized refrigerated area within the Department shall clearly label it as such and shall remove it when the employee ends her shift.

# Payroll Record Procedures

## **PURPOSE AND SCOPE**

Time Cards are submitted to the immediate Supervisor on a weekly basis for the payment of wages.

## **RESPONSIBILITY FOR COMPLETION OF PAYROLL RECORDS**

Employees are responsible for the accurate and timely submission of payroll records for the payment of wages.

## **TIME REQUIREMENTS**

Timecards shall be completed and submitted to Immediate Supervisor no later than 12:00 PM on the Monday morning for the previous work week, unless specified otherwise. Time Cards must be signed by the employee as well as immediate supervisor.

## Overtime Compensation Requests

### POLICY

Overtime compensation shall be authorized only in the event of an emergency or a business necessity. The department will use overtime when all other alternatives have been exhausted. When it has been determined a need for overtime exists, the following shall apply:

- (a) No employee is authorized to work overtime or work outside of his or her assigned work schedule without permission from their supervisor and Manager.
- (b) Every attempt shall be made to flex time off for additional hours worked beyond the regular work schedule within the pay period. Overtime is accrued when the regular hours worked exceed the approved regular work schedule.
- (c) When there is an unavoidable use of overtime the staff person is to notify their immediate supervisor by the end of the next working day.
- (d) Time out for meals will not be included in overtime.
- (e) When a deputy travels from their regularly assigned office to another office for overtime work, time for travel will be included in the overtime calculation.
- (f) County Policy and the MOU agreements will determine payment procedures.

### AUTHORIZATION OF OVERTIME

- (a) All overtime must be approved by management prior to the employee working the overtime in question.
- (b) Deputies requesting authorization to work overtime to deal with a specific situation will present a written request (Request for Authorization of Overtime) to their immediate supervisor. If the immediate supervisor agrees with the request it will then be sent to the Division Manager for approval. In the event that the Division Manager is not available, the immediate supervisor should inform the Director.
- (c) Non-sworn personnel must clear any overtime with their respective supervisor and the Probation Manager in charge of clerical operations. If the Probation Manager is not available the Director must approve the request.

### EMPLOYEES RESPONSIBILITY

- (a) Complete "Request for Authorization of Overtime" giving your name, amount of overtime requested, reason for the request, including the names of specific cases to which the overtime pertains.
- (b) "Request for Authorization of Overtime" is to be approved by the immediate supervisor and the Division Manager.
- (c) After the overtime is completed, fill out the lower half of the, "Authorization of Overtime" form showing the date, time, and total number of overtime hours worked. The deputy will turn this in to his immediate supervisor for approval. The form then will be given to the Division Manager who will note their approval and submit it to the payroll clerk for processing.

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### *Overtime Compensation Requests*

- (d) It is imperative that the "Request for Authorization of Overtime" form be completed and forwarded to the payroll clerk on the first day after the person works the overtime hours.

#### **COMPENSATORY TIME OFF**

The Fair Labor Standards Act of 1938 (FLSA), 29 U.S.C. §201 et seq. permits public sector employers to compensate their employees for overtime work by granting them time off (Comp Time) in lieu of cash payment.

- (a) If an employee is authorized to work overtime and is given time off in lieu of a cash payment the employee will earn compensatory time (Comp Time) off at the rate of one and one-half hours for each hour worked.

#### **ADJUSTED HOURS**

The nature of probation work may require the employee to temporarily work outside of his or her regular work schedule or the employee, themselves, may need to alter their work schedule on a particular day to meet their personal needs or interests. With prior approval from their supervisor the employee may temporarily change their work schedule to accommodate these needs. The following applies:

- Employees may not work more than their normally scheduled number of hours in one day. For example, if an employee is scheduled to work eight hours in a day they may not work more than eight (8) hours without being compensated for overtime. Overtime must have management approval, per this policy bulletin.
- Employees may not work more than forty (40) hours in a week (Monday through Sunday) without being compensated for overtime.
- Supervisors may approve their employees to come in early or stay late in order to complete their scheduled hours. Supervisors may also allow employees to change their day off as long as they work their scheduled hours for the week.
- Adjusted hours may not be accrued and used at a later date. Under no circumstances are employees or supervisors to maintain a "log" or record of "adjusted hours" or "informal" comp time. An employee may work adjusted hours with supervisory approval or work overtime with management approval but may not accrue any sort of "informal" time off.

## Outside Employment

### PURPOSE AND SCOPE

It is the intent of this policy to permit an employee of the Contra Costa County Probation Department to work for a private business or other public institution during an employee's off-duty hours under the terms and conditions provided herein.

In order to avoid actual or perceived conflicts of interest for departmental employees engaging in outside employment, all employees shall obtain written approval from the Chief Probation Officer prior to engaging in any outside employment. Approval of outside employment shall be at the discretion of the Chief Probation Officer in accordance with the provisions of this policy.

### PROCEDURE:

- (a) All permanent employees requesting approval for outside employment must submit a "Request for Approval of Additional Employment" to his or her designated Probation Manager.
- (b) The employee must provide the following information in the "Request for Approval of Additional Employment" form:
  1. Statement reporting the nature and job expectations of the other employment;
  2. Name of the business, person, organization or institution requesting to be employed by;
  3. Location, days, and hours required by the other employer;
  4. Name of assigned supervisor to be provided within 10 business days from date of hire; and
  5. Any other information deemed necessary by the Probation Department.
- (c) The Probation Manager shall evaluate an employee's "Request for Approval of Additional Employment" to ensure no conflicts exist with the employee's schedule, duties, or the general responsibilities and duties of the Probation Department. The Probation Manager may consider the following factors, among others, in evaluating an employee's Request:
  1. Whether the outside employment will interfere with or impair the efficiency of the full and proper performance of the employee's regular duties;
  2. Whether the outside employment is conditional or contingent upon the color of authority and position appointed by this Department;
  3. Whether the outside employment duties would be contrary, incompatible, or in conflict with the assigned duties or responsibilities the employee is entrusted to perform for the Probation Department;
  4. Whether the outside employment duties would be contrary to the interests of the Probation Department's mission and would lead to situations that would result in damaging or discrediting the reputation of the Department;
  5. Whether the outside employment would involve any duty required during the employee's existing shift pattern;

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### *Outside Employment*

6. Whether the outside employment would conflict with the employee's duties described in Government Code 3100 (public employees as disaster service workers); and
7. Any other factors the Probation Department deems relevant to each request.

#### **AUTOMATIC DENIAL**

The following list constitutes examples of incompatible outside employment and may be a basis for automatic denial of a Request or automatic termination of a previously granted Request:

- (a) An employee shall not provide private legal representation, personal or family counseling, therapy or treatment to clients or relatives of clients living in the client's home.
- (b) An employee shall not perform duties for outside employment on County time or use County equipment, facilities, Department's badge, prestige or supplies.
- (c) An employee shall not provide legal representation in criminal cases, conduct private psychological investigations, social studies or reports on any case filed in the courts in Contra Costa County.
  1. An employee must immediately notify the County Probation Officer if he or she conducts private psychological investigations, social studies or reports on any case filed in courts outside Contra Costa County.
- (d) Employees shall not engage in the foster care of persons, formerly or presently, placed by the Department or the subject of Department supervision or investigation.
  1. Should a situation arise that warrants special consideration, and possible exemption to this established regulation, the employee shall immediately notify the County Probation Officer in writing of the special circumstances, and request an exception.
  2. The County Probation Officer will review the employee's request and will issue a prompt decision. The decision of the County Probation Officer is final.

#### **DECISION AND APPEAL**

- (a) A Probation Manager shall make a decision, in writing, within ten days after an employee's submission of a "Request for Approval of Additional Employment."
- (b) The decision shall indicate approval or denial and include comments if denied.
- (c) If a Request is denied, an employee may appeal the decision. Appeals must be submitted, in writing, to the County Probation Officer within thirty (30) calendar days of the date of the denial.
- (d) The County Probation Officer will review the employee's appeal and will issue a prompt decision. The decision of the County Probation Officer is final.

#### **APPROVAL AND EXTENSION**

- (a) An approval of a request is effective for one (1) year only.
- (b) If an employee wishes to extend his or her outside employment longer than one (1) year, the employee must submit a new "Request for Approval of Additional Employment" form at least thirty (30) days prior to the expiration of the approved one-year period.
- (c) The extension request is subject to same procedure provided herein.

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### *Outside Employment*

#### **CONDITIONS OF OUTSIDE EMPLOYMENT RETENTION**

If an employee's Request is granted, the employee is subject to the following conditions while maintaining outside employment:

- (a) The employee must provide to the Department a signed statement from the outside employer, acknowledging that it understands that the employee is regularly employed by the Contra Costa County Probation Department. This signed statement must be provided within five days after the Department's approval of the outside employment.
- (b) The employee must maintain the Department's attendance standards.
- (c) The employee must ensure that the outside employment does not impact his or her job performance with the Probation Department.
- (d) The employee must make certain that the outside employment does not pose a conflict of interest with his or her duties with the Probation Department or as a peace officer. If any potential or actual conflicts of interest arise, the employee must immediately report the conflict to the Department.
- (e) The employee must provide the name and contact information of the personnel officer of the outside employer.
- (f) The employee must disclose to the Department any disciplinary actions implemented and/or investigation initiated against the employee by the outside employer. The employee may also be subject to discipline by the Probation Department

#### **REVOCACTION**

The Department reserves the right to revoke approval of outside employment at any time in its sole discretion. The following are examples in which revocation is appropriate:

- (a) The employee violates any provision of this policy or fails to uphold or abide by any condition in this policy.
- (b) The employee's behavior negatively impacts the Department or casts a perceived damaging light on the Probation Department or County.
- (c) The employee's outside employment causes situations that pose a conflict of interest or incompatibility with the Probation Department.
- (d) The employee engages in any activity during the course of performing outside employment duties that may be viewed as unbecoming conduct or behavior that is considered inappropriate.

#### **ACTIVITIES OTHER THAN EMPLOYMENT WHERE INCOME, PROFIT, OR OTHER GAIN IS OR MAY BE ACCRUED**

- (a) No County employee shall participate in any activity or enterprise where income, profit or other gain is or may be accrued, which could reflect negatively on the Department or be contrary to the best interests of the County in any respects.
- (b) No County employee shall be involved through secondary parties in the engagement of any activity which the employee is prohibited from engaging in directly, nor in that connection shall the employee lend, convey, or authorize the use of any information or resources under the employee's control.

#### **OUTSIDE ACTIVITIES/NON-EMPLOYMENT**

- (a) Off-duty activities shall be consistent with the Department's Conduct Policy

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### *Outside Employment*

- (b) All outside activities which may result in situations described in this policy or are potentially questionable may be discussed with the employees supervisor to clarify the issue of possible conflict.
- (c) Employees will not engage in the following activities without obtaining prior approval from his or her Probation Manager or Director:
  - 1. Teach classes outside of employment duties. This restriction does not apply to volunteer work unrelated to the employee's probation expertise or knowledge (e.g. religious classes, hobbies, scouting, sports coaching);
  - 2. Entering into or maintaining a social or business relationship with persons who are the subject of a Department investigation or supervision and his or her immediate family members except with the prior written authorization of the County Probation Officer or designee; or
  - 3. Engaging in group home care of persons, formerly or presently, placed by the Department or subject to Department supervision or investigation

### **VIOLATION OF POLICY**

- (a) Violation of this policy may lead to revocation of approval of outside employment as provided in paragraph VII., above.
- (b) Violation of any term of this policy may also subject the employee to disciplinary action, up to, and including, termination from Probation Department employment.
- (c) The employee may also be responsible for any monetary fine and penalties arising out of his or her actions.

### **OUTSIDE EMPLOYMENT WHILE ON DISABILITY**

Department members engaged in outside employment who are placed on disability leave or modified/light-duty shall inform their immediate supervisor in writing within five days whether or not they intend to continue to engage in such outside employment while on such leave or light-duty status. The immediate supervisor shall review the duties of the outside employment along with any related doctor's orders, and make a recommendation to the Chief Probation Officer whether such outside employment should continue.

In the event the Chief Probation Officer determines that the outside employment should be discontinued or if the employee fails to promptly notify his/her supervisor of his/her intentions regarding their outside work, a notice withdrawing permission will be forwarded to the involved employee, and a copy attached to the original work permit.

Criteria for revoking the outside employment permit include, but are not limited to, the following:

- (a) The outside employment is medically detrimental to the total recovery of the disabled member, as indicated by the County's professional medical advisors.
- (b) The outside employment performed requires the same or similar physical ability, as would be required of an on-duty member.
- (c) The employee's failure to make timely notice of their intentions to their supervisor.

When the disabled member returns to full duty with the Contra Costa County Probation Department, a request (in writing) may be made to the Chief Probation Officer to restore permission.

## On Duty Injuries

### PURPOSE AND SCOPE

The purpose of this policy is to provide for the reporting of on-duty injuries, occupational illnesses, or deaths to Risk Management, to ensure proper medical attention is received, and document the circumstances of the incident.

### WORKER'S COMPENSATION FUND REPORTS

### INJURIES REQUIRING MEDICAL CARE

All work related injuries and work related illnesses requiring medical or psychological care must be reported to the Risk Management Office and a claim form shall be provided to the injured employee within 24 hours from the time the injury was discovered, excluding weekends and holidays.

### ACCIDENT DEFINED

**Accident** - is defined as any occurrence from which bodily or emotional injury or property damage may result, regardless of whether any injury or damage actually does occur (e.g., exposure where no immediate injury is apparent).

### EMPLOYEE'S RESPONSIBILITY

Any employee sustaining any work-related injury or illness, as well as any employee who is involved in any accident while on duty shall report such injury, illness or accident as soon as practical to his/her supervisor.

Any employee observing or learning of a potentially hazardous condition is to promptly report the condition to his/her immediate supervisor.

Any employee sustaining a work-related injury or illness that requires relief from duty is required to be examined/treated by a doctor.

Any employee sustaining a work-related injury or illness that requires relief from duty is also required to comply with departmental policies and directives relating to the duty to periodically call in during absences, as well as the duty to notify the Department of any change in condition or anticipated duration of the absence.

When appropriate, an employee being treated for an on-duty injury should inform the attending physician that a modified duty assignment may be available at the Department. Limited-service duty may be available for the employees whose injuries prevent resumption of regular duties.

An injured employee or employee who has suffered a work-related illness shall report as soon as practical to his/her immediate supervisor extent and duration of any work restrictions if they are known. In addition, such employees are required to promptly submit all medical releases, whether partial or full releases, to their supervisor.

# Contra Costa County Probation Department

## Policy Manual

### *On Duty Injuries*

#### **SUPERVISOR'S RESPONSIBILITY**

A supervisor learning of any work-related injury, illness or accident shall promptly prepare the appropriate forms. Updated copies of forms with instructions for completion provided by Risk Management are kept in each office.

For work-related accidents, injuries or illness not requiring professional medical care, a Supervisor's Report of Injury (AK-30) form shall be completed in triplicate. All copies of the completed form shall be forwarded to the Personnel Manager.

When an accident, injury, or illness is reported initially on the AK-30 form and the employee is hospitalized for more than 24 hours, the State of California Employer's Report of Occupational Injury or Illness form shall then be completed. The injured employee shall also sign the form in the appropriate location.

Every injured employee must be provided with an Employee's Claim for Workers' Compensation Benefits Form (DWC-1) within 24 hours, regardless of the nature of illness or injury.

Copies of any reports documenting the accident or injury should be forwarded to the Personnel Manager as soon as they are completed.

#### **PERSONNEL MANAGER RESPONSIBILITY**

The Personnel Manager receiving a report of a work-related accident or injury should review the report for accuracy and determine what additional action should be taken. The report shall then be forwarded to the Probation Director and Risk Management. Any copies of the report and any related documents retained by the Department shall be filed in the employee's confidential medical file and not in the employee's personnel file (see Policy Manual § 1026).

#### **INJURY NOT REQUIRING MEDICAL ATTENTION**

Those injuries and illnesses not requiring medical attention shall be recorded on a AK-30 form. This form shall be completed and signed by a supervisor.

The "decline memo" shall be signed by the affected employee, indicating that he/she desired no medical attention at the time of the report. By signing this form, the employee will not preclude his/her ability to seek medical attention later.

#### **SETTLEMENT OF INJURY CLAIMS**

Occasionally, an employee's work-related injury results from the negligent or wrongful acts of another, for which the employee, the County, and/or other insurers are entitled to recover civilly. To ensure that the County's interests are protected and that the employee has the benefit of the County's experience in these matters, the following procedure is to be followed:

#### **EMPLOYEE TO REPORT INITIAL CONTACTS**

When an employee sustains work-related injuries caused by another person and is then approached by such person or an agent, insurance company, or attorney and offered a settlement of claims, that employee shall take no action other than to make a written report of this contact to his/her supervisor as soon as possible. The employee may be required to speak to risk management at a future time and date.

# Contra Costa County Probation Department

## Policy Manual

### *On Duty Injuries*

#### **NO SETTLEMENT WITHOUT PRIOR APPROVAL**

No less than ten (10) days prior to accepting and finalizing the settlement of any third party claim arising out of or related to an on duty injury, the employee shall provide the Chief Probation Officer with written notice of the proposed terms of such settlement. In no case shall the employee accept a settlement without first providing such written notice to the Chief Probation Officer. The purpose of such notice to permit the County to determine whether or not the offered settlement will affect any claim the County may have regarding payment for damage(s) to equipment or reimbursement for wages against the person who caused the accident or injury and to protect the County's right of subrogation, while ensuring that the employee's rights to receive compensation for injuries are not affected.

# Threats/Danger to Employees and Others

## POLICY

Employees are not expected, during the performance of their duties, to place themselves in any situation, that presents an unreasonable degree of danger to their lives or health. In addition, Probation Department staff have a duty to promptly warn third parties of any danger which a probationer may pose to them.

### 1043.1.1 PURPOSE AND SCOPE

Employees shall utilize reasonable methods to minimize, reduce, or avoid danger to themselves and others. They are encouraged to seek assistance from other employees or outside agencies as appropriate. Employees are to plan and apply reasonable care and caution in all potentially dangerous situations, and use good judgment in balancing the requirements of job performance and safety issues.

### THREATS TO THE EMPLOYEE

Employees shall notify his/her immediate supervisor if, as a result of employment with the Probation Department, the employee is assaulted, attacked or threatened, or any member of the employee's family is assaulted, attacked or threatened.

Should an incident occur, every effort shall be made to prevent further or prolonged attack or injury. Serious threats and assaults shall be reported to law enforcement. The employee shall cooperate with the department to develop a long-range plan to minimize/eliminate the danger.

### THREATS TO OTHERS

The duty to warn arises when the probation officer can reasonably foresee prospective harm to a specific third party, based on the probationer's background, past conduct and/or present statements. "Reasonably foresee" means that the circumstances of the relationship of the probationer and a third party suggest that the probationer may act in a manner which would bring harm to the third party. The danger of the third party may either be physical or financial. Some examples of foreseeable prospective harm are:

- (a) A probationer makes a specific threat of violence against a third party and appears to have the means to carry out that threat.
- (b) The field of a probationer's employment is related to his or her criminal past, such as an embezzler employed by a bank; or a child molester employed by a child care agency; or a drug user working in a pharmacy.
- (c) A probationer's living arrangements offer the opportunity of engaging in criminal behavior for which he/she has a past record. An example would be a person with a history of assaulting the elderly who rents a room in the house of elderly people.

### ACTIONS TO BE TAKEN

- (a) Probationers who make threats: When a probationer poses a physical or financial threat and has the apparent ability to carry out that threat, the probation officer shall contact the threatened party. A telephone contact shall be followed by a written

# Contra Costa County Probation Department

## Policy Manual

### *Threats/Danger to Employees and Others*

warning specifically describing the nature of the threat. The prospective victim can also be informed of the offense for which the probationer is under supervision and of other facts which would support the seriousness of the threat, but nothing else about his/her criminal record.

- (b) Probationers who are referred by the DPO for employment or volunteer work: The probation officer shall screen probationers with respect to prospective employment or volunteer work to ensure that a particular job or field of employment will present no reasonably foreseeable risk. When referred to a specific employment by a deputy, the deputy probation officer may supply the employer with a statement of the nature of the offense for which the probationer is under supervision or of possible behavior which could constitute threat. Information about prior criminal convictions cannot be released. If, however, the probationer signs a release, facts about his social and criminal history may be divulged by the Probation Department. The probation officer should periodically review the employment circumstances of probationers referred for a job through the efforts of this Department to determine if the employment circumstances have changed to cause a reasonably foreseeable risk to now exist, requiring a warning to the employer.
- (c) Probationers already employed or who find their own employment or volunteer work assignment: When a probationer secures his/her own employment or volunteer work assignment and there is no foreseeable risk related to this employment or volunteer assignment, no restrictions need be placed on the employment and no warnings or disclosure concerning the person's probationary status would be given to the employer, unless a request is made by the employer and the probationer has signed a release for that particular purpose. In that case, the employer should be given only that information as outlined in B-2 above.
- (d) However, when a probationer secures or has a job or volunteer assignment and has a background which suggests the possibility of his/her posing a serious physical or financial risk on the job, the probation officer assigned to the case must either:
  - 1. Require that the probationer give notice to the employer that he/she is on probation, with the understanding that the probation officer, upon notice of disclosure by the probationer, will verify that disclosure with the employer; or,
  - 2. Disclose to the employer that probationer's probation status and the nature of the offense for which he/she is on probation.

### **DOCUMENTATION**

All disclosures made to third parties, after supervisory and the Probation Manager's approval, by the Deputy Probation Officer must be recorded in the case narrative. In addition, any decision not to take action, because the probation officer handling the case determines that the risk is insufficient, must be discussed and similarly approved and documented in the case narrative to demonstrate that it was a considered policy decision.

# Personal Appearance Standards

## PURPOSE AND SCOPE

In order to project uniformity and neutrality toward the public and other members of the department, employees shall maintain their personal hygiene and appearance to project a professional image appropriate for this department and for their assignment.

Although no absolute criteria can be set forth to prescribe professional dress or appearance, staff should be aware of the need to present a neat, well-groomed, and professional image to the courts and the public.

## GENERAL GUIDELINES

The following guidelines are provided to assist staff in maintaining a professional appearance while performing the various duties members of this Department may be assigned.

## OFFICE ATTIRE

During working hours all personnel, sworn and non-sworn, shall wear clothing appropriate for conducting business in a professional atmosphere. Sworn staff members shall wear attire that quickly transitions to court attire for unanticipated court appearances.

## COURT ATTIRE

Court appearances require Probation staff to wear appropriate business attire: slacks, dress shoes, sport coat, dress shirt and tie for men; dress, skirt, slacks, and blouse, professional pant suits, dress shoes for women.

## TRAINING DAYS

Training days are considered on-duty hours. Office, field, or institutional attire may be worn and must be appropriate to the training site. Casual attire may be worn if appropriate to training.

## INAPPROPRIATE ATTIRE

Unacceptable clothing that distracts from a professional work environment is not permitted. Examples of such clothing include, but are not limited to, revealing clothes, shorts, pants above or revealing the knee, short skirts, casual sandals such as beach wear or "flip flops", shirts with slogans that can be reasonably construed as obscene, suggestive, vulgar or demeaning, which advertise alcohol, tobacco, or drugs, sweat pants, and clothes that are ragged or worn out. Sworn staff who choose to wear professional open toed shoes must have a pair of close toed shoes available for quick change. Field work and emergency response requires sworn staff wear appropriate footwear. Open toed shoes and heels are not to be worn during these activities.

Open toed shoes with heels which exceed 1.5 inches are not to be worn while assigned to an armed position with the Department. Armed staff members may obtain authorization to wear open toed shoes or heels which exceed 1.5 inches with supervisory approval.

# Contra Costa County Probation Department

## Policy Manual

### *Personal Appearance Standards*

#### **EXCEPTIONS TO THIS POLICY**

The Chief Probation Officer or Assistant Chief may temporarily exempt an employee from the minimum dress standard while performing a specific short-term task, for specific medical reasons, or for training. For example, athletic type orthotic shoes or athletic clothing to physical training classes.

#### **NON-COMPLIANCE**

Any staff member not in compliance with the Department dress policy will be directed to change into appropriate attire. If an absence from the workplace is required to change clothing, it shall not be compensated. This excludes unpaid meal breaks.

#### **WEARING OF DEPARTMENT IDENTIFICATION OFF-DUTY**

No member of this department shall appear publicly in Probation Clothing in an "off-duty" status unless an emergency exists or he/she has specific prior approval from a Probation Manager.

To preclude public criticism, personnel electing to wear their Probation Identification apparel to and from work shall use discretion and good judgment in making prolonged excessive stops at public establishments and shall wear an outer garment at all times.

No member of this department shall authorize or permit any other person to wear his/her identification apparel or badge at any time or for any purpose whatsoever.

#### **PERSONAL CLOTHING/ITEMS**

No staff member shall reproduce the Department's official star on personal clothing/items without permission from the Assistant Chief Probation Officer.

#### **TATTOOS**

While on-duty or representing the Department in any official capacity, every reasonable effort should be made to conceal tattoos or other body art. At no time while on-duty or representing the Department in any official capacity, shall any offensive tattoo or body art be visible. Examples of offensive tattoos would include, but not be limited to, those which depict racial, sexual, discriminatory, gang related, or obscene language.

#### **BODY PIERCING OR ALTERATION**

Body piercing or alteration to any area of the body visible in any authorized uniform or attire that is a deviation from normal anatomical features and which is not medically required is prohibited. Such body alteration includes, but is not limited to:

- (a) Tongue splitting or piercing.
- (b) The complete or transdermal implantation of any material other than hair replacement.
- (c) Abnormal shaping of the ears, eyes, nose or teeth
- (d) Branding or scarification.

# Nepotism and Conflicting Relationships

## PURPOSE AND SCOPE

The purpose of this policy is to ensure equal opportunity and effective employment practices by avoiding actual or perceived favoritism, discrimination or actual or potential conflicts of interest by or between members of this department. These employment practices include: recruiting, testing, hiring, compensation, assignment, use of facilities, access to training opportunities, supervision, performance appraisal, discipline and workplace safety and security.

### 1050.1.1 DEFINITIONS

**Business relationship** - Serving as an employee, independent contractor, compensated consultant, owner, board member, shareholder, or investor in an outside business, company, partnership, corporation, venture or other transaction, where the Department employee's annual interest, compensation, investment or obligation is greater than \$250.

**Conflict of interest** - Any actual, perceived or potential conflict of interest in which it reasonably appears that a department employee's action, inaction or decisions are or may be influenced by the employee's personal or business relationship.

**Nepotism** - The practice of showing favoritism to relatives over others in appointment, employment, promotion or advancement by any public official in a position to influence these personnel decisions.

**Personal relationship** - Includes marriage, cohabitation, dating or any other intimate relationship beyond mere friendship.

**Public official** - A supervisor, officer or employee vested with authority by law, rule or regulation or to whom authority has been delegated.

**Relative** - An employee's parent, stepparent, spouse, domestic partner, significant other, child (natural, adopted or step), sibling or grandparent.

**Subordinate** - An employee who is subject to the temporary or ongoing direct or indirect authority of a supervisor.

**Supervisor** - An employee who has temporary or ongoing direct or indirect authority over the actions, decisions, evaluation and/or performance of a subordinate employee.

## RESTRICTED DUTIES AND ASSIGNMENTS

The Department will not prohibit all personal or business relationships between employees. However, in order to avoid nepotism or other inappropriate conflicts, the following reasonable restrictions shall apply (Government Code § 12940(a)):

- (a) Employees are prohibited from directly supervising, occupying a position in the line of supervision or being directly supervised by any other employee who is a relative or with whom they are involved in a personal or business relationship.
  1. If circumstances require that such a supervisor/subordinate relationship exist temporarily, the supervisor shall make every reasonable effort to defer matters pertaining to the involved employee to an uninvolved supervisor.

# Contra Costa County Probation Department

## Policy Manual

### *Nepotism and Conflicting Relationships*

2. When personnel and circumstances permit, the Department will attempt to make every reasonable effort to avoid placing employees in such supervisor/subordinate situations. The Department, however, reserves the right to transfer or reassign any employee to another position within the same classification in order to avoid conflicts with any provision of this policy.
  - (b) Employees are prohibited from participating in, contributing to or recommending promotions, assignments, performance evaluations, transfers or other personnel decisions affecting an employee who is a relative or with whom they are involved in a personal or business relationship.
  - (c) To avoid actual or perceived conflicts of interest, members of this department shall refrain from developing or maintaining personal or financial relationships with victims, witnesses or other individuals during the course of or as a direct result of any official contact.
  - (d) Except as required in the performance of official duties or, in the case of immediate relatives, employees shall not develop or maintain personal or financial relationships with any individual they know or reasonably should know is under criminal investigation, is a convicted felon, parolee, fugitive or registered sex offender or who engages in serious violations of state or federal laws.

#### **EMPLOYEE RESPONSIBILITY**

Prior to entering into any personal or business relationship or other circumstance which the employee knows or reasonably should know could create a conflict of interest or other violation of this policy, the employee shall promptly notify his/her supervisor, or manager.

Whenever any employee is placed in circumstances that would require the employee to take enforcement action or provide official information or services to any relative or individual with whom the employee is involved in a personal or business relationship, the employee shall promptly notify his/her uninformed, immediate supervisor.

#### **SUPERVISOR'S RESPONSIBILITY**

Upon being notified of, or otherwise becoming aware of any circumstance that could result in or constitute an actual or potential violation of this policy, a supervisor shall take all reasonable steps to promptly mitigate or avoid such violations whenever possible. Supervisors shall also promptly notify the Chief Probation Officer of such actual or potential violations through the chain of command.

# Modified Duty Assignments

## PURPOSE AND SCOPE

The purpose of this policy is to establish procedures for assigning employees to modified duty. Temporary modified-duty assignments may be available to employees who have incurred a duty-related illness or injury and, due to restrictions or limitations, are unable to perform their regular assigned duties. Non-duty related illnesses or injuries may also be considered for eligibility in accordance with this policy. Eligibility for modified-duty assignment is subject to the approval of the Chief Probation Officer or his/her designee.

Modified-duty assignments are intended to provide an employee with the ability to continue working within the limits of his/her restrictions and limitations on a temporary basis while providing the Department with a productive employee during the interim period.

The Department will engage in a good faith interactive process to consider reasonable accommodations for any employee with a temporary or permanent disability.

## DEFINITIONS

**Modified Duty** - Means a temporary, limited-term assignment not requiring performance of the full range of duties associated with the regular job classification. Modified duty also may be termed as limited-duty assignments.

## LIMITATIONS

Modified-duty assignments are a management prerogative and not an employee right. Modified-duty assignments shall be subject to continuous re-assessment dependent upon Department need and the employee's ability to perform in a modified-duty capacity.

An injured employee injured at work may be assigned to a modified-duty position outside of his/her normal assignment or duties if it becomes available.

- (a) If an employee cannot adequately perform in a modified-duty assignment, such assignment may be modified or terminated.
- (b) The lack of Department need or a change in priorities may result in the employee's removal from or modification of a modified-duty assignment.
- (c) The Department may place conditions as deemed appropriate upon any modified-duty assignment.

## PROCEDURE

Employees may request assignment to modified duty by providing a signed statement from their health care provider (AK 142 or other medical documentation) describing their restrictions, limitations and expected duration to their Supervisor. The statement must also indicate if the employee requires any workplace accommodations, mobility aids or medical devices.

The Supervisor shall notify the Personnel Manager who will determine what modified-duty assignments may be available based on the needs of the Department, limitations of the employee and suitability of the employee to work a particular assignment. Location and length of assignments are determined by the Personnel Manager and approved by the Director.

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## Policy Manual

### *Modified Duty Assignments*

#### **MODIFIED-DUTY SCHEDULES**

The schedules of employees assigned to modified duty may be adjusted to suit medical appointments or Department needs at the discretion of the Personnel Manager.

The employee and his/her supervisors should be informed in writing of the schedule, assignment and limitations and restrictions as determined by the employee's health care provider.

#### **ACCOUNTABILITY**

The employee's supervisor shall coordinate efforts to ensure proper time accountability.

- (a) Employees on modified duty are responsible for coordinating required doctor visits and physical therapy appointments in advance with their supervisor to appropriately account for any duty time taken. Doctor visits and appointments for treatment of injuries or illnesses that are not work related shall be arranged during off-duty time or otherwise charged to the employee's sick leave.
- (b) Employees shall promptly submit a status report for each visit to their treating health care provider and shall immediately notify their supervisor of any change in restrictions or limitations as determined by their health care provider. An employee assigned to a modified-duty assignment shall provide a duty status report to their supervisor no less than once every 30 days while the employee is on modified duty.
- (c) Supervisors shall keep the Personnel Manager apprised of the employee's status and ability to perform the modified-duty assignment. Modified-duty assignments that extend beyond six (6) months will require a written status report and an appearance before the County's Rehab Committee. Extensions require approval of the County Rehab Committee.
- (d) When it is determined that an employee on modified duty will return to regular duty, the Personnel Manager shall complete a return to duty memo and notify risk management. All training and certification necessary for return to duty shall be reviewed and updated as necessary.

#### **MEDICAL EXAMINATIONS**

The Department reserves the right to require, prior to returning to full-duty status, a fitness-for-duty examination of any employee assigned to a modified-duty assignment or of any employee having been on such assignment. Such examinations shall be at the expense of the Department.

Prior to returning to full-duty status, employees shall be required to provide a statement signed by their health care provider indicating that they are medically cleared to perform the basic and essential job functions of their job classification without restriction or limitation.

#### **PREGNANCY**

It is the policy of the Department to reassign employees who are pregnant upon request by the employee or when deemed necessary by the Department to temporary assignments that will not routinely expose the employee to potentially hazardous environments or activities.

#### **EMPLOYEE NOTIFICATION**

An employee who learns of her pregnancy should notify her immediate supervisor or a designated acting supervisor of the pregnancy as soon as practicable. The employee must inform the Department of her intent regarding reassignment, job accommodations and

# Contra Costa County Probation Department

## Policy Manual

### *Modified Duty Assignments*

anticipated leave for the pregnancy or prenatal care. The employee shall also submit a statement from her health care provider of any job restrictions or limitations she may have.

#### **SUPERVISOR'S RESPONSIBILITY**

Upon receiving the medical verification of the pregnancy and a request for job accommodation, reassignment or leave, the supervisor shall notify the Personnel Manager, who will consider assigning the employee to an available temporary modified-duty assignment if it is deemed appropriate by the Department or medically necessary by the employee's health care provider.

If at any point during the pregnancy it becomes necessary for the employee to take a leave of absence, such leave shall be granted consistent with the County's Personnel Rules and Regulations and the MOU regarding family and medical care leave.

#### **MAINTENANCE OF CERTIFICATION AND TRAINING**

Employees assigned to modified duty shall maintain all certification, training and qualifications appropriate to both their regular and temporary duties, provided the certification, training or qualifications are not in conflict with any limitations or restrictions. Employees who are assigned to modified duty shall inform their supervisor of any inability to maintain any certification, training or qualifications.

# Employee Speech, Expression and Social Networking

## PURPOSE AND SCOPE

This policy is intended to address issues associated with employee use of social networking sites and to provide guidelines for the regulation and balancing of employee speech and expression with the needs of the Department.

Nothing in this policy is intended to prohibit or infringe upon any communication, speech or expression that is protected or privileged under law. This includes speech and expression protected under state or federal constitutions as well as labor or other applicable laws. For example, this policy does not limit an employee from speaking as a private citizen, including acting as an authorized member of a recognized bargaining unit or deputy associations, about matters of public concern, such as misconduct or corruption.

Employees are encouraged to consult with their supervisor regarding any questions arising from the application or potential application of this policy.

## 1058.1.1 APPLICABILITY

This policy applies to all forms of communication including, but not limited to, film, video, print media, public or private speech, use of all Internet services, including the World Wide Web, e-mail, file transfer, remote computer access, news services, social networking, social media, instant messaging, blogs, forums, video and other file-sharing sites.

## POLICY

Public employees occupy a trusted position in the community, and thus, their statements have the potential to contravene the policies and performance of this department. Due to the nature of the work and influence associated with the law enforcement profession, it is necessary that employees of this department be subject to certain reasonable limitations on their speech and expression. To achieve its mission and efficiently provide service to the public, the Contra Costa County Probation Department will carefully balance the individual employee's rights against the Department's needs and interests when exercising a reasonable degree of control over its employees' speech and expression.

## SAFETY

Employees should consider carefully the implications of their speech or any other form of expression when using the Internet. Speech and expression that may negatively affect the safety of the Contra Costa County Probation Department employees, such as posting personal information in a public forum, can result in compromising an employee's home address or family ties. Employees should therefore not disseminate or post any information on any forum or medium that could reasonably be anticipated to compromise the safety of any employee, an employee's family or associates. Examples of this type of information that could reasonably be expected to compromise safety include:

- Disclosing a photograph and name or address of a deputy who is working undercover
- Disclosing the address of a fellow deputy
- Otherwise disclosing where another deputy can be located off-duty

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## Policy Manual

### *Employee Speech, Expression and Social Networking*

#### **PROHIBITED SPEECH, EXPRESSION AND CONDUCT**

To meet the department's safety, performance and public-trust needs, the following are prohibited unless the speech is otherwise protected (for example, an employee speaking as a private citizen, including acting as an authorized member of a recognized bargaining unit or deputy associations, on a matter of public concern):

- (a) Speech or expression made pursuant to an official duty that tends to compromise or damage the mission, function, reputation or professionalism of the Contra Costa County Probation Department or its employees.
- (b) Speech or expression that, while not made pursuant to an official duty, is significantly linked to, or related to, the Contra Costa County Probation Department and tends to compromise or damage the mission, function, reputation or professionalism of the Contra Costa County Probation Department or its employees. Examples may include:
  1. Statements that indicate disregard for the law or the state or U.S. Constitution.
  2. Expression that demonstrates for criminal activity.
  3. Participating in sexually explicit photographs or videos for compensation or distribution
- (c) Speech or expression that could reasonably be foreseen as having a negative impact on the credibility of the employee as a witness. For example, posting statements or expressions to a website that glorify or endorse dishonesty, unlawful discrimination or illegal behavior.
- (d) Speech or expression of any form that could reasonably be foreseen as having a negative impact on the safety of the employees of the Department. For example, a statement on a blog that provides specific details as to how and when prisoner transportations are made could reasonably be foreseen as potentially jeopardizing employees by informing criminals of details that could facilitate an escape or attempted escape.
- (e) Speech or expression that is contrary to the canons of the Law Enforcement Code of Ethics as adopted by the Contra Costa County Probation Department.
- (f) Use or disclosure, through whatever means, of any information, photograph, video or other recording obtained or accessible as a result of employment with the Department for financial or personal gain, or any disclosure of such materials without the express authorization of the Chief Probation Officer or the authorized designee.
- (g) Posting, transmitting or disseminating any photographs, video or audio recordings, likenesses or images of department logos, emblems, uniforms, badges, patches, marked vehicles, equipment or other material that specifically identifies the Contra Costa County Probation Department on any personal or social networking or other website or web page, without the express authorization of the Chief Probation Officer.
- (h) Accessing websites for non-authorized purposes, or use any personal communication device, game device or media device, whether personally or department owned, for personal purposes while on -duty, except in the following circumstances:
  1. When brief personal communication may be warranted by the circumstances (e.g. inform family of extended hours).
  2. During authorized break such usage should be limited as much as practicable to work areas out of sight and sound of the public and shall not be disruptive to the work environment.

# Contra Costa County Probation Department

## Policy Manual

### *Employee Speech, Expression and Social Networking*

Employees must take reasonable and prompt action to remove any content, including posted by others, that is in violation of this policy from any web page or website maintained by the employee (e.g., social or personal website).

#### **UNAUTHORIZED ENDORSEMENTS AND ADVERTISEMENTS**

While employees are not restricted from engaging in the following activities as private citizens or as authorized members of a recognized bargaining unit of deputy associations, employees may not represent the Contra Costa County Probation Department or identify themselves in any way that could be reasonably perceived as representing the Contra Costa County Probation Department in order to do any of the following, unless specifically authorized by the Chief Probation Officer. (Government Code §§ 3206 and 3302):

- (a) Endorse, support, oppose or contradict any political campaign or initiative.
- (b) Endorse, support, oppose or contradict any social issue, cause or religion.
- (c) Endorse, support or oppose any product, service, company or other commercial entity.
- (d) Appear in any commercial, social or nonprofit publication or any motion picture, film, video, public broadcast or on any website.

Additionally, when it can reasonably be construed that an employee, acting in his/her individual capacity or through an outside group or organization (e.g., bargaining group or deputy associations), is affiliated with this department, the employee shall give a specific disclaiming statement that any such speech or expression is not representative of the Contra Costa County Probation Department.

Employees retain their right to vote as they choose, to support candidates of their choice and to express their opinions as private citizens, including as authorized members of a recognized bargaining unit or deputy associations, on political subjects and candidates at all times while off-duty. However, employees may not use their official authority or influence to interfere with or affect the result of an election or a nomination for office. Employees are also prohibited from directly or indirectly using their official authority to coerce, command or advise another employee to pay, lend or contribute anything of value to a party, committee, organization, agency or person for political purposes (5 USC § 1502).

#### **CONSIDERATIONS**

In determining whether to grant authorization of any speech or conduct that is prohibited under this policy, the factors that the Chief or authorized designee should consider include:

- (a) Whether the speech or conduct would negatively affect the efficiency of delivering public services
- (b) Whether the speech or conduct would be contrary to the good order of the Department of the efficiency or morale of its employees.
- (c) Whether the speech or conduct would reflect unfavorable upon the Department.
- (d) Whether the speech or conduct would negatively affect the employee's appearance of impartiality in the performance of his/her duties.
- (e) Whether similar speech or conduct has been previously authorized.
- (f) Whether the speech or conduct may be protected and outweighs any interest of the Department.

# Contra Costa County Probation Department

## Policy Manual

### *Employee Speech, Expression and Social Networking*

#### **1058.5 PRIVACY EXPECTATION**

Employees forfeit any expectation of privacy with regard to e-mails, texts or anything published or maintained through file-sharing software or any Internet site (e.g., Facebook, MySpace) that is accessed, transmitted, received or reviewed on any department technology system.

The Department reserves the right to access, audit and disclose for whatever reason any message, including attachments, and any information accessed, transmitted, received or reviewed, over any technology that is issued or maintained by the Department. This includes the department e-mail system, computer network or any information placed into storage on any department system or device.

It also includes records of all key strokes or web-browsing history made at any department computer or over any department network. The fact that access to a database, service or website requires a user name or password will not create an expectation of privacy if it is accessed through a department computer or network. However, the Department may not require an employee to disclose a personal user name or password or open a personal social website, except when access is reasonably believed to be relevant to the investigation of allegations of work related misconduct (Labor Code 980).

#### **1058.5.1 TRAINING**

Subject to available resources, the Department should provide training regarding employee speech and the use of social networking to all members of the Department.

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