CHIEF'S PREFACE

Law enforcement has always been one of the toughest, but, most rewarding, of all professions. Few occupations require split second decisions which can save or take a life, and no occupation is as closely scrutinized as is law enforcement. I have worked in this profession since the early 1970's, and I saw the impact that a single law enforcement event can have on an entire nation (e.g., Rodney King, Ferguson, Oscar Grant/Johannes Mehserle etc.)

I know that some people judge all of us in law enforcement by a few isolated incidents in other parts of the country, but, I also know that the majority of people respect and support us, and they realize how tough it is to be an officer for many reasons.

As the Chief of Inspectors I believe that one of my most important functions is to ensure that our office's employees are well trained and equipped thus minimizing risks of all types. Risks come in many forms, not only those which physically endanger, but also those which can result in civil suits, adverse publicity, or court rulings which prevent the introduction of relevant evidence allowing criminals to escape punishment.

Over the past 40 plus years, I have learned that our job changes daily as laws change, societal standards change, and law enforcement changes its practices, policies, and methods of operation. I also know that it would be impossible for any individual to stay current on a profession that is in such a constant state of flux. To stay current in an ever changing profession, our office contracted with Lexipol to develop a State of the Art Policy and Procedures manual for our investigative staff, and to provide weekly training on changes which impact all of us in law enforcement.

Lexipol is one of the top companies in the nation when it comes to law enforcement policy development, ongoing training, and also the defense of officers and their agencies if they are sued. Lexipol was formed by two attorneys, Gordon Graham and Bruce Praet. Gordon retired as a California Highway Patrol Captain after decades of service, and he is one of the state's experts on Risk Management. Bruce Praet was an officer with the Laguna Beach Police Department in the 1970's; for the past thirty years he has defended officers in both civil and criminal cases. Lexipol offers incredible services and products which are updated daily; Lexipol comes highly recommended by law enforcement agencies throughout California.

For the past six months, Lieutenant Craig Ojala worked with Lexipol's staff to develop a digital Policy and Procedures manual uniquely suited for our office. The manual is an excellent resource for our unit, and it will be constantly updated to meet our needs. In addition, Lexipol will provide periodic online training which will keep us current in many areas (e.g., case law, new legislation, and "Best Practices" to name a few). It will be an excellent resource as we try to "Seek Justice, Serve Justice, and Do Service." As always, please feel free to suggest any changes to make the manual even better.

Paul Mulligan

Chief of Inspectors

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LAW ENFORCEMENT CODE OF ETHICS

As a law enforcement officer, my fundamental duty is to serve the community; to safeguard lives and property; to protect the innocent against deception, the weak against oppression or intimidation and the peaceful against violence or disorder; and to respect the constitutional rights of all to liberty, equality and justice.

I will keep my private life unsullied as an example to all and will behave in a manner that does not bring discredit to me or to my agency. I will maintain courageous calm in the face of danger, scorn or ridicule; develop self-restraint; and be constantly mindful of the welfare of others. Honest in thought and deed both in my personal and official life, I will be exemplary in obeying the law and the regulations of my department. Whatever I see or hear of a confidential nature or that is confided to me in my official capacity will be kept ever secret unless revelation is necessary in the performance of my duty.

I will never act officiously or permit personal feelings, prejudices, political beliefs, aspirations, animosities or friendships to influence my decisions. With no compromise for crime and with relentless prosecution of criminals, I will enforce the law courteously and appropriately without fear or favor, malice or ill will, never employing unnecessary force or violence and never accepting gratuities.

I recognize the badge of my office as a symbol of public faith, and I accept it as a public trust to be held so long as I am true to the ethics of police service. I will never engage in acts of corruption or bribery, nor will I condone such acts by other police officers. I will cooperate with all legally authorized agencies and their representatives in the pursuit of justice.

I know that I alone am responsible for my own standard of professional performance and will take every reasonable opportunity to enhance and improve my level of knowledge and competence.

I will constantly strive to achieve these objectives and ideals, dedicating myself before God to my chosen profession . . . law enforcement.

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MISSION STATEMENT

Office of the District Attorney

MISSION STATEMENT

The mission of the Contra Costa District Attorney's Office is
to seek justice and enhance public safety for all our residents.

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Attorney's Office

Mission Statement

We do this by fairly, ethically, aggressively, and efficiently prosecuting those who violate the law, and by working to prevent crime.

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Chapter 1 - Law Enforcement Role and Authority

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Law Enforcement Authority

100.1 PURPOSE AND SCOPE

The purpose of this policy is to affirm the authority of the members of the Contra Costa County District Attorney's Office to perform their functions based on established legal authority.

100.2 POLICY

It is the policy of the Contra Costa County District Attorney's Office to limit its members to only exercise the authority granted to them by law.

While this office recognizes the power of peace officers to make arrests and take other enforcement action, sworn members are encouraged to use sound discretion in the enforcement of the law. This office does not tolerate the abuse of law enforcement authority.

100.3 PEACE OFFICER POWERS

Sworn members of this office are authorized to exercise peace officer powers pursuant to applicable state law (Penal Code § 830.1 et seq.).

100.3.1 DELIVERY TO NEAREST MAGISTRATE

When a sworn member makes an arrest pursuant to a warrant with bail set, and the warrant was issued in a county other than where the person was arrested, the sworn member shall inform the person in writing of the right to be taken before a magistrate in the county where the arrest occurred (Penal Code § 821; Penal Code § 822).

100.3.2 ARREST AUTHORITY INSIDE THE JURISDICTION OF THE CONTRA COSTA COUNTY DISTRICT ATTORNEY'S OFFICE

The arrest authority within the jurisdiction of the Contra Costa County District Attorney's Office includes (Penal Code § 830.1; Penal Code § 836):

(a) When the sworn member has probable cause to believe the person has committed a felony, whether or not committed in the presence of the sworn member.

(b) When the sworn member has probable cause to believe the person has committed a misdemeanor in this jurisdiction and in the presence of the sworn member.

(c) When the sworn member has probable cause to believe the person has committed a public offense outside this jurisdiction, in the presence of the sworn member and the sworn member reasonably believes there is an immediate danger to person or property, or of escape.

(d) When the sworn member has probable cause to believe the person has committed a misdemeanor for which an arrest is authorized or required by statute even though the offense has not been committed in the presence of the sworn member such as certain domestic violence offenses.

(e) In compliance with an arrest warrant.

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100.3.3 TIME OF MISDEMEANOR ARRESTS

Sworn members shall not arrest a person for a misdemeanor between the hours of 10:00 p.m. of any day and 6:00 a.m. of the next day unless (Penal Code § 840):

(a) The arrest is made without a warrant pursuant to Penal Code § 836 which includes:

1. A misdemeanor committed in the presence of the sworn member.
2. Misdemeanor domestic violence offenses (See the Domestic Violence Policy).

(b) The arrest is made in a public place.

(c) The arrest is made with the person in custody pursuant to another lawful arrest.

(d) The arrest is made pursuant to a warrant which, for good cause shown, directs that it may be served at any time of the day or night.

100.3.4 OREGON AUTHORITY

Sworn members of this office who enter the state of Oregon in order to provide or attempt to provide law enforcement assistance have Oregon peace officer authority within 50 miles from the California-Oregon border (ORS 133.405). Such authority shall only apply when sworn members are acting:

(a) In response to a request for law enforcement assistance initiated by an Oregon sheriff, constable, marshal, municipal police officer or member of the Oregon State Police.

(b) In response to a reasonable belief that emergency law enforcement assistance is necessary to preserve life, and circumstances make it impractical for Oregon law enforcement officials to formally request assistance.

(c) For the purpose of assisting Oregon law enforcement officials with emergency assistance in response to criminal activity, traffic accidents, emergency incidents or other similar public safety situations, regardless of whether an Oregon law enforcement official is present at the scene of the incident.

Contra Costa County District Attorney's Office sworn members have no authority to enforce Oregon traffic or motor vehicle laws.

Whenever practicable, sworn members should seek permission from a office supervisor before entering Oregon to provide law enforcement services. As soon as practicable, sworn members exercising law enforcement authority in Oregon shall submit any appropriate written reports concerning the incident to the Oregon agency having primary jurisdiction over the area in which the incident occurred.

100.4 CONSTITUTIONAL REQUIREMENTS

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

100.4 INTERSTATE PEACE OFFICER POWERS

Peace officer powers may be extended to other states:

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(a) As applicable under interstate compacts, memorandums of understanding or mutual aid agreements in compliance with the laws of each state.

(b) When a sworn member enters an adjoining state in close or fresh pursuit of a person believed to have committed a felony (ARS § 13-3832; NRS 171.158; ORS 133.430).

The person arrested out of state must be taken without unnecessary delay before a magistrate of the county in which the arrest was made (ARS § 13-3833; NRS 171.158; ORS 133.440).

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POST Certification

101.1 PURPOSE AND SCOPE

The California Commission on Peace Officer Standards and Training (POST) has mandated that all sworn officers employed within the State of California shall receive certification by POST within prescribed time periods.

The Contra Costa County District Attorney’s Office Investigations Division shall comply with POST training requirements, including ongoing perishable skills training.

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Oath of Office

102.1 PURPOSE AND SCOPE

The purpose of this policy is to ensure that oaths, when appropriate, are administered to Office members.

102.2 POLICY

It is the policy of the Contra Costa County District Attorney's Office that, when appropriate, Office members affirm the oath of their office as an expression of commitment to the constitutional rights of those served by the Office and the dedication of its members to their duties.

102.3 OATH OF OFFICE

All Office members, when appropriate, shall take and subscribe to the oaths or affirmations applicable to their positions. All sworn members 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.”

102.4 MAINTENANCE OF RECORDS

The oath of office shall be filed as prescribed by law (Government Code § 3105).

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Policy Manual

103.1 PURPOSE AND SCOPE

The manual of the Contra Costa County District Attorney's Office Investigations Division is hereby established and shall be referred to as the Policy Manual. The Policy Manual is a statement of the current policies, rules and guidelines of the Investigations Division. All members are to conform to the provisions of this Policy Manual.

All prior and existing manuals, orders and regulations that are in conflict with this manual are rescinded, except to the extent that portions of existing manuals, procedures, orders and other regulations that have not been included herein shall remain in effect, provided that they do not conflict with the provisions of this manual.

103.1.1 INITIAL POLICY AND PROCEDURE MANUAL EFFECTIVE DATE

The policies and procedures contained in this policy manual shall initially become effective as of June 20, 2017, at 0001 hours.

Any policies or procedures published prior to the above date shall not become effective until the initial effective date listed above. However, each policy and procedure published prior to the above date shall be electronically acknowledged by each member prior to the initial effective date listed above.

The provisions of this subsection relate only to the initial publication of the policy manual with an effective date of June 20, 2017.

103.2 POLICY

Except where otherwise expressly stated, the provisions of this manual shall be considered as guidelines. It is recognized that the work of law enforcement 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 office under the circumstances reasonably available at the time of any incident.

It should be noted that the County of Contra Costa maintains policies on the county intra-net site. These policies address issues beyond the scope of this manual and are applicable to all county employees, including all members of the District Attorney’s Office Investigations Division.

103.2.1 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 Policy Manual are for the internal use of the Contra Costa County District Attorney's Office and shall not be construed to create a higher standard or duty of care for civil or criminal liability against the County, its officials or members. Violations of any provision of any policy contained within this Policy Manual shall only form the basis for office administrative action, training or discipline. The Contra Costa County District Attorney's Office reserves the right to revise any policy content, in whole or in part.

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103.3 AUTHORITY

The District Attorney shall be considered the ultimate authority for the content and adoption of the provisions of this Policy Manual and shall ensure compliance with all applicable federal, state and local laws. The District Attorney or authorized designee is authorized to issue Interim Directives, which shall modify those provisions of the Policy Manual to which they pertain. Interim Directives shall remain in effect until such time as they may be permanently incorporated into the Policy Manual.

103.4 DEFINITIONS

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

Adult - Any person 18 years of age or older.

Assistant Investigator - Investigations Division members who are not sworn peace officers.

CCR - California Code of Regulations (Example: 15 CCR 1151).

CFR - Code of Federal Regulations.

CHP- The California Highway Patrol.

County - The County of Contra Costa.

DMV - The Department of Motor Vehicles.

Employee - Any person employed by the District Attorney’s Office.

Investigator - Sworn member of Investigations Division.

Juvenile- Any person under the age of 18 years.

May - Indicates a permissive, discretionary or conditional action.

Member - Any person employed or appointed by the Contra Costa County District Attorney's Office and assigned to the Investigations Division, including:

- Full-time sworn benefitted Senior Inspectors
- Temporary sworn Senior Inspectors
- Sworn Investigators
- Assistant Investigators

Office - Contra Costa County District Attorney’s Office.

On-duty - A member’s 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.

Policy Manual - The Contra Costa County District Attorney's Office Investigations Division Policy Manual.

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

Rank - The title of the classification held by a senior inspector.

Senior Inspector - Those employees, regardless of rank, who are sworn peace officers of the Contra Costa County District Attorney's Office.

Shall or will - Indicates a mandatory action.

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

Supervisor - A person in a position of authority that may include responsibility for assignment, reward or discipline of other division members, directing the work of other members or having the authority to adjust grievances. The supervisory exercise of authority may not be merely routine or clerical in nature but requires the use of independent judgment.

USC - United States Code.

103.5 ISSUING THE POLICY MANUAL

An electronic version of the Policy Manual will be made available to all members on the office network for viewing and printing. No changes shall be made to the manual without authorization from the District Attorney or authorized designee.

Each member shall acknowledge that he/she has been provided access to, and has had the opportunity to review the Policy Manual. Members shall seek clarification as needed from an appropriate supervisor for any provisions that they do not fully understand.

103.6 PERIODIC REVIEW OF THE POLICY MANUAL

The Chief of Investigations or designee will ensure that the Policy Manual is periodically reviewed and updated as necessary.

103.7 REVISIONS TO POLICIES

All revisions to the Policy Manual will be provided to each member on or before the date the policy becomes effective. Each member will be required to acknowledge that he/she has reviewed the revisions and shall seek clarification from an appropriate supervisor as needed.

Members are responsible for keeping abreast of all Policy Manual revisions.

Each supervisor will ensure that members under his/her command are aware of any Policy Manual revision.

All members suggesting revision of the contents of the Policy Manual shall forward their written suggestions to their Supervisor, who will consider the recommendations and forward them to the Chief of Investigations as appropriate.

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Chapter 2 - Organization and Administration

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Organizational Structure and Responsibility

200.1 PURPOSE AND SCOPE

The organizational structure of the Contra Costa District Attorney's Office Investigations Division 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 INVESTIGATIONS DIVISION

The Investigations Division is managed and administered by the Chief of Investigations.

Supervision within the Investigations Division and its various units is the responsibility of the Chief of Forensics and three Lieutenants.

The Investigations Division consists of Senior Inspectors and Assistant Investigators.

200.3 COMMAND PROTOCOL

The Chief of Investigations exercises command over all personnel in the Investigations Division. During planned absences, the Chief of Investigations will designate a Lieutenant or the Chief of Forensics to serve as the acting Chief of Investigations.

200.4 ORDERS

Members of the Investigations Division shall respond to, and make a good faith and reasonable effort, to comply with the lawful order of superior officers and other proper authority.

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Interim Directives

201.1 PURPOSE AND SCOPE

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

201.1.1 INTERIM DIRECTIVE PROTOCOL

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

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

Any Interim 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, 17-01 signifies the first Interim Directive for the year 2017.

201.2 RESPONSIBILITIES

201.2.1 CHIEF OF INVESTIGATIONS

The Chief of Investigations shall issue all Interim Directives.

201.3 ACCEPTANCE OF INTERIM DIRECTIVES

All members are required to read and obtain any necessary clarification of all Interim Directives. All members are required to acknowledge in writing the receipt and review of any new Interim Directives. Signed acknowledgement forms and/or e-mail receipts showing a member's acknowledgement will be maintained by the member.

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Training Policy

202.1 PURPOSE AND SCOPE

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

202.2 PHILOSOPHY

The Investigations Division seeks to provide ongoing training and encourages all members 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 Investigations Division will use courses certified by the California Commission on Peace Officer Standards and Training (POST).

202.3 OBJECTIVES

The objectives of the Training Program are to:

(a) Enhance the level of law enforcement and investigative service to the public

(b) Increase the technical expertise and overall effectiveness of our members

(c) Provide for continued professional development of all members

202.4 TRAINING PLAN

A training needs assessment and plan will be developed and maintained by the Sworn member assigned to act as the division's training coordinator. The training coordinator will be selected by the Chief of Investigations. It is the responsibility of the assigned Sworn member to maintain, review, and update the training needs assessment and plan on an annual basis. The plan will address POST mandated training required by all sworn members.

Members desiring to attend non-mandated training shall do so in writing to their direct supervisor. Members shall adhere to county policies regarding travel requests and demands when scheduling and participating in training.

202.5 DAILY TRAINING BULLETINS

The Lexipol Daily Training Bulletins (DTBs) is a web-accessed system that provides training on the Contra Costa County District Attorney's Office Investigations Division Policy Manual and other important topics. Generally, one training bulletin is available for each day of the month. However, the number of DTBs may be adjusted by the Chief of Investigations or member designated by the Chief to oversee DTBs.

Members assigned to participate in DTBs should only use the password and login name assigned to them by the Chief. Members should not share their password with others and should frequently

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change their password to protect the security of the system. After each session, members should log off the system to prevent unauthorized access. The content of the DTBs is copyrighted material and shall not be shared with others outside of the Office.

Members who are assigned to participate in the DTB program should complete each DTB at the beginning of their shift or as otherwise directed by their supervisor. Members should not allow uncompleted DTBs to build up over time. Members may be required to complete DTBs missed during extended absences (e.g., vacation, medical leave) upon returning to duty. Although the DTB system can be accessed from any Internet active computer, employees shall only take DTBs as part of their on-duty assignment unless directed otherwise by a supervisor.

Supervisors will be responsible for monitoring the progress of members under their command to ensure compliance with this policy.

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Electronic Mail

203.1 PURPOSE AND SCOPE

The purpose of this policy is to establish guidelines for the proper use and application of the Office's electronic mail (email) system by members of the Investigations Division. Email is a communication tool available to members to enhance efficiency in the performance of job duties and is to be used in accordance with Contra Costa County Administrative Bulletin 139 as well as generally accepted business practices and current law (e.g., California Public Records Act). Messages transmitted over the email system shall be those that involve official business activities or contain information essential to members for the accomplishment of business-related tasks and/or communication directly related to the business, administration, or practices of the Office.

203.2 EMAIL RIGHT OF PRIVACY

All email messages, including any attachments, that are transmitted over Office networks are considered Office records and therefore are Office property. The Office reserves the right to access, audit or disclose, for any lawful reason, any message including any attachment that is transmitted over its email system or that is stored on any Office system.

The email system is not a confidential system since all communications transmitted on, to or from the system are the property of the Office. Therefore, the email 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 email. Members using the Office email system shall have no expectation of privacy concerning communications utilizing the system.

Employees should not use personal accounts to exchange email or other information that is related to the official business of the Office.

203.3 PROHIBITED USE OF EMAIL

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

Email messages addressed to the entire Office are only to be used for official business related items that are of particular interest to all users. Personal advertisements are not acceptable.

It is a violation of this policy to transmit a message under another user's name. Members 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 email, name and/or password by others.

203.4 EMAIL RECORD MANAGEMENT

Email may, depending upon the individual content, be a public record under the California Public Records Act and must be managed in compliance with state law.

Clarification or questions regarding Office email should be directed to the Office's Information Systems Manager.

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Electronic Mail

The Custodian of Records shall ensure that email messages are retained and recoverable as outlined in the Records Maintenance and Release Policy.

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Administrative Communications

204.1 PURPOSE AND SCOPE

Administrative communications of the Investigations Division are governed by the following policies.

204.2 OFFICE MAIL

Office Email may be issued periodically by the Chief of Investigations to announce and document all promotions, transfers, hiring of new personnel, separations, personnel and group commendations, other changes in status, or items of general importance.

204.3 CORRESPONDENCE

In order to ensure that the letterhead and name of the Office are not misused, all written external correspondence shall be on Office letterhead. Personnel should use Office letterhead only for official business.

204.4 SURVEYS

All surveys made in the name of the Office shall be authorized by the Chief of Investigations or a Lieutenant.

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Retiree Concealed Firearms

205.1 PURPOSE AND SCOPE

The purpose of this policy is to outline the process associated with the issuance, revocation, and denial of a concealed weapons (CCW) endorsement for retired sworn members of this Office.

205.2 POLICY

It is the policy of the Contra Costa County District Attorney's Office to provide CCW Approved endorsements to qualified former or retired sworn members in compliance with the Law Enforcement Officers Safety Act (LEOSA) and California law (18 USC; Penal Code 25455.

205.3 CALIFORNIA IDENTIFICATION CARD ISSUANCE

Any full-time sworn sworn member of this office who was authorized to, and did, carry a concealed firearm during the course and scope of his/her employment shall be issued an identification card with a Carrying Concealed Weapon endorsement, "CCW Approved," upon honorable retirement (Penal Code § 25455).

(a) For the purpose of this policy, honorably retired includes all peace officers who have qualified for, and accepted, a service or disability retirement. It shall not include any sworn member who retires in lieu of termination.

(b) No CCW Approved endorsement shall be issued to any sworn member retiring because of a psychological disability (Penal Code § 26305).

205.3.1 CALIFORNIA IDENTIFICATION CARD FORMAT

The identification card issued to any qualified and honorably retired sworn member shall be 2 inches by 3 inches, and minimally contain (Penal Code § 25460):

(a) A photograph of the retiree.

(b) The retiree’s name and date of birth.

(c) The date of retirement.

(d) The name and address of this office.

(e) A stamped CCW Approved endorsement along with the date by which the endorsement must be renewed (not more than one year). If a CCW endorsement has been denied or revoked, the identification card shall be stamped “No CCW Privilege.”

205.4 CARRYING FIREARMS OUT OF STATE

Subject to 18 USC 926C and the Firearms and Qualification Policy, qualified retired members of this Office may be authorized to carry a concealed weapon in other states.

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205.5 DENIAL, SUSPENSION, OR REVOCATION OF A CALIFORNIA CCW ENDORSEMENT CARD

A CCW endorsement for any sworn member retired from this office may be denied or revoked only upon a showing of good cause. The CCW endorsement may be immediately and temporarily revoked by the N/A when the conduct of a retired peace officer compromises public safety (Penal Code § 25470).

(a) In the event that a CCW endorsement is initially denied, the retired sworn member shall have 15 days from the date of denial to request a formal hearing. The failure to submit a timely written request for a hearing shall be deemed a waiver of such right. The hearing, absent written agreement between the parties, shall be held no later than 120 days after the request is received.

(b) Prior to revocation of any CCW endorsement, the Office shall provide the affected retiree with written notice of a hearing by either personal service or first class mail, postage prepaid, return receipt requested to the retiree's last known address (Penal Code § 26315).

1. The retiree shall have 15 days from the date of service to file a written request for a hearing.
2. The hearing, absent written agreement between the parties, shall be held no later than 120 days after the request is received (Penal Code § 26315).
3. The failure to submit a timely written request for a hearing shall be deemed a waiver of such right.

(c) A hearing for the denial or revocation of any CCW endorsement shall be conducted before a hearing board composed of three members, one selected by the Office, one selected by the retiree or his/her employee organization, and one selected jointly (Penal Code § 26320).

1. The decision of such hearing board shall be binding on the Office and the retiree.
2. Any retiree who waives the right to a hearing or whose CCW endorsement has been revoked at a hearing shall immediately surrender his/her identification card. The Office will then reissue a new identification card which shall be stamped "No CCW Privilege."

(d) Members who have reason to suspect the conduct of a retiree has compromised public safety shall notify the N/A as soon as practicable. The N/A should promptly take appropriate steps to look into the matter and, if warranted, contact the retiree in person and advise him/her of the temporary suspension and hearing information listed below.

1. Notification of the temporary suspension should also be promptly mailed to the retiree via first class mail, postage prepaid, return receipt requested (Penal Code § 26312).
2. The N/A should document the investigation, the actions taken and, if applicable, any notification made to the retiree. The memo should be forwarded to the Chief of Investigations.
3. The personal and written notification should be as follows:

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(a) The retiree's CCW endorsement is immediately and temporarily suspended.

(b) The retiree has 15 days to request a hearing to determine whether the temporary suspension should become permanent revocation.

(c) The retiree will forfeit his/her right to a hearing and the CCW endorsement will be permanently revoked if the retiree fails to respond to the notice of hearing within the 15-day period.

4. In the event that personal contact with the retiree cannot be reasonably achieved in a timely manner, the N/A should attempt to make the above notice of temporary suspension through another law enforcement officer. For example, if a retiree was arrested or detained by a distant agency, the N/A may request that a law enforcement officer from that agency act as the agent of the Office to deliver the written notification.

205.6 CHIEF OF INVESTIGATIONS RESPONSIBILITY

Employees who have reason to suspect a retiree's conduct has compromised public safety should notify the Chief of Investigations as soon as practical. The Chief of Investigations or identified designee should take the following steps:

(a) Take appropriate steps to promptly investigate the matter.

(b) If warranted, contact the retiree in person and advise him/her in writing of the following:

1. The Retiree's CCW endorsement is immediately and temporarily revoked.
2. The retiree will have 15 days to request a hearing to determine whether the temporary revocation should become permanent.
3. The retiree will forfeit his/her right to a hearing and the CCW endorsement will be permanently revoked if the retiree fails to respond to the notice of hearing within the 15 day period.

(c) A current copy of Penal Code 26305, 26312 and 26315 should be attached to the written notice.

(d) In the event that personal contact with the retiree cannot be reasonably achieved in a timely manner, The Chief of Investigations or identified designee should attempt to make the notice of temporary suspension through another peace officer. For example, if a retiree was arrested or detained by an outside agency, the Chief of Investigations or identified designee may request that a peace officer of that agency act as the Office's agent to deliver the written notice.

(e) Notification of the temporary suspension should also be promptly mailed to the retiree via first class mail, postage prepaid, return receipt requested (penal Code 26312).

(f) The Chief of Investigations or identified designee should document the investigation, the actions taken, and, if applicable, any notification made to the retiree. The documentation should be forwarded to the District Attorney.

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Chapter 3 - General Operations

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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 sworn member of this Office 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 - Any use of force that creates a substantial risk of causing death or serious bodily injury, including but not limited to the discharge of a firearm (Penal Code § 835a).

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 members are involved on a daily basis in numerous and varied interactions and, when warranted, may use reasonable force in carrying out their duties.

Sworn members 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 Office recognizes and respects the value of all human life and dignity without prejudice to anyone. Vesting sworn members 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 member present and observing another sworn member 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 member who observes another member 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 members shall use only that amount of force that reasonably appears necessary given the facts and totality of the circumstances known to or perceived by the sworn member at the time of the event to accomplish a legitimate law enforcement purpose (Penal Code § 835a).

The reasonableness of force will be judged from the perspective of a reasonable sworn member on the scene at the time of the incident. Any evaluation of reasonableness must allow for the fact that sworn members are often forced to make split-second decisions about the amount of

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force that reasonably appears necessary in a 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 member might encounter, sworn members 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 members reasonably believe that it would be impractical or ineffective to use any of the tools, weapons, or methods provided by the Office. Sworn members 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 objectively 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 a sworn member to retreat or 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 objectively 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 retreat or desist from his/her efforts by reason of resistance or threatened resistance on the part of the person being arrested; nor shall a sworn member 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. Retreat does not mean tactical repositioning or other de-escalation techniques (Penal Code § 835a).

300.3.2 FACTORS USED TO DETERMINE THE REASONABLENESS OF FORCE

When determining whether to apply force and evaluating whether a sworn 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) The apparent immediacy and severity of the threat to sworn members or others (Penal Code § 835a).

(b) The conduct of the individual being confronted, as reasonably perceived by the sworn member at the time.

(c) sworn member/subject factors (age, size, relative strength, skill level, injuries sustained, level of exhaustion or fatigue, the number of sworn members available vs. subjects).

(d) The conduct of the involved sworn member (Penal Code § 835a).

(e) The effects of drugs or alcohol.

(f) The individual's apparent mental state or capacity (Penal Code § 835a).

(g) The individual’s apparent ability to understand and comply with sworn member commands (Penal Code § 835a).

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(h) Proximity of weapons or dangerous improvised devices.

(i) The degree to which the subject has been effectively restrained and his/her ability to resist despite being restrained.

(j) The availability of other reasonable and feasible options and their possible effectiveness (Penal Code § 835a).

(k) Seriousness of the suspected offense or reason for contact with the individual.

(l) Training and experience of the sworn member.

(m) Potential for injury to sworn members, suspects, and others.

(n) Whether the person appears to be resisting, attempting to evade arrest by flight, or is attacking the sworn member.

(o) The risk and reasonably foreseeable consequences of escape.

(p) The apparent need for immediate control of the subject or a prompt resolution of the situation.

(q) Whether the conduct of the individual being confronted no longer reasonably appears to pose an imminent threat to the sworn member or others.

(r) Prior contacts with the subject or awareness of any propensity for violence.

(s) 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 members may only apply those pain compliance techniques for which they have successfully completed Office-approved training. Sworn 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 sworn member.

(c) Whether the person has been given sufficient opportunity to comply.

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

300.4 CAROTID CONTROL HOLD

The Carotid Control Hold is not authorized for use by Office personnel. No member of this Office shall use the Carotid Control Hold in any practical situation.

300.5 DEADLY FORCE APPLICATIONS

If an objectively reasonable sworn member would consider it safe and feasible to do so under the totality of the circumstances, sworn members should evaluate the use of other reasonably

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available resources and techniques when determining whether to use deadly force. The use of deadly force is only justified in the following circumstances (Penal Code § 835a):

(a) A sworn member may use deadly force to protect him/herself or others from what he/she reasonably believes is an imminent threat of death or serious bodily injury to the sworn member or another person.

(b) A sworn member may use deadly force to apprehend a fleeing person for any felony that threatened or resulted in death or serious bodily injury, if the sworn member reasonably believes that the person will cause death or serious bodily injury to another unless immediately apprehended. Where feasible, the sworn member shall, prior to the use of force, make reasonable efforts to identify themselves as a peace officer and to warn that deadly force may be used, unless the sworn member has objectively reasonable grounds to believe the person is aware of those facts.

Sworn members shall not use deadly force against a person based on the danger that person poses to him/herself, if an objectively reasonable sworn member would believe the person does not pose an imminent threat of death or serious bodily injury to the sworn member or to another person (Penal Code § 835a).

An “imminent” threat of death or serious bodily injury exists when, based on the totality of the circumstances, a reasonable sworn member in the same situation would believe that a person has the present ability, opportunity, and apparent intent to immediately cause death or serious bodily injury to the sworn member or another person. A sworn member’s subjective fear of future harm alone is insufficient as an imminent threat. An imminent threat is one that from appearances is reasonably believed to require instant attention (Penal Code § 835a).

300.5.1 SHOOTING AT OR FROM MOVING VEHICLES

Shots fired at or from a moving vehicle are rarely effective. Sworn members should move out of the path of an approaching vehicle instead of discharging their firearm at the vehicle or any of its occupants. A sworn member should only discharge a firearm at a moving vehicle or its occupants when the sworn member reasonably believes there are no other reasonable means available to avert the threat of the vehicle, or if deadly force other than the vehicle is directed at the sworn member or others.

Sworn members should not shoot at any part of a vehicle in an attempt to disable the vehicle.

300.6 REPORTING THE USE OF FORCE

Any use of force by a member of this office shall be documented promptly, completely and accurately in an appropriate report, depending on the nature of the incident. The sworn member should articulate the factors perceived and why he/she believed the use of force was reasonable under the circumstances. To collect data for purposes of training, resource allocation, analysis and related purposes, the Office may require the completion of additional report forms, as specified in office policy, procedure or law.

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300.6.1 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 sworn member 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, shackles or belly chains.

(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.

300.6.2 REPORTING TO CALIFORNIA DEPARTMENT OF JUSTICE
Statistical data regarding all officer-involved shootings and incidents involving use of force resulting in serious bodily injury is to be reported to the California Department of Justice as required by Government Code § 12525.2.

300.7 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 sworn 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 sworn 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 the on-scene supervisor is not available, the primary handling sworn member 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 sworn member 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

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pain (sometimes called “excited delirium”), or who require a protracted physical encounter with multiple sworn members to be brought under control, may be at an increased risk of sudden death. Calls involving these persons should be considered medical emergencies. Sworn members who reasonably suspect a medical emergency should request medical assistance as soon as practicable and have medical personnel stage away if appropriate.

300.8 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 sworn 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) 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.

(d) Identify any witnesses not already included in related reports.

(e) Review and approve all related reports.

(f) Determine if there is any indication that the subject may pursue civil litigation.

    1. If there is an indication of potential civil litigation, the supervisor should complete and route a notification of a potential claim through the appropriate channels.

(g) Evaluate the circumstances surrounding the incident and immediately notify the Chief of Investigations 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.

300.9 TRAINING

Sworn members will receive periodic training on this policy and demonstrate their knowledge and understanding.

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Use of Force Review Boards

301.1 PURPOSE AND SCOPE

This policy establishes a process for the Contra Costa County District Attorney's Office Investigations Division to review the use of force by its members.

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.

301.2 POLICY

The Contra Costa County District Attorney's Office Investigations Division 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.

301.3 REMOVAL FROM LINE DUTY ASSIGNMENT

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

301.4 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 Use of Force Review Board will also investigate and review the circumstances surrounding every discharge of a firearm, whether the employee was on- or off-duty, excluding training or recreational use.

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

The Chief of Investigations or appointed designee will convene the Use of Force Review Board as necessary. It will be the responsibility of the supervisor of the involved member to notify the Chief of Investigations of any incidents requiring board review. The involved member’s supervisor will also ensure that all relevant reports, documents and materials are available for consideration and review by the board.

301.4.1 COMPOSITION OF THE BOARD

The Chief of Investigations will select the Use of Force Review Board members.

The Chief of Investigations shall designate a supervisor to serve as chairperson.

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Use of Force Review Board members should include members of the command/supervisor staff, as well as a representative from the Senior Inspector's Association, a peer member and a member with training expertise in the type of weapon, device or technique used.

301.4.2 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.

Board members may request further investigation, request reports be submitted for the board's review, call persons to present information and request the involved member to appear. The involved member 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 of Investigations 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 member, 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 member at the time of the incident, applying any legal requirements, Office policies, procedures and approved training to those facts. Facts later discovered but unknown to the member at the time shall neither justify nor call into question a member's decision regarding the use of force.

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

The board shall make one of the following recommended findings:

(a) The member's actions were within Office policy.

(b) The member's actions were in violation of Office policy.

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 of Investigations.

The Chief of Investigations shall review the recommendation, make a final determination as to whether the member's actions were within policy and will determine whether any additional actions, investigations or reviews are appropriate. The Chief of Investigation's final findings will

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be forwarded to the involved member’s supervisor for review and appropriate action. If the Chief of Investigations 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 of Investigations.

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Handcuffing and Restraints

302.1 PURPOSE AND SCOPE

This policy provides guidelines for the use of handcuffs and other restraints during detentions and arrests.

302.2 POLICY

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

302.3 USE OF RESTRAINTS

Only members who have successfully completed Contra Costa County District Attorney's Office-approved training on the use of restraint devices described in this policy are authorized to use these devices.

When deciding whether to use any restraint, sworn members should carefully balance officer 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.

302.3.1 RESTRAINT OF DETAINEES

Situations may arise where it may be reasonable to restrain a person 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 ensure the safety of sworn members and others. When deciding whether to remove restraints from a detainee, sworn members should continuously weigh the safety interests at hand against the continuing intrusion upon the detainee.

302.3.2 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. Leg irons, waist chains, or handcuffs behind the body should not be used unless the sworn member has a reasonable suspicion that the person may resist, attempt escape, injure self or others, or damage property.

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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, sworn members, or others (Penal Code § 3407; Penal Code § 6030).

302.3.3 RESTRAINT OF JUVENILES
A juvenile under 14 years of age should not be restrained unless he/she is suspected of a dangerous felony or when the sworn member has a reasonable suspicion that the juvenile may resist, attempt escape, injure him/herself, injure the sworn member, or damage property.

302.3.4 NOTIFICATIONS
Whenever a sworn member transports a person with the use of restraints other than handcuffs, the sworn member shall inform the jail staff upon arrival at the jail that restraints were used. This notification should include information regarding any other circumstances the sworn member reasonably believes would be potential safety concerns or medical risks to the person (e.g., prolonged struggle, extreme agitation, impaired respiration) that may have occurred prior to, or during, transportation to the jail.

302.4 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 Office. Sworn members should consider handcuffing any person they reasonably believe warrants that degree of restraint. However, sworn members 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 person or may cause unreasonable discomfort due to the person’s size, sworn members 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.

302.5 APPLICATION OF SPIT HOODS

Spit hoods are temporary protective devices designed to prevent the wearer from biting and/or transferring or transmitting fluids (saliva and mucous) to others.

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Spit hoods may be placed upon persons in custody when the sworn member reasonably believes the person will bite or spit, either on a person or in an inappropriate place. They are generally used during application of a physical restraint, while the person is restrained, or during or after transport.

Sworn members utilizing spit hoods should ensure that the spit hood is fastened properly to allow for adequate ventilation and so that the restrained person can breathe normally. Sworn members should provide assistance during the movement of a restrained person due to the potential for impairing or distorting that person's vision. Sworn members should avoid comingling those wearing spit hoods with other detainees.

Spit hoods should not be used in situations where the restrained person is bleeding profusely from the area around the mouth or nose, or if there are indications that the person has a medical condition, such as difficulty breathing or vomiting. In such cases, prompt medical care should be obtained. If the person vomits while wearing a spit hood, the spit hood should be promptly removed and discarded. Persons who have been sprayed with oleoresin capsicum (OC) spray should be thoroughly decontaminated, including hair, head, and clothing, prior to application of a spit hood.

Those who have been placed in a spit hood should be continually monitored and shall not be left unattended until the spit hood is removed. Spit hoods shall be discarded after each use.

302.6 APPLICATION OF AUXILIARY RESTRAINT DEVICES

Auxiliary restraint devices include transport belts, waist or belly chains, transportation chains, leg irons, and other similar devices. Auxiliary restraint devices are intended for use during long-term restraint or transportation. They provide additional security and safety without impeding breathing, while permitting adequate movement, comfort, and mobility.

Only office-authorized devices may be used. Any person in auxiliary restraints should be monitored as reasonably appears necessary.

302.7 APPLICATION OF LEG RESTRAINT DEVICES

Leg restraints may be used to restrain the legs of a violent or potentially violent person when it is reasonable to do so during the course of detention, arrest, or transportation. Only restraint devices approved by the Office shall be used.

In determining whether to use the leg restraint, sworn members should consider:

(a) Whether the sworn member or others could be exposed to injury due to the assaultive or resistant behavior of a person.

(b) Whether it is reasonably necessary to protect the person from his/her own actions (e.g., hitting his/her head against the interior of the vehicle, running away from the arresting sworn member while handcuffed, kicking at objects or sworn members).

(c) Whether it is reasonably necessary to avoid damage to property (e.g., kicking at windows of the vehicle).

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302.7.1 GUIDELINES FOR USE OF LEG RESTRAINTS

When applying leg restraints, the following guidelines should be followed:

(a) If practicable, sworn members should notify a supervisor of the intent to apply the leg restraint device. In all cases, a supervisor shall be notified as soon as practicable after the application of the leg restraint device.

(b) Once applied, absent a medical or other emergency, restraints should remain in place until the sworn member arrives at the jail or other facility or the person no longer reasonably appears to pose a threat.

(c) Once secured, the person should be placed in a seated or upright position, secured with a seat belt, and shall not be placed on his/her stomach for an extended period, as this could reduce the person's ability to breathe.

(d) The restrained person should be continually monitored by a sworn member while in the leg restraint. The sworn member should ensure that the person does not roll onto and remain on his/her stomach.

(e) The sworn member should look for signs of labored breathing and take appropriate steps to relieve and minimize any obvious factors contributing to this condition.

(f) When transported by emergency medical services, the restrained person should be accompanied by a sworn member when requested by medical personnel. The transporting sworn member should describe to medical personnel any unusual behaviors or other circumstances the sworn member reasonably believes would be potential safety or medical risks to the person (e.g., prolonged struggle, extreme agitation, impaired respiration).

302.8 REQUIRED DOCUMENTATION

If a person is restrained and released without an arrest, the sworn member shall document the details of the detention and the need for handcuffs or other restraints.

If a person is arrested, the use of handcuffs or other restraints shall be documented in the related report.

Sworn members should document the following information in reports, as appropriate, when restraints other than handcuffs are used on a person:

(a) The factors that led to the decision to use restraints.

(b) Supervisor notification and approval of restraint use.

(c) The types of restraint used.

(d) The amount of time the person was restrained.

(e) How the person was transported and the position of the person during transport.

(f) Observations of the person's behavior and any signs of physiological problems.

(g) Any known or suspected drug use or other medical problems.

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302.9 TRAINING

Subject to available resources, the Sworn member should ensure that sworn members receive periodic training on the proper use of handcuffs and other restraints, including:

(a) Proper placement and fit of handcuffs and other restraint devices approved for use by the Office.

(b) Response to complaints of pain by restrained persons.

(c) Options for restraining those who may be pregnant without the use of leg irons, waist chains, or handcuffs behind the body.

(d) Options for restraining amputees or those with medical conditions or other physical conditions that may be aggravated by being restrained.

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Control Devices and Techniques

303.1 PURPOSE AND SCOPE

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

303.2 POLICY

In order to control subjects who are violent or who demonstrate the intent to be violent, the Contra Costa County District Attorney's Office authorizes sworn members to use control devices in accordance with the guidelines in this policy and the Use of Force Policy.

303.3 ISSUING, CARRYING AND USING CONTROL DEVICES

Control devices described in this policy may be carried and used by sworn members of this Office only if the device has been issued by the Office or approved by the Chief of Investigations.

Only sworn members who have successfully completed Office-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, sworn members should carefully consider potential impact areas in order to minimize injuries and unintentional targets.

303.4 RESPONSIBILITIES

303.4.1 RANGEMASTER RESPONSIBILITIES

The Chief of Investigations shall designate a supervisor to control the inventory and issuance of all control devices and shall ensure that all damaged, inoperative, outdated or expended control devices or munitions are properly disposed of, repaired or replaced.

Every control device will be inspected by a Rangemaster or designated instructor for a particular control device. The inspection shall be conducted at each scheduled device training event.

303.4.2 USER RESPONSIBILITIES

All normal maintenance, charging or cleaning shall remain the responsibility of members using the various devices.

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

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303.5 BATON GUIDELINES

The need to immediately control a suspect must be weighed against the risk of causing serious injury. The head, neck, throat, spine, heart, kidneys and groin should not be intentionally targeted except when the sworn member reasonably believes the suspect poses an imminent threat of serious bodily injury or death to the sworn member or others.

Sworn members may carry the baton as authorized and in accordance with the needs of their assignment or at the direction of their supervisor.

303.6 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 are 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 sworn members or the public.

303.6.1 OC SPRAY

Sworn members may carry OC spray as authorized, in accordance with the needs of their assignment or at the direction of their supervisor.

303.6.2 TREATMENT FOR OC SPRAY EXPOSURE

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

303.7 POST-APPLICATION NOTICE

Whenever tear gas or OC has been introduced into a residence, building interior, vehicle or other enclosed area, sworn members should provide the owners or available occupants with notice of the possible presence of residue that could result in irritation or injury if the area is not properly cleaned. Such notice should include advisement that clean up will be at the owner’s expense. Information regarding the method of notice and the individuals notified should be included in related reports.

303.8 TRAINING FOR CONTROL DEVICES

The Chief of Investigations shall ensure that all sworn members who are authorized to carry a control device have been properly trained and certified to carry the specific control device and are retrained or recertified as necessary.

(a) Proficiency training shall be monitored and documented by a certified, control-device weapons or tactics instructor.

(b) All training and proficiency for control devices will be documented in the sworn member’s training file.

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(c) Sworn members who fail to demonstrate proficiency with the control device or knowledge of this agency's Use of Force Policy will be provided remedial training. If a sworn member cannot demonstrate proficiency with a control device or knowledge of this agency's Use of Force Policy after remedial training, the sworn member will be restricted from carrying the control device and may be subject to discipline.

303.9 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 and reported pursuant to the Use of Force Policy.

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Officer-Involved Shootings and Deaths

304.1 PURPOSE AND SCOPE

The purpose of this policy is to establish policy and procedures for the investigation of an incident in which a person is injured or dies as the result of a member-involved shooting or dies as a result of other action of a sworn member.

In incidents not covered by this policy, the Chief of Investigations may decide that the investigation will follow the process provided in this policy.

304.2 POLICY

The Chief Executive Officers of law enforcement agencies in Contra Costa County, acting together as the Contra Costa County Police Chiefs' Association, continue to strongly believe that justice for everyone is best served by ensuring that Law Enforcement Involved Fatal Incidents occurring within Contra Costa County are investigated under the provisions of the "Law Enforcement Involved Fatal Incident" Protocol. It is the policy of the Contra Costa County District Attorney's Office, that such incidents shall be investigated under the provisions of this Protocol with professionalism, objectivity, fairness, thoroughness, compassion, and adherence to legal rights.

304.3 TYPES OF INVESTIGATIONS

Member-involved shootings and deaths involve several separate investigations. The investigations may include:

- A criminal investigation of the suspect's actions.
- A criminal investigation of the involved member's actions.
- An administrative investigation as to policy compliance by involved members.
- A civil investigation to determine potential liability.

304.4 ADMINISTRATIVE INVESTIGATION

In addition to all other investigations associated with an officer-involved shooting or death, this office will conduct an internal administrative investigation of Contra Costa County District Attorneys Office - Investigations Division sworn members to determine conformance with office policy. The investigation will be conducted under the supervision of the Lieutenant and will be considered a confidential sworn member personnel file.

Interviews of members shall be subject to office policies and applicable laws (see the Personnel Complaints Policy).

(a) Any sworn member involved in a shooting or death may be requested or administratively compelled to provide a blood sample for alcohol/drug screening. Absent consent from the sworn member, such compelled samples and the results of any such testing shall not be disclosed to any criminal investigative agency.

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(b) If any sworn member 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 sworn member.

1. If a further interview of the sworn member 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 sworn member shall be provided with a copy of his/her prior statement before proceeding with any subsequent interviews.

(c) In the event that an involved sworn member 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 sworn member’s physical and psychological needs have been addressed before commencing the interview.

2. If requested, the sworn member shall have the opportunity to select an uninvolved representative to be present during the interview. However, in order to maintain the integrity of each individual sworn member's statement, involved sworn members shall not consult or meet with a representative or attorney collectively or in groups prior to being interviewed (Government Code § 3303(i)).

3. Administrative interviews should be recorded by the investigator. The sworn member may also record the interview (Government Code § 3303(g)).

4. The sworn member shall be informed of the nature of the investigation. If a sworn member refuses to answer questions, he/she should be given his/her *Lybarger* or *Garrity* rights and ordered to provide full and truthful answers to all questions. The sworn member shall be informed that the interview will be for administrative purposes only and that the statement cannot be used criminally.

5. The Lieutenant shall compile all relevant information and reports necessary for the Office to determine compliance with applicable policies.

6. Regardless of whether the use of force is an issue in the case, the completed administrative investigation shall be submitted to the Use of Force Review Board, which will restrict its findings as to whether there was compliance with the Use of Force Policy.

7. Any other indications of potential policy violations shall be determined in accordance with standard disciplinary procedures.

304.5 CIVIL LIABILITY RESPONSE

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

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.

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304.6 DEBRIEFING

Following a member-involved shooting or death, the Contra Costa County District Attorney's Office should conduct both a critical incident/stress debriefing and a tactical debriefing.

304.6.1 CRITICAL INCIDENT/STRESS DEBRIEFING

A critical incident/stress debriefing should occur as soon as practicable. The Administrative Services Lieutenant is responsible for organizing the debriefing. Notes and recorded statements should not be taken because the sole purpose of the debriefing is to help mitigate the stress-related effects of a traumatic event.

The debriefing is not part of any investigative process. Care should be taken not to release or repeat any communication made during a debriefing unless otherwise authorized by policy, law, or a valid court order.

Attendance at the debriefing shall only include those members of the Office directly involved in the incident, which can include support personnel (e.g., N/As, other Assistant Investigator personnel). Family or other support personnel may attend with the concurrence of those involved in the incident. The debriefing shall be closed to the public and should be closed to all other members of the Office, including supervisory and Lieutenant personnel.

304.6.2 TACTICAL DEBRIEFING

A tactical debriefing should take place to identify any training or areas of policy that need improvement. The Chief of Investigations should identify the appropriate participants. This debriefing should not be conducted until all involved members have provided recorded or formal statements to criminal and/or administrative investigators.

304.7 MEDIA RELATIONS

Any media release shall be prepared with input and concurrence from the supervisor and office representative responsible for each phase of the investigation. Releases will be available to the N/A, Investigation Lieutenant and Public Information Officer in the event of inquiries from the media.

The Office shall not subject any involved Contra Costa County District Attorneys Office - Investigations Division sworn member to visits by the media (Government Code § 3303(e)). No involved Contra Costa County District Attorneys Office - Investigations Division sworn member shall make any comment to the media unless he/she is authorized by the Chief of Investigations or a Lieutenant. Office members receiving inquiries regarding officer-involved shootings or deaths occurring in other jurisdictions shall refrain from public comment and will direct those inquiries to the agency having jurisdiction and primary responsibility for the investigation.

304.8 REPORTING

If the death of an individual occurs in the Contra Costa County District Attorney's Office jurisdiction and qualifies to be reported to the state as a justifiable homicide or an in-custody death, the designated Lieutenant will ensure that the Chief of Investigations is provided with enough

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information to meet the reporting requirements (Penal Code § 196; Penal Code § 13022; Government Code § 12525).

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Firearms

305.1 PURPOSE AND SCOPE

This policy provides guidelines for issuing firearms, the safe and legal carrying of firearms, firearms maintenance and firearms training.

This policy does not apply to issues related to the use of firearms that are addressed in the Use of Force or Officer-Involved Shootings and Deaths policies.

This policy only applies to those members who are authorized to carry firearms.

305.2 AUTHORIZED FIREARMS, AMMUNITION AND OTHER WEAPONS

Members shall only use firearms that are issued or approved by the Office and have been thoroughly inspected by the Rangemaster. Except in an emergency or as directed by a supervisor, no firearm shall be carried by a member who has not qualified with that firearm at an authorized office range.

All other weapons not provided by the Office, 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 office policy, may not be carried by members in the performance of their official duties without the express written authorization of the member’s Lieutenant. This exclusion does not apply to the carrying of a single folding pocketknife that is not otherwise prohibited by law.

305.2.1 OFFICE ISSUED HANDGUN

The authorized Office-issued handguns are the Sig Sauer Model P229 or P320.40.

305.2.2 RIFLES

The authorized Office rifle is the Colt AR-15 .223. Only those sworn members selected by the Chief of Investigations, and having successfully completed an authorized rifle course, will have the authorization to utilize a rifle.

Authorized members may deploy the rifle in any circumstance where the member can articulate a reasonable expectation that the rifle may be needed. Examples of some general guidelines for deploying the rifle may include, but are not limited to:

(a) Situations where the member reasonably anticipates an armed encounter.

(b) When a member is faced with a situation that may require accurate and effective fire at long range.

(c) Situations where a member reasonably expects the need to meet or exceed a suspect's firepower.

(d) When a member reasonably believes that there may be a need to fire on a barricaded person or a person with a hostage.

(e) When a member reasonably believes that a suspect may be wearing body armor.

(f) When requested by a supervisor.

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When not deployed, the rifle shall be properly secured consistent with Office training in a locking weapons rack in an assigned vehicle.

305.2.3 PERSONALLY OWNED DUTY FIREARMS

Members desiring to carry an authorized but personally owned duty firearm must receive approval from the Chief of Investigations or the authorized designee. Once approved, personally owned duty firearms are subject to the following restrictions:

(a) The firearm shall be in good working order and on the office list of approved firearms.

(b) The firearm shall be inspected by the Rangemaster prior to being carried and thereafter shall be subject to inspection whenever it is deemed necessary.

(c) Prior to carrying the firearm, members shall qualify under range supervision and thereafter shall qualify in accordance with the office qualification schedule. Members must demonstrate proficiency and safe handling, and that the firearm functions properly.

(d) Members shall provide written notice of the make, model, color, serial number and caliber of the firearm to the Rangemaster, who will maintain a list of the information.

305.2.4 AUTHORIZED SECONDARY HANDGUN

Members desiring to carry office or personally owned secondary handguns are subject to the following restrictions:

(a) The handgun shall be in good working order and on the office list of approved firearms.

(b) Only one secondary handgun may be carried at a time.

(c) The purchase of the handgun and ammunition shall be the responsibility of the member unless the handgun and ammunition are provided by the Office.

(d) The handgun shall be carried concealed at all times and in such a manner as to prevent unintentional cocking, discharge or loss of physical control.

(e) The handgun shall be inspected by the Rangemaster prior to being carried and thereafter shall be subject to inspection whenever it is deemed necessary.

(f) Ammunition shall be the same as office issue. If the caliber of the handgun is other than office issue, the Chief of Investigations or the authorized designee shall approve the ammunition.

(g) Prior to carrying the secondary handgun, members shall qualify under range supervision and thereafter shall qualify in accordance with the office qualification schedule. Members must demonstrate proficiency and safe handling, and that the handgun functions properly.

(h) Members shall provide written notice of the make, model, color, serial number and caliber of a secondary handgun to the Rangemaster, who will maintain a list of the information.

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305.2.5 AUTHORIZED OFF-DUTY FIREARMS

The carrying of firearms by members while off-duty is permitted by the Chief of Investigations but may be rescinded should circumstances dictate (e.g., administrative leave). Members who choose to carry a firearm while off-duty, based on their authority as peace officers, will be required to meet the following guidelines:

(a) The member may use his/her duty firearm or may use a personally owned firearm that is carried and inspected in accordance with the Personally Owned Duty Firearms requirements in this policy. A member carrying his/her duty firearm will be deemed to have complied with (c), (d) and (e) of this section.

  1. The purchase of the personally owned firearm and ammunition shall be the responsibility of the member.

(b) The firearm shall be carried concealed at all times and in such a manner as to prevent accidental unintentional cocking, discharge or loss of physical control.

(c) It will be the responsibility of the member to submit the firearm to the Rangemaster for inspection prior to being personally carried. Thereafter the firearm shall be subject to periodic inspection by the Rangemaster.

(d) Prior to carrying any off-duty firearm, the member shall demonstrate to the Rangemaster that he/she is proficient in handling and firing the firearm and that it will be carried in a safe manner.

(e) The member will successfully qualify with the firearm prior to it being carried.

(f) Members shall provide written notice of the make, model, color, serial number and caliber of the firearm to the Rangemaster, who will maintain a list of the information.

(g) If a member desires to use more than one firearm while off-duty, he/she may do so, as long as all requirements set forth in this policy for each firearm are met.

(h) Members shall only carry office-authorized ammunition.

(i) When armed, sworn members shall carry their badges and Contra Costa County District Attorney's Office identification cards under circumstances requiring possession of such identification.

305.2.6 AMMUNITION

Members shall carry only office-authorized ammunition. Members shall be issued fresh duty ammunition in the specified quantity for all office-issued firearms during the member’s firearms qualification. Replacements for unserviceable or depleted ammunition issued by the Office shall be dispensed by the Rangemaster when needed, in accordance with established policy.

Members carrying personally owned authorized firearms of a caliber differing from office-issued firearms shall be responsible for obtaining fresh duty ammunition in accordance with the above, at their own expense.

305.3 EQUIPMENT

Firearms carried on- or off-duty shall be maintained in a serviceable condition. Maintenance and repair of authorized personally owned firearms are the responsibility of the individual member.

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305.3.1 REPAIRS OR MODIFICATIONS

Each member shall be responsible for promptly reporting any damage or malfunction of an assigned firearm to a supervisor or the Rangemaster.

Firearms that are the property of the Office or personally owned firearms that are approved for office use may be repaired or modified only by a person who is office-approved and certified as an armorer or gunsmith in the repair of the specific firearm. Such modification or repair must be authorized in advance by the Rangemaster.

Any repairs or modifications to the member's personally owned firearm shall be done at his/her expense and must be approved by the Rangemaster.

305.3.2 HOLSTERS

Only office-approved holsters shall be used and worn by members. Members shall periodically inspect their holsters to make sure they are serviceable and provide the proper security and retention of the handgun.

305.3.3 TACTICAL LIGHTS

Tactical lights may only be installed on a firearm carried on- or off-duty after they have been examined and approved by the Chief of Investigations. Once the approved tactical lights have been properly installed on any firearm, the member shall qualify with the firearm to ensure proper functionality and sighting of the firearm prior to carrying it.

305.3.4 OPTICS OR LASER SIGHTS

Optics or laser sights may only be installed on a firearm carried on- or off-duty after they have been examined and approved by the Chief of Investigations. Any approved sight shall only be installed in strict accordance with manufacturer specifications. Once approved sights have been properly installed on any firearm, the member shall qualify with the firearm to ensure proper functionality.

Except in an approved training situation, a member may only sight in on a target when the member would otherwise be justified in pointing a firearm at the target.

305.4 SAFE HANDLING, INSPECTION AND STORAGE

Members shall maintain the highest level of safety when handling firearms and shall consider the following:

(a) Members shall not unnecessarily display or handle any firearm.

(b) Members shall be governed by all rules and regulations pertaining to the use of the range and shall obey all orders issued by the Rangemaster. Members shall not dry fire or practice quick draws except as instructed by the Rangemaster or other firearms training staff.

(c) Members shall not clean, repair, load or unload a firearm anywhere in the Office.

(d) Rifles removed from vehicles shall be loaded and unloaded in the parking lot and outside of the vehicle, using clearing barrels where present.

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(e) Members shall not place or store any firearm or other weapon on Office premises except where the place of storage is locked.

(f) Any firearm authorized by the Office to be carried on or off-duty that is determined by a member to be malfunctioning or in need of service or repair shall not be carried. It shall be promptly presented to a supervisor or a Rangemaster approved by the Office for inspection and repair. Any firearm deemed in need of repair or service by a supervisor or the Rangemaster will be immediately removed from service. If the firearm is the member's primary duty firearm, a replacement firearm will be issued to the member until the duty firearm is serviceable.

305.4.1 INSPECTION AND STORAGE

Handguns and rifles shall be inspected regularly and upon access or possession by another person. The member shall ensure that the firearm is carried in the proper condition and loaded with approved ammunition. Inspection of the rifle shall be done while standing outside of the vehicle. All firearms shall be pointed in a safe direction or into clearing barrels where available.

305.4.2 STORAGE AT HOME

Members shall ensure that all firearms and ammunition are locked and secured while in their homes, vehicles or any other area under their control, and in a manner that will keep them inaccessible to children and others who should not have access. Members shall not permit office-issued firearms to be handled by anyone not authorized by the Office to do so. Members should be aware that negligent storage of a firearm could result in civil and criminal liability (Penal Code § 25100).

305.4.3 ALCOHOL AND DRUGS

Firearms shall not be carried by any member, either on- or off-duty, who has consumed an amount of an alcoholic beverage, taken any drugs or medication, or has taken any combination thereof that would tend to adversely affect the member's senses or judgment.

305.4.4 STORAGE IN VEHICLES

When leaving a handgun in an unattended vehicle, members shall ensure that it is locked in the trunk, or in a locked container that is placed out of view, or in a locked container that is permanently affixed to the vehicle's interior and not in plain view, or in a locked toolbox or utility box permanently affixed to the vehicle (Penal Code § 16850; Penal Code § 25140; Penal Code § 25452).

If the vehicle does not have a trunk or a locked container, then the firearm should be locked within the center utility console that can be locked with a padlock, keylock, combination lock, or other similar locking device (Penal Code § 25140).

Sworn members are exempt from these requirements during circumstances requiring immediate aid or action in the course of official duties (Penal Code § 25140).

305.5 FIREARMS TRAINING AND QUALIFICATIONS

All members who carry a firearm while on-duty are required to successfully complete training quarterly with their duty firearms. In addition to quarterly training, all members will qualify at least

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annually with their duty firearms. Members will qualify with off-duty and secondary firearms at least twice a year. Training and qualifications must be on an approved range course.

At least annually, all members carrying a firearm should receive practical training designed to simulate field situations including low-light shooting.

305.5.1 NON-CERTIFICATION OR NON-QUALIFICATION

If any member fails to meet minimum standards for firearms training or qualification for any reason, including injury, illness, duty status or scheduling conflict, that member shall submit a memorandum to his/her immediate supervisor prior to the end of the required training or qualification period.

Those who fail to meet minimum standards or qualify on their first shooting attempt shall be provided remedial training and may be subject to additional range assignments to assist the member in demonstrating consistent firearm proficiency.

Members who repeatedly fail to meet minimum standards will be removed from field assignment and may be subject to disciplinary action.

305.6 FIREARM DISCHARGE

Except during training or recreational use, any member 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 statements and reports shall be made in accordance with the Officer-Involved Shootings and Deaths Policy. If a firearm was discharged as a use of force, the involved member shall adhere to the additional reporting requirements set forth in the 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 member shall file a written report with his/her Lieutenant or provide a recorded statement to investigators prior to the end of shift, unless otherwise directed.

(b) If off-duty at the time of the incident, the member shall file a written report or provide a recorded statement no later than the end of the next regularly scheduled shift, unless otherwise directed by a supervisor.

305.6.1 DESTRUCTION OF ANIMALS

Members 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 where there is sufficient advance notice that a potentially dangerous animal may be encountered, office members should develop reasonable contingency plans for dealing with the animal (e.g., fire extinguisher, N/A, oleoresin capsicum (OC) spray, animal control officer). Nothing in this policy shall prohibit any member from shooting a dangerous animal if circumstances reasonably dictate that a contingency plan has failed or becomes impractical.

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305.6.2 INJURED ANIMALS

With the approval of a supervisor, a member may euthanize an animal that is so badly injured that human compassion requires its removal from further suffering and where other dispositions are impractical.

Stray or abandoned injured animals that may be moved or taken to an available veterinarian should not be euthanized. With supervisor approval, abandoned injured animals (with the exception of dogs and cats) may only be euthanized after a reasonable search to locate the owner has been made. Injured dogs and cats found without their owners shall be taken to an appropriate veterinarian for determination of whether they should be treated or humanely destroyed (Penal Code § 597.1).

305.6.3 WARNING AND OTHER SHOTS

Generally, warning shots or shots fired for the purpose of summoning aid are discouraged and may not be discharged unless the member reasonably believes that they appear necessary, effective and reasonably safe.

305.7 RANGEMASTER DUTIES

The range will be under the exclusive control of the Rangemaster. All members attending will follow the directions of the Rangemaster. The Rangemaster will maintain a roster of all members attending the range and will submit the roster to the designated Lieutenant after each range date. Failure of any member to sign in and out with the Rangemaster may result in non-qualification.

The Rangemaster has the responsibility of making periodic inspection, at least once a year, of all duty firearms carried by members of this office to verify proper operation. The Rangemaster has the authority to deem any office-issued or personally owned firearm unfit for service. The member will be responsible for all repairs to his/her personally owned firearm and it will not be returned to service until inspected by the Rangemaster.

The Rangemaster has the responsibility for ensuring each member meets the minimum requirements during training shoots and, on at least a yearly basis, can demonstrate proficiency in the care, cleaning and safety of all firearms the member is authorized to carry.

The Rangemaster shall complete and submit to the designated Lieutenant, documentation of the training courses provided. Documentation shall include the qualifications of each instructor who provides the training, a description of the training provided and, on a form that has been approved by the Office, a list of each member who completes the training. The Rangemaster should keep accurate records of all training shoots, qualifications, repairs, maintenance or other records as directed by the Sworn memberdesignated Lieutenant.

305.8 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 sworn

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members who intend to be armed while flying on a commercial air carrier or flights where screening is conducted (49 CFR 1544.219):

(a) Sworn members wishing to fly while armed must be flying in an official capacity, not for vacation or pleasure, and must have a need to have the firearm accessible, as determined by the Office based on the law and published TSA rules.

(b) Sworn members must carry their Contra Costa County District Attorney's Office identification card, bearing the sworn member’s name, a full-face photograph, identification number, the sworn member’s signature and the signature of the Chief of Investigations or the official seal of the Office and must present this identification to airline officials when requested. The sworn member should also carry the standard photo identification needed for passenger screening by airline and TSA officials (e.g., driver license, passport).

(c) The Contra Costa County District Attorney's Office must submit a National Law Enforcement Telecommunications System (NLETS) message prior to the sworn member’s travel. If approved, TSA will send the Contra Costa County District Attorney's Office an NLETS message containing a unique alphanumeric identifier. The sworn member must present the message on the day of travel to airport personnel as authorization to travel while armed.

(d) An official letter signed by the Chief of Investigations authorizing armed travel may also accompany the sworn member. The letter should outline the sworn member’s need to fly armed, detail his/her itinerary, and include that the sworn member has completed the mandatory TSA training for a law enforcement officer flying while armed.

(e) Sworn members must have completed the mandated TSA security training covering sworn members flying while armed. The training shall be given by the office-appointed instructor.

(f) It is the sworn member’s responsibility to notify the air carrier in advance of the intended armed travel. This notification should be accomplished by early check-in at the carrier’s check-in counter.

(g) Any sworn member flying while armed should discreetly contact the flight crew prior to take-off and notify them of his/her assigned seat.

(h) Discretion must be used to avoid alarming passengers or crew by displaying a firearm. The sworn member 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.

(i) Sworn members should try to resolve any problems associated with flying armed through the flight captain, ground security manager, TSA representative or other management representative of the air carrier.

(j) Sworn members shall not consume alcoholic beverages while aboard an aircraft, or within eight hours prior to boarding an aircraft.

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305.9 CARRYING FIREARMS OUT OF STATE

Qualified, active, full-time sworn members of this office are authorized to carry a concealed firearm in all other states subject to the following conditions (18 USC § 926B):

(a) The sworn member shall carry his/her Contra Costa County District Attorney's Office identification card whenever carrying such firearm.

(b) The sworn member is not the subject of any current disciplinary action.

(c) The sworn member may not be under the influence of alcohol or any other intoxicating or hallucinatory drug.

(d) The sworn member will remain subject to this and all other office policies (including qualifying and training).

Sworn members 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 sworn member from arrest and prosecution in such locally restricted areas.

Active law enforcement officers from other states are subject to all requirements set forth in 18 USC § 926B.

305.10 RETIRED MEMBER'S PURCHASE OF OFFICE ISSUED HANDGUN

Sworn members may be authorized to purchase their Office issued handgun upon retirement. The procedures for such purchase will be as follows:

305.10.1 PROCEDURE

(a) The procedure will comply with the policies of the County of Contra Costa for the sale of firearms to retiring peace officers.

(b) Prior to the anticipated member's retirement, the Chief of Investigations or assigned designee will obtain a minimum of three quotes on the value of the handgun issued to the retiring member. These quotes shall be used to determine the fair market value for the handgun. This is the same price that a firearms vendor would pay for the used handgun.

(c) The handgun will be inspected by the Contra Costa County Sheriff's Rangemaster to verify it's safety condition.

1. The retiring member will pay the Contra Costa County District Attorney's Office directly for the handgun at the price determined.

2. The handgun will be transferred in the CLETS system to the retiring member via a "voluntary registration". A copy of the transfer will be maintained for Office records with the Chief of Investigations and in the retiring members personnel file.

3. The handgun will be released to the retiring member.

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Vehicle Pursuits

306.1 PURPOSE AND SCOPE

Vehicle pursuits expose innocent citizens, law enforcement officers and fleeing violators to the risk of serious injury or death. The primary purpose of this policy is to provide sworn members with guidance in balancing the safety of the public and themselves against law enforcement's duty to apprehend violators of the law. Another purpose of this policy is to reduce the potential for pursuit-related collisions. Vehicular pursuits require sworn members to exhibit a high degree of common sense and sound judgment. Sworn members must not forget that the immediate apprehension of a suspect is generally not more important than the safety of the public and pursuing sworn members.

Deciding whether to pursue a motor vehicle is a critical decision that must be made quickly and under difficult and unpredictable circumstances. In recognizing the potential risk to public safety created by vehicular pursuits, no sworn member shall be criticized or disciplined for deciding not to engage in a vehicular pursuit because of the risk involved. This includes circumstances where Office policy would permit the initiation or continuation of the pursuit. It is recognized that vehicular pursuits are not always predictable and decisions made pursuant to this policy will be evaluated according to the totality of the circumstances reasonably available at the time of the pursuit.

Sworn members must remember that the most important factors to the successful conclusion of a pursuit are proper self-discipline and sound professional judgment. Sworn member’s conduct during the course of a pursuit must be objectively reasonable; that is, what a reasonable sworn member would do under the circumstances. An unreasonable individual’s desire to apprehend a fleeing suspect at all costs has no place in professional law enforcement.

306.1.1 VEHICLE PURSUIT DEFINED

A vehicle pursuit is an event involving one or more law enforcement officers attempting to apprehend a suspect, who is attempting to avoid arrest while operating a motor vehicle by using high-speed driving or other evasive tactics, such as driving off a highway, turning suddenly, or driving in a legal manner but willfully failing to yield to sworn member’s signal to stop.

306.2 SWORN MEMBER RESPONSIBILITIES

It shall be the policy of this Office that a vehicle pursuit shall be conducted only with red light and siren as required by Vehicle Code § 21055 for exemption from compliance with the rules of the road. The following policy is established to provide sworn members with guidelines for driving with due regard and caution for the safety of all persons using the highway as required by Vehicle Code § 21056.

306.2.1 WHEN TO INITIATE A PURSUIT

Sworn members are authorized to initiate a pursuit when it is reasonable to believe that a suspect is attempting to evade arrest or detention by fleeing in a vehicle.

The following factors individually and collectively shall be considered in deciding whether to initiate a pursuit:

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(a) Seriousness of the known or reasonably suspected crime and its relationship to community safety.

(b) The importance of protecting the public and balancing the known or reasonably suspected offense and the apparent need for immediate capture against the risks to sworn members, innocent motorists and others.

(c) Apparent nature of the fleeing suspects (e.g., whether the suspects represent a serious threat to public safety).

(d) The identity of the suspects has been verified and there is comparatively minimal risk in allowing the suspects to be apprehended at a later time.

(e) Safety of the public in the area of the pursuit, including the type of area, time of day, the amount of vehicular and pedestrian traffic and the speed of the pursuit relative to these factors.

(f) Pursuing sworn member's familiarity with the area of the pursuit, the quality of radio communications between the pursuing units and the dispatcher/supervisor and the driving capabilities of the pursuing sworn members under the conditions of the pursuit.

(g) Weather, traffic and road conditions that substantially increase the danger of the pursuit beyond the worth of apprehending the suspect.

(h) Performance capabilities of the vehicles used in the pursuit in relation to the speeds and other conditions of the pursuit.

(i) Vehicle speeds.

(j) Other persons in or on the pursued vehicle (e.g., passengers, co-offenders and hostages).

(k) Availability of other resources such as helicopter assistance.

(l) The county unit is carrying passengers other than sworn members. Pursuits should not be undertaken with a prisoner in the county vehicle.

306.2.2 WHEN TO TERMINATE A PURSUIT

Pursuits should be discontinued whenever the totality of objective circumstances known or which reasonably ought to be known to the sworn member during the pursuit indicates that the present risks of continuing the pursuit reasonably appear to outweigh the risks resulting from the suspect’s escape.

The factors listed in When to Initiate a Pursuit of this policy are expressly included herein and will apply equally to the decision to discontinue as well as the decision to initiate a pursuit. Sworn members must objectively and continuously weigh the seriousness of the offense against the potential danger to innocent motorists and themselves when electing to continue a pursuit. In the context of this policy, the term “terminate” shall be construed to mean discontinue or to stop chasing the fleeing vehicle.

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In addition to the factors listed in When to Initiate a Pursuit of this policy, the following factors should also be considered in deciding whether to terminate a pursuit:

(a) Distance between the pursuing sworn members and the fleeing vehicle is so great that further pursuit would be futile or require the pursuit to continue for an unreasonable time and/or distance.

(b) Pursued vehicle's location is no longer definitely known.

(c) Sworn member's pursuit vehicle sustains any type of damage that renders it unsafe to drive.

(d) Extended pursuits of violators for misdemeanors not involving violence or risk of serious harm (independent of the pursuit) are discouraged.

(e) There are hazards to uninvolved bystanders or motorists.

(f) If the identity of the offender is known and it does not reasonably appear that the need for immediate capture outweighs the risks associated with continuing the pursuit, sworn members should strongly consider discontinuing the pursuit and apprehending the offender at a later time.

(g) Pursuit is terminated by a supervisor.

306.2.3 SPEED LIMITS

The speed of a pursuit is a factor that should be evaluated on a continuing basis by the sworn member. Evaluation of vehicle speeds shall take into consideration public safety, sworn member safety and the safety of the occupants of the fleeing vehicle.

Should high vehicle speeds be reached during a pursuit, sworn member shall also consider these factors when determining the reasonableness of the speed of the pursuit:

(a) Pursuit speeds have become unreasonably unsafe for the surrounding conditions.

(b) Pursuit speeds have exceeded the driving ability of the sworn member.

(c) Pursuit speeds are beyond the capabilities of the pursuit vehicle thus making its operation unsafe.

306.3 PURSUIT UNITS

Pursuit units should be limited to three vehicles; however, the number of units involved will vary with the circumstances. A sworn member or supervisor may request additional units to join a pursuit if, after assessing the factors outlined above, it appears that the number of sworn members involved would be insufficient to safely arrest the suspects. All other sworn members should stay out of the pursuit, but should remain alert to its progress and location. Any sworn member who drops out of a pursuit may then, if necessary, proceed to the termination point at legal speeds, following the appropriate rules of the road.

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306.3.1 VEHICLES WITHOUT EMERGENCY EQUIPMENT

Vehicles not equipped with red light and siren are generally prohibited from initiating or joining in any pursuit. Sworn members in such vehicles, however, may become involved in emergency activities involving serious crimes or life threatening situations. Those sworn members should terminate their involvement in any pursuit immediately upon arrival of a sufficient number of emergency law enforcement vehicles or any law enforcement helicopter. The exemptions provided by Vehicle Code § 21055 do not apply to sworn members using vehicles without emergency equipment.

306.3.2 PRIMARY UNIT RESPONSIBILITIES

The initial pursuing unit will be designated as the primary pursuit unit and will be responsible for the conduct of the pursuit unless it is unable to remain reasonably close enough to the violator's vehicle. The primary responsibility of the sworn member initiating the pursuit is the apprehension of the suspects without unreasonable danger to him/herself or other persons.

Notify Contra Costa County Sheriff's Dispatch that a vehicle pursuit has been initiated and as soon as practicable provide information including, but not limited to:

(a) Reason for the pursuit.

(b) Location and direction of travel.

(c) Speed of the fleeing vehicle.

(d) Description of the fleeing vehicle and license number, if known.

(e) Number of known occupants.

(f) The identity or description of the known occupants.

(g) Information concerning the use of firearms, threat of force, injuries, hostages or other unusual hazards.

Unless relieved the sworn member in the primary unit shall be responsible for the broadcasting of the progress of the pursuit. Unless practical circumstances indicate otherwise, and in order to concentrate on pursuit driving, the primary sworn member should relinquish the responsibility of broadcasting the progress of the pursuit to a secondary unit or aircraft joining the pursuit.

306.3.3 SECONDARY UNITS RESPONSIBILITIES

The second sworn member in the pursuit is responsible for the following:

(a) The sworn member in the secondary unit should immediately notify the dispatcher of entry into the pursuit.

(b) Remain a safe distance behind the primary unit unless directed to assume the role of primary sworn member, or if the primary unit is unable to continue the pursuit.

(c) The secondary sworn member should be responsible for broadcasting the progress of the pursuit unless the situation indicates otherwise.

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306.3.4 PURSUIT DRIVING TACTICS

The decision to use specific driving tactics requires the same assessment of considerations outlined in the factors to be considered concerning pursuit initiation and termination. The following are tactics for units involved in the pursuit:

(a) Sworn members, considering their driving skills and vehicle performance capabilities, will space themselves from other involved vehicles such that they are able to see and avoid hazards or react safely to maneuvers by the fleeing vehicle.

(b) Because intersections can present increased risks, the following tactics should be considered:

1. Available units not directly involved in the pursuit may proceed safely to controlled intersections ahead of the pursuit in an effort to warn cross traffic.
2. Pursuing units should exercise due caution when proceeding through controlled intersections.

(c) As a general rule, sworn members should not pursue a vehicle driving left of center (wrong way) on a freeway. In the event that the pursued vehicle does so, the following tactics should be considered:

1. Requesting assistance from an air unit.
2. Maintaining visual contact with the pursued vehicle by paralleling it on the correct side of the roadway.
3. Requesting other units to observe exits available to the suspects.

(d) Notifying the California Highway Patrol (CHP) and/or other jurisdictional agency if it appears that the pursuit may enter their jurisdiction.

(e) Sworn members involved in a pursuit should not attempt to pass other units unless the situation indicates otherwise or they are requested to do so by the primary unit.

306.3.5 TACTICS/PROCEDURES FOR UNITS NOT INVOLVED IN THE PURSUIT

There should be no paralleling of the pursuit route. Sworn members are authorized to use emergency equipment at intersections along the pursuit path to clear intersections of vehicular and pedestrian traffic to protect the public. Sworn members should remain in their assigned area and should not become involved with the pursuit unless directed otherwise by a supervisor.

Non-pursuing personnel needed at the termination of the pursuit should respond in a non-emergency manner, observing the rules of the road.

The primary and secondary units should be the only units operating under emergency conditions (red light and siren) unless other units are assigned to the pursuit.

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306.3.6 PURSUIT TRAILING

In the event the initiating unit from this Office either relinquishes control of the pursuit to another unit or jurisdiction, that initiating unit may trail the pursuit to the termination point in order to provide necessary information and assistance for the arrest of the suspects.

The term "trail" means to follow the path of the pursuit at a safe speed while obeying all traffic laws and without activating emergency equipment. If the pursuit is at a slow rate of speed, the trailing unit will maintain sufficient distance from the pursuit units so as to clearly indicate an absence of participation in the pursuit.

306.3.7 AIRCRAFT ASSISTANCE

When available, aircraft assistance should be requested. Once the air unit has established visual contact with the pursued vehicle, it should assume control over the pursuit. The primary and secondary ground units should consider the participation of aircraft assistance when determining whether to continue the pursuit.

The air unit should coordinate the activities of resources on the ground, report progress of the pursuit and provide sworn members with details of upcoming traffic congestion, road hazards, or other pertinent information to evaluate whether or not to continue the pursuit. If ground units are not within visual contact and the air unit determines that it is unsafe to continue the pursuit, the air unit has the authority to terminate the pursuit.

306.4 SUPERVISORY CONTROL AND RESPONSIBILITY

It is the policy of this Office that available supervisory control will be exercised over all vehicle pursuits involving sworn members from this Office.

The field supervisor of the sworn member initiating the pursuit, or if unavailable, the nearest supervisor will be responsible for the following:

(a) Upon becoming aware of a pursuit, immediately ascertain all reasonably available information to continuously assess the situation and risk factors associated with the pursuit in order to ensure that the pursuit is conducted within established policy guidelines.

(b) Engaging in the pursuit, when appropriate, to provide on-scene supervision.

(c) Exercising supervision and control of the pursuit even if not engaged in it.

(d) Ensuring that no more than the number of required law enforcement units needed are involved in the pursuit under the guidelines set forth in this policy.

(e) Directing that the pursuit be terminated if, in his/her judgment, it is unjustified to continue the pursuit under the guidelines of this policy.

(f) Ensuring that aircraft are requested if available.

(g) Ensuring that the proper radio channel is being used.

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(h) Ensuring the notification and/or coordination of outside agencies if the pursuit either leaves or is likely to leave the jurisdiction of this Office.

(i) Controlling and managing Contra Costa County District Attorney's Office Investigations Division units when a pursuit enters another jurisdiction.

(j) Preparing post-pursuit critique and analysis of the pursuit for training purposes.

306.5 COMMUNICATIONS

If the pursuit is confined within the County limits, radio communications will be conducted on the primary channel unless instructed otherwise by a supervisor or communications dispatcher. If the pursuit leaves the jurisdiction of this Office or such is imminent, involved units should, whenever available, switch radio communications to an emergency channel most accessible by participating agencies and units.

306.5.1 COMMUNICATION CENTER RESPONSIBILITIES

Sworn members of the Contra Costa County District Attorney's Office Investigations Division utilize the Contra Costa County Sheriff's Department Dispatch Center for radio/dispatch services. As such, sworn members will comply with their direction in pursuit situations.

306.5.2 LOSS OF PURSUED VEHICLE

When a pursued vehicle is lost, the primary unit should broadcast pertinent information to assist other units in locating suspects. The primary unit will be responsible for coordinating any further search for either the pursued vehicle or suspects fleeing on foot.

306.6 INTER-JURISDICTIONAL CONSIDERATIONS

When a pursuit enters another agency's jurisdiction, the primary sworn member or supervisor, taking into consideration distance traveled, unfamiliarity with the area and other pertinent facts, should determine whether to request the other agency to assume the pursuit. Unless entry into another jurisdiction is expected to be brief, it is generally recommended that the primary sworn member or supervisor ensure that notification is provided to each outside jurisdiction into which the pursuit is reasonably expected to enter, regardless of whether such jurisdiction is expected to assist.

306.6.1 ASSUMPTION OF PURSUIT BY ANOTHER AGENCY

Units originally involved will discontinue the pursuit when advised that another agency has assumed the pursuit and assistance of the Contra Costa County District Attorney's Office is no longer needed. Upon discontinuing the pursuit, the primary unit may proceed to the termination point to assist in the investigation.

The role and responsibilities of sworn members at the termination of a pursuit initiated by this Office shall be coordinated with appropriate consideration of the units from the agency assuming the pursuit.

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Notification of a pursuit in progress should not be construed as a request to join the pursuit. Requests to or from another agency to assume a pursuit should be specific. Because of communication limitations between local agencies and CHP units, a request for CHP assistance will mean that they will assume responsibilities for the pursuit. For the same reasons, when a pursuit leaves the freeway and a request for assistance is made to this Office, the CHP should relinquish control.

306.6.2 PURSUITS EXTENDING INTO THIS JURISDICTION

The agency that initiates a pursuit shall be responsible for conducting the pursuit. Units from this Office should not join a pursuit unless specifically requested to do so by the agency whose personnel are in pursuit. The exception to this is when a single unit from the initiating agency is in pursuit. Under this circumstance, a unit from this Office may join the pursuit until sufficient units from the initiating agency join the pursuit.

When a request is made for this Office to assist or take over a pursuit from another agency that has entered this jurisdiction, the sworn member should consider these additional factors:

(a) Ability to maintain the pursuit

(b) Circumstances serious enough to continue the pursuit

(c) Adequate staffing to continue the pursuit

(d) The public's safety within this jurisdiction

(e) Safety of the pursuing sworn members

As soon as practicable, a supervisor or the sworn member should review a request for assistance from another agency. The sworn member or supervisor, after consideration of the above factors, may decline to assist in, or assume the other agency’s pursuit.

Assistance to a pursuing allied agency by sworn members of this Office will terminate at the County limits provided that the pursuing personnel have sufficient assistance from other sources. Ongoing participation from this Office may continue only until sufficient assistance is present.

In the event that a pursuit from another agency terminates within this jurisdiction, sworn members shall provide appropriate assistance to personnel from the allied agency including, but not limited to, scene control, coordination and completion of supplemental reports and any other assistance requested or needed.

306.7 PURSUIT INTERVENTION

Pursuit intervention is an attempt to terminate the ability of a suspect to continue to flee in a motor vehicle through tactical application of technology, road spikes, blocking, boxing, PIT (Pursuit Intervention Technique), ramming or roadblock procedures. In this context, ramming shall be construed to mean maneuvering the county unit into contact with the pursued vehicle to mechanically disable or forcibly position it such that further flight is not possible or practicable.

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306.7.1 WHEN USE IS AUTHORIZED

Use of pursuit intervention tactics should be employed only after approval of a supervisor. In deciding whether to use intervention tactics, sworn members/supervisors should balance the risks of allowing the pursuit to continue with the potential hazards arising from the use of each tactic to the public, the sworn members and persons in or on the pursued vehicle. With these risks in mind, the decision to use any intervention tactic should be reasonable in light of the circumstances confronting the sworn member at the time of the decision.

It is imperative that sworn members act within the bounds of legality, good judgment and accepted practices.

306.7.2 DEFINITIONS

Blocking or vehicle intercept - A slow-speed coordinated maneuver where two or more law enforcement vehicles simultaneously intercept and block the movement of a suspect vehicle, the driver of which may be unaware of the impending enforcement stop, with the goal of containment and preventing a pursuit. Blocking is not a moving or stationary road block.

Boxing-in - A tactic designed to stop a violator’s vehicle by surrounding it with law enforcement vehicles and then slowing all vehicles to a stop.

Pursuit Intervention Technique (PIT) - A low-speed maneuver designed to cause the suspect vehicle to spin out and terminate the pursuit.

Ramming - The deliberate act of impacting a violator’s vehicle with another vehicle to functionally damage or otherwise force the violator’s vehicle to stop.

Roadblocks - A tactic designed to stop a violator’s vehicle by intentionally placing an emergency vehicle or other immovable object in the path of the violator’s vehicle.

Spikes or tack strips - A device that extends across the roadway designed to puncture the tires of the pursued vehicle.

306.7.3 USE OF FIREARMS

The use of firearms to disable a pursued vehicle is not generally an effective tactic and involves all the dangers associated with discharging firearms. Sworn members should not utilize firearms during an ongoing pursuit unless the conditions and circumstances dictate that such use reasonably appears necessary to protect life. Nothing in this section shall be construed to prohibit any sworn member from using a firearm to stop a suspect from using a vehicle as a deadly weapon.

306.7.4 INTERVENTION STANDARDS

Any pursuit intervention tactic, depending upon the conditions and circumstances under which it is used, may present dangers to sworn members, the public or anyone in or on the vehicle being pursued. Certain applications of intervention tactics may be construed to be a use of deadly force and subject to the requirements for such use. Sworn members shall consider these facts and requirements prior to deciding how, when, where and if an intervention tactic should be employed.

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(a) Blocking or vehicle intercept should only be considered in cases involving felony suspects or impaired drivers who pose a threat to public safety when sworn members reasonably believe that attempting a conventional enforcement stop will likely result in the driver attempting to flee in the vehicle. Because of the potential risks involved, this technique should only be employed by sworn members who have received training in such tactics after giving consideration to the following:

1. The need to immediately stop the suspect vehicle or prevent it from leaving substantially outweighs the risks of injury or death to occupants of the suspect vehicle, sworn members, or other members of the public.
2. All other reasonable intervention techniques have failed or reasonably appear ineffective.
3. Employing the blocking maneuver does not unreasonably increase the risk to officer safety.
4. The target vehicle is stopped or traveling at a low speed.
5. At no time should civilian vehicles be used to deploy this technique.

(b) Only those sworn members trained in the use of the Pursuit Intervention Technique (PIT) will be authorized to use this procedure, and only then upon consideration of the circumstances and conditions presented at the time, including the potential for risk of injury to sworn members, the public and occupants of the pursued vehicle.

(c) Ramming a fleeing vehicle should be done only after other reasonable tactical means at the sworn member’s disposal have been exhausted. This tactic should be reserved for situations where there does not appear to be another reasonable alternative method. This policy is an administrative guide to direct sworn members in their decision-making process before ramming another vehicle. When ramming is used as a means to stop a fleeing vehicle, one or more of the following factors should be present:

1. The suspect is an actual or suspected felon who reasonably appears to represent a serious threat to the public if not apprehended.
2. The suspect is driving with willful or wanton disregard for the safety of other persons or is driving in a reckless and life-endangering manner.
3. If there does not reasonably appear to be a present or immediately foreseeable serious threat to the public, the use of ramming is not authorized.

(d) As with all intervention techniques, pursuing sworn members should consider all circumstances and conditions before attempting to box a suspect vehicle during a pursuit. The use of such a technique must be carefully coordinated with all involved units, taking into consideration the circumstances and conditions presented at the time as well as the potential risk of injury to sworn members, the public and occupants of the pursued vehicle.

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(e) The use of spike strips should be deployed only when it is reasonably certain that only the pursued vehicle will be affected by their use. Sworn members should carefully consider the limitations of such devices as well as the potential risks to sworn members, the public and occupants of the pursued vehicle. If the pursued vehicle is a motorcycle, a vehicle transporting hazardous materials, or a school bus transporting children, sworn members should weigh the potential consequences against the need to immediately stop the vehicle.

(f) Because roadblocks involve a potential for serious injury or death to occupants of the pursued vehicle if the suspect does not stop, the intentional placement of roadblocks in the direct path of a pursued vehicle is generally discouraged and should not be deployed without the presence of extraordinary conditions when all other reasonable intervention techniques have failed or reasonably appear ineffective and the need to immediately stop the pursued vehicle substantially outweighs the risks of injury or death to occupants of the pursued vehicle, sworn members or other members of the public.

306.7.5 CAPTURE OF SUSPECTS

Proper self-discipline and sound professional judgment are the keys to a successful conclusion of a pursuit and apprehension of evading suspects. Sworn members shall use only that amount of force, which reasonably appears necessary under the circumstances, to properly perform their lawful duties.

Unless relieved by a supervisor, the primary sworn member should coordinate efforts to apprehend the suspects following the pursuit. Sworn members should consider safety of the public and the involved senior inspectors when formulating plans to contain and capture the suspects.

306.8 REPORTING REQUIREMENTS

The following reports should be completed upon conclusion of all pursuits:

(a) The primary sworn member should complete appropriate crime/arrest reports.

(b) The sworn member's supervisor shall ensure that an Allied Agency Vehicle Pursuit Report (form CHP 187A) is filed with the CHP not later than 30 days following the pursuit (Vehicle Code § 14602.1). The primary sworn member should complete as much of the required information on the form as is known and forward the report to the Chief of Investigations for review and distribution.

(c) After first obtaining the available information, a supervisor shall promptly complete a report, briefly summarizing the pursuit, and submit it to the Chief of Investigations. This report should minimally contain the following information:

1. Date and time of pursuit
2. Length of pursuit
3. Involved sworn members

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4. Initial reason for pursuit
5. Starting and termination points
6. Disposition (arrest, citation), including arrestee information if applicable
7. Injuries and/or property damage
8. Medical treatment
9. Name of supervisor at scene
10. A preliminary determination whether the pursuit appears to be in compliance with this policy and whether additional review or follow-up is warranted

306.8.1 REGULAR AND PERIODIC PURSUIT TRAINING

In addition to initial and supplementary Police Officer Standard Training (POST) training on pursuits required by Penal Code § 13519.8, all sworn members of this Office will participate no less than annually in regular and periodic training addressing this policy and the importance of vehicle safety and protecting the public at all times, including a recognition of the need to balance the known offense and the need for immediate capture against the risks to sworn members and others (Vehicle Code § 17004.7(d)).

306.8.2 POLICY REVIEW

Each sworn member of this Office shall certify in writing that they have received, read and understand this policy initially and upon any amendments. The POST attestation form, or an equivalent form, may be used to document the compliance and should be retained in the member's training file.

306.9 APPLICATION OF VEHICLE PURSUIT POLICY

This policy is expressly written and adopted pursuant to the provisions of Vehicle Code § 17004.7, with additional input from the POST Vehicle Pursuit Guidelines.

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Sworn Member Response to Calls

307.1 PURPOSE AND SCOPE

This policy provides for the safe and appropriate response to emergency and non-emergency situations whether assigned or self-initiated.

307.2 RESPONSE TO CALLS

Sworn members of this office do not operate vehicles with clearly identified law enforcement markings and distinctive rooftop light bars. Sworn members will consider these equipment limitations when responding Code-3.

Absent exigent/emergency circumstances at no time will a sworn member drive Code-3 while operating a vehicle that does not have a police radio.

Sworn members dispatched "Code-3" shall consider the call an emergency response and proceed immediately. Sworn members responding Code-3 shall continuously operate emergency lighting equipment, including at minimum a steady forward facing red light, and shall sound the siren as reasonably necessary pursuant to Vehicle Code § 21055.

Responding with emergency light(s) and siren does not relieve the sworn member of the duty to continue to drive with due regard for the safety of all persons. The use of any other warning equipment without a red light and siren does not provide any exemption from the Vehicle Code.

Sworn members should only respond Code-3 when so dispatched or when circumstances reasonably indicate an emergency response is required. Sworn members not authorized to respond Code-3 shall observe all traffic laws and proceed without the use of emergency lights and siren.

307.3 REQUESTING EMERGENCY ASSISTANCE

Requests for emergency assistance should be limited to those situations where involved personnel reasonably believe that there is an immediate threat to the safety of sworn members, or assistance is needed to prevent imminent serious harm to a citizen. In any event, where a situation has stabilized and emergency response is not required, the requesting sworn member shall immediately notify sheriff’s dispatch.

If circumstances permit, the requesting sworn member should give the following information:

- The unit number
- The location
- The reason for the request and type of emergency
- The number of units required

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307.3.1 NUMBER OF UNITS ASSIGNED
Normally, only one unit should respond to an emergency call Code-3 unless sheriff's dispatch or a supervisor authorizes an additional unit(s).

307.4 INITIATING CODE 3 RESPONSE

If a sworn member believes a Code-3 response to any call is appropriate, the sworn member shall immediately notify sheriff's dispatch. Generally, only one unit should respond Code-3 to any situation. Should another sworn member believe a Code-3 response is appropriate, sheriff's dispatch shall be notified.

307.5 RESPONSIBILITIES OF RESPONDING SWORN MEMBERS

Sworn members shall exercise sound judgment and care with due regard for life and property when responding to an emergency call. Sworn members shall reduce speed at all street intersections to such a degree that they shall have complete control of the vehicle.

The decision to continue a Code-3 response is at the discretion of the sworn member. If, in the sworn member's judgment, the roadway conditions or traffic congestion does not permit such a response without unreasonable risk, the sworn member may elect to respond to the call without the use of red lights and siren at the legal speed limit. In such an event, the sworn member should immediately notify sheriff's dispatch. A sworn member shall also discontinue the Code-3 response when directed by a supervisor.

Upon receiving authorization or determining a Code-3 response is appropriate, a sworn member shall immediately give the location from which he/she is responding.

307.6 COMMUNICATIONS RESPONSIBILITIES

The responsibilities of Communications will be consistent with Contra Costa County Sheriff's dispatch procedures.

307.7 SUPERVISORY RESPONSIBILITIES

Upon being notified that a Code-3 response has been initiated, a supervising sworn member shall verify the following:

(a) The proper response has been initiated

(b) No more than those units reasonably necessary under the circumstances are involved in the response

(c) Affected outside jurisdictions are being notified as practical

A supervisor shall monitor the response until it has been stabilized or terminated and assert control by directing units into or out of the response if necessary. If, in the supervisor's judgment, the circumstances require additional units to be assigned a Code-3 response, the supervisor may do so.

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It is the supervisor's responsibility to terminate a Code-3 response that, in his/her judgment is inappropriate due to the circumstances.

When making the decision to authorize a Code-3 response, the supervisor should consider the following:

- The type of call
- The necessity of a timely response
- Traffic and roadway conditions
- The location of the responding units

307.8 FAILURE OF EMERGENCY EQUIPMENT

If the emergency equipment on the vehicle should fail to operate, the sworn member must terminate the Code-3 response and respond accordingly. In all cases, the sworn member shall notify sheriff’s dispatch, of the equipment failure so that another unit may be assigned to the emergency response.

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Search and Seizure

308.1 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 District Attorney's Office personnel to consider when dealing with search and seizure issues.

308.2 POLICY

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

The Office will provide relevant and current training to sworn members as guidance for the application of current law, local community standards and prosecutorial considerations regarding specific search and seizure situations, as appropriate.

308.3 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

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 Office is expected to act in each situation according to current training and his/her familiarity with clearly established rights as determined by case law.

Whenever practicable, sworn members 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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308.4 SEARCH PROTOCOL

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 Office will strive to conduct searches with dignity and courtesy.

(b) Sworn members 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) In order to minimize the need for forcible entry, an attempt should be made to obtain keys, combinations or access codes when a search of locked property is anticipated.

(e) When the person to be searched is of the opposite sex as the searching sworn member, a reasonable effort should be made to summon sworn member of the same sex as the subject to conduct the search. When it is not practicable to summon sworn member of the same sex as the subject, the following guidelines should be followed:

1. Another sworn member or a supervisor should witness the search.
2. The sworn member should not search areas of the body covered by tight-fitting clothing, sheer clothing or clothing that could not reasonably conceal a weapon.

308.5 DOCUMENTATION

Sworn members are responsible to document any search 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 sworn member of the same sex as the person being searched and the identification of any witness sworn member

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

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308.6 SEARCH WARRANTS

Sworn members are authorized by a written order, signed by a magistrate, directing a peace officer to search a specific person or place for specific items and bring them before the magistrate of the court. The warrant must particularly describe the items sought, the location, vehicle, or persons to be searched and must list the statutory grounds for issuing the warrant. A sworn member serving the warrant must announce their presence, identify themselves as a sworn member, state their purpose and demand entry before forcibly entering a private dwelling. A copy of the search warrant may be left at the searched location. A list of seized items must be provided to the subject of the warrant upon service. If no one is present, copies will be left in a conspicuous place.

308.7 PROBABLE CAUSE SEARCHES

Probable cause searches are warrantless searches by a sworn member who has specific articulable facts to believe the object of his or her search is located in a specific location. The scope of a lawful search is limited by the circumstances under which it is being conducted.

308.8 CURSORY SEARCHES

Cursory searches of legally detained person(s) or suspect(s) is a search for weapons or things which can be used as a weapon, which are immediately accessible to the person.

308.9 SEARCHES INCIDENT TO ARREST

Searches incident to arrest are searches conducted contemporaneous to an arrest. They are limited to the suspect and areas in the suspect’s immediate control. The purpose of these searches is to protect the sworn member (by locating weapons) and to prevent the destruction of evidence or contraband.

The premises where the suspect is arrested may be searched for additional suspects or victims when the sworn member has reasonable cause to believe there are additional suspects or victims. A general or exploratory search without a search warrant is not authorized.

If an expanded search at the scene of an arrest, or any crime scene, is to be conducted, a search warrant will be obtained prior to the search. When in doubt, always obtain a search warrant prior to conducting the search.

308.10 SUPERVISION

Absent exigent circumstances or advanced approval from the Chief of Investigations or his/her designee, a supervisor shall be present during the service of search and/or arrest warrants.

The presence of a supervisor is not required when serving a search warrant for records at a company or financial institution.

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Temporary Custody of Juveniles

309.1 PURPOSE AND SCOPE

This policy provides guidelines consistent with the Juvenile Justice and Delinquency Prevention Act for juveniles taken into temporary custody by members of the Contra Costa County District Attorney's Office (34 USC § 11133).

Guidance regarding contacting juveniles at schools or who may be victims is provided in the Child Abuse Policy.

309.1.1 DEFINITIONS

Definitions related to this policy include:

Juvenile non-offender - An abused, neglected, dependent, or alien juvenile who may be legally held for his/her own safety or welfare. This also includes any juvenile who may have initially been contacted for an offense that would not subject an adult to arrest (e.g., fine-only offense) but was taken into custody for his/her protection or for purposes of reuniting the juvenile with a parent, guardian, or other responsible person. Juveniles 11 years of age or younger are considered juvenile non-offenders even if they have committed an offense that would subject an adult to arrest.

Juvenile offender - A juvenile 12 to 17 years of age who is alleged to have committed an offense that would subject an adult to arrest (a non-status offense) (Welfare and Institutions Code § 602). It also includes an offense under Penal Code § 29610 for underage possession of a handgun or concealable firearm (28 CFR 31.303).

Non-secure custody - When a juvenile is held in the presence of a sworn member or other custody employee at all times and is not placed in a locked room, cell, or behind any locked doors. Juveniles in non-secure custody may be handcuffed but not to a stationary or secure object. Personal supervision, through direct visual monitoring and audio two-way communication is maintained. Monitoring through electronic devices, such as video, does not replace direct visual observation (Welfare and Institutions Code § 207.1(d); 15 CCR 1150).

Safety checks - Direct, visual observation personally by a member of this office performed at random intervals within time frames prescribed in this policy to provide for the health and welfare of juveniles in temporary custody.

Secure custody - When a juvenile offender is held in a locked room, a set of rooms, or a cell. Secure custody also includes being physically secured to a stationary object (15 CCR 1146).

Examples of secure custody include:

(a) A juvenile left alone in an unlocked room within the secure perimeter of the adult temporary holding area.

(b) A juvenile handcuffed to a rail.

(c) A juvenile placed in a room that contains doors with delayed egress devices that have a delay of more than 30 seconds.

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(d) A juvenile being processed in a secure booking area when a non-secure booking area is available.

(e) A juvenile left alone in a secure booking area after being photographed and fingerprinted.

(f) A juvenile placed in a cell within the adult temporary holding area, whether or not the cell door is locked.

(g) A juvenile placed in a room that is capable of being locked or contains a fixed object designed for cuffing or restricting movement.

Sight and sound separation - Located or arranged to prevent physical, visual, or auditory contact.

Status offender - A juvenile suspected of committing a criminal violation of the law that would not be a criminal violation but for the age of the offender. Examples may include running away, underage possession of tobacco, curfew violation, and truancy. A juvenile in custody on a court order or warrant based upon a status offense is also a status offender. This includes the habitually disobedient or truant juvenile under Welfare and Institutions Code § 601 and any juvenile suspected of an offense that would not subject an adult to arrest (e.g., fine-only offense).

309.2 POLICY

The Contra Costa County District Attorney's Office is committed to releasing juveniles from temporary custody as soon as reasonably practicable and keeping juveniles safe while they are in temporary custody at the Contra Costa County District Attorney's Office. Juveniles should be held in temporary custody only for as long as reasonably necessary for processing, transfer, or release.

309.3 JUVENILES WHO SHOULD NOT BE HELD

Juveniles who exhibit any of the following conditions should not be held at the Contra Costa County District Attorney's Office:

(a) Unconscious

(b) Seriously injured

(c) A known suicide risk or obviously severely emotionally disturbed

(d) Significantly intoxicated except when approved by the N/A. A medical clearance shall be obtained for minors who are under the influence of drugs, alcohol, or any other intoxicating substance to the extent that they are unable to care for themselves (15 CCR 1151).

(e) Extremely violent or continuously violent

Sworn members taking custody of a juvenile who exhibits any of the above conditions should take reasonable steps to provide medical attention or mental health assistance and notify a supervisor of the situation (15 CCR 1142; 15 CCR 1151).

These juveniles should not be held at the Contra Costa County District Attorney's Office unless they have been evaluated by a qualified medical and/or mental health professional (15 CCR 1142).

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If the sworn member taking custody of the juvenile believes the juvenile may be a suicide risk, the juvenile shall be under continuous direct supervision until evaluation, release, or a transfer is completed (15 CCR 1142).

309.3.1 EMERGENCY MEDICAL CARE OF JUVENILES IN CUSTODY
When emergency medical attention is required for a juvenile, medical assistance will be called immediately. The supervisor shall be notified of the need for medical attention for the juvenile. Office members should administer first aid as applicable (15 CCR 1142).

309.3.2 SUICIDE PREVENTION OF JUVENILES IN CUSTODY
Office members should be alert to potential symptoms based upon exhibited behavior that may indicate the juvenile is a suicide risk. These symptoms may include depression, refusal to communicate, verbally threatening to kill him/herself, or any unusual behavior which may indicate the juvenile may harm him/herself while in either secure or non-secure custody (15 CCR 1142).

309.4 CUSTODY OF JUVENILES

Sworn members should take custody of a juvenile and temporarily hold the juvenile at the Contra Costa County District Attorney's Office when there is no other lawful and practicable alternative to temporary custody. Refer to the Child Abuse Policy for additional information regarding detaining a juvenile that is suspected of being a victim.

No juvenile should be held in temporary custody at the Contra Costa County District Attorney's Office without authorization of the arresting sworn member's supervisor or the Chief of Investigations. Juveniles taken into custody shall be held in non-secure custody unless otherwise authorized by this policy.

Any juvenile taken into custody shall be released to the care of the juvenile’s parent or other responsible adult or transferred to a juvenile custody facility or to other authority as soon as practicable and in no event shall a juvenile be held beyond six hours from the time of his/her entry into the Contra Costa County District Attorney's Office (34 USC § 11133; Welfare and Institutions Code § 207.1(d)).

309.4.1 CUSTODY OF JUVENILE NON-OFFENDERS
Non-offenders taken into protective custody in compliance with the Child Abuse Policy should generally not be held at the Contra Costa County District Attorney's Office. Custodial arrangements should be made for non-offenders as soon as reasonably possible. Juvenile non-offenders shall not be held in secure custody (34 USC § 11133; Welfare and Institutions Code § 206).

Juveniles 11 years of age or younger who have committed an offense that would subject an adult to arrest may be held in non-secure custody for the offenses listed in Welfare and Institutions Code § 602(b) (murder and the sexual assault offenses) and should be referred to a probation officer for a placement determination.

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309.4.2 CUSTODY OF JUVENILE STATUS OFFENDERS

Status offenders should generally be released by citation or with a warning rather than taken into temporary custody. However, sworn members may take custody of a status offender if requested to do so by a parent or legal guardian in order to facilitate reunification (e.g., transported home or to the station to await a parent). Juvenile status offenders shall not be held in secure custody (34 USC § 11133).

309.4.3 CUSTODY OF JUVENILE OFFENDERS

Juvenile offenders should be held in non-secure custody while at the Contra Costa County District Attorney's Office unless another form of custody is authorized by this policy or is necessary due to exigent circumstances.

Generally, a juvenile offender may be taken into custody when authorized by a court order or when there is probable cause to believe the juvenile has committed an offense that would subject an adult to arrest (Welfare and Institutions Code § 625).

A juvenile offender who is 14 years of age or older and suspected of using a firearm in violation of Welfare and Institutions Code § 625.3 shall be transported to a juvenile facility.

A juvenile offender suspected of committing murder or a sex offense that may subject a juvenile to criminal jurisdiction under Welfare and Institutions Code § 602(b), or a serious or violent felony should be referred to a probation officer for a decision on further detention.

In all other cases the juvenile offender may be:

(a) Released upon warning or citation.

(b) Released to a parent or other responsible adult after processing at the Office.

(c) Referred to a probation officer for a decision regarding whether to transport the juvenile offender to a juvenile facility.

(d) Transported to his/her home or to the place where the juvenile offender was taken into custody (Welfare and Institutions Code § 207.2).

In determining which disposition is appropriate, the investigating sworn member or supervisor shall prefer the alternative that least restricts the juvenile’s freedom of movement, provided that alternative is compatible with the best interests of the juvenile and the community (Welfare and Institutions Code § 626).

Whenever a juvenile offender under the age of 14 is taken into custody, the sworn member should take reasonable steps to verify and document the child's ability to differentiate between right and wrong, particularly in relation to the alleged offense (Penal Code § 26).

309.5 ADVISEMENTS

Sworn members shall take immediate steps to notify the juvenile’s parent, guardian, or a responsible relative that the juvenile is in custody, the location where the juvenile is being held, and the intended disposition (Welfare and Institutions Code § 627).

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Whenever a juvenile is taken into temporary custody, he/she shall be given the *Miranda* rights advisement regardless of whether questioning is intended (Welfare and Institutions Code § 625).

Anytime a juvenile offender is placed in secure custody, he/she shall be informed of the purpose of the secure custody, the length of time the secure custody is expected to last, and of the maximum six-hour limitation (Welfare and Institutions Code § 207.1(d)).

Juveniles taken into custody for an offense shall immediately be advised (or at least within one hour from being taken into custody, if possible) that they may make three telephone calls: one call completed to his/her parent or guardian; one to a responsible relative or his/her employer; and another call completed to an attorney. The calls shall be at no expense to the juvenile when completed to telephone numbers within the local calling area. Juveniles should be asked whether they are a caregiver and provided two more phone calls in the same manner as provided to adults in the Temporary Custody of Adults Policy (Welfare and Institutions Code § 627; Penal Code § 851.5).

309.6 JUVENILE CUSTODY LOGS

Any time a juvenile is held in custody at the Office, the custody shall be promptly and properly documented in the juvenile custody log, including:

(a) Identifying information about the juvenile.

(b) Date and time of arrival and release from the Contra Costa County District Attorney's Office (15 CCR 1150).

(c) Supervisor notification and approval to temporarily hold the juvenile.

(d) Any charges for which the juvenile is being held and classification of the juvenile as a juvenile offender, status offender, or non-offender.

(e) Any changes in status (e.g., emergency situations, unusual incidents).

(f) Time of all safety checks.

(g) Any medical and other screening requested and completed (15 CCR 1142).

(h) Circumstances that justify any secure custody (Welfare and Institutions Code § 207.1(d); 15 CCR 1145).

(i) Any other information that may be required by other authorities, such as compliance inspectors or a local juvenile court authority.

The supervisor shall initial the log to approve the custody, including any secure custody, and shall also initial the log when the juvenile is released.

309.7 NO-CONTACT REQUIREMENTS

Sight and sound separation shall be maintained between all juveniles and adults while in custody at the Office (34 USC § 11133; Welfare and Institutions Code § 207.1(d); Welfare and Institutions Code § 208; 15 CCR 1144). There should also be sight and sound separation between non-offenders and juvenile and status offenders.

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In situations where brief or accidental contact may occur (e.g., during the brief time a juvenile is being fingerprinted and/or photographed in booking), a member of the Contra Costa County District Attorney's Office (trained in the supervision of persons in custody) shall maintain a constant, immediate, side-by-side presence with the juvenile or the adult to minimize any contact. If inadvertent or accidental contact does occur, reasonable efforts shall be taken to end the contact (15 CCR 1144).

309.8 TEMPORARY CUSTODY REQUIREMENTS

Members and supervisors assigned to monitor or process any juvenile at the Contra Costa County District Attorney's Office shall ensure the following:

(a) The supervisor should be notified if it is anticipated that a juvenile may need to remain at the Contra Costa County District Attorney's Office more than four hours. This will enable the supervisor to ensure no juvenile is held at the Contra Costa County District Attorney's Office more than six hours.

(b) A staff member of the same sex shall supervise personal hygiene activities and care, such as changing clothing or using the restroom, without direct observation to allow for privacy.

(c) Personal safety checks and significant incidents/activities shall be noted on the log.

(d) Juveniles in custody are informed that they will be monitored at all times, except when using the toilet.

1. There shall be no viewing devices, such as peep holes or mirrors, of which the juvenile is not aware.

2. This does not apply to surreptitious and legally obtained recorded interrogations.

(e) Juveniles shall have reasonable access to toilets and wash basins (15 CCR 1143).

(f) Food shall be provided if a juvenile has not eaten within the past four hours or is otherwise in need of nourishment, including any special diet required for the health of the juvenile (15 CCR 1143).

(g) Juveniles shall have reasonable access to a drinking fountain or water (15 CCR 1143).

(h) Juveniles shall have reasonable opportunities to stand and stretch, particularly if handcuffed or restrained in any way.

(i) Juveniles shall have privacy during family, guardian, and/or lawyer visits (15 CCR 1143).

(j) Juveniles shall be permitted to remain in their personal clothing unless the clothing is taken as evidence or is otherwise unsuitable or inadequate for continued wear while in custody (15 CCR 1143).

(k) Blankets shall be provided as reasonably necessary (15 CCR 1143).

1. The supervisor should ensure that there is an adequate supply of clean blankets.

(l) Adequate shelter, heat, light, and ventilation should be provided without compromising security or enabling escape.

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(m) Juveniles shall have adequate furnishings, including suitable chairs or benches.

(n) Juveniles shall have the right to the same number of telephone calls as an adult in temporary custody.

(o) No discipline may be administered to any juvenile, nor may juveniles be subjected to corporal or unusual punishment, humiliation, or mental abuse (15 CCR 1142).

309.9 USE OF RESTRAINT DEVICES

Juvenile offenders may be handcuffed in accordance with the Handcuffing and Restraints Policy. A juvenile offender may be handcuffed at the Contra Costa County District Attorney's Office when the juvenile presents a heightened risk. However, non-offenders and status offenders should not be handcuffed unless they are combative or threatening (15 CCR 1142).

Other restraints shall only be used after less restrictive measures have failed and with the approval of a supervisor. Restraints shall only be used so long as it reasonably appears necessary for the juvenile's protection or the protection of others (15 CCR 1142).

Juveniles in restraints shall be kept away from other unrestrained juveniles or monitored in such a way as to protect the juvenile from abuse (15 CCR 1142).

309.10 PERSONAL PROPERTY

The sworn member taking custody of a juvenile offender or status offender at the Contra Costa County District Attorney's Office shall ensure a thorough search of the juvenile’s property is made and all property is removed from the juvenile, especially those items that could compromise safety, such as pens, pencils, and belts.

The personal property of a juvenile should be placed in a property bag. The property should be inventoried in the juvenile’s presence and sealed into the bag. The property should be kept in a monitored or secure location until the juvenile is released from the custody of the Contra Costa County District Attorney's Office.

309.11 SECURE CUSTODY

Only juvenile offenders 14 years of age or older may be placed in secure custody (Welfare and Institutions Code § 207; 15 CCR 1145).Supervisor approval is required before placing a juvenile offender in secure custody.

Secure custody should only be used for juvenile offenders when there is a reasonable belief that the juvenile is a serious risk of harm to him/herself or others. Factors to be considered when determining if the juvenile offender presents a serious security risk to him/herself or others include the following (15 CCR 1145):

(a) Age, maturity, and delinquent history

(b) Severity of offense for which the juvenile was taken into custody

(c) The juvenile offender’s behavior

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(d) Availability of staff to provide adequate supervision or protection of the juvenile offender

(e) Age, type, and number of other individuals in custody at the facility

Members of this office shall not use secure custody for convenience when non-secure custody is, or later becomes, a reasonable option (15 CCR 1145).

When practicable and when no locked enclosure is available, handcuffing one hand of a juvenile offender to a fixed object while otherwise maintaining the juvenile in non-secure custody should be considered as the method of secure custody. An employee must be present at all times to ensure the juvenile's safety while secured to a stationary object (15 CCR 1148).

Juveniles shall not be secured to a stationary object for more than 60 minutes. Supervisor approval is required to secure a juvenile to a stationary object for longer than 60 minutes and every 30 minutes thereafter (15 CCR 1148). Supervisor approval should be documented.

The decision for securing a minor to a stationary object for longer than 60 minutes and every 30 minutes thereafter shall be based upon the best interests of the juvenile offender (15 CCR 1148).

309.11.1 LOCKED ENCLOSURES

A thorough inspection of the area shall be conducted before placing a juvenile into the enclosure. A second inspection shall be conducted after removing the juvenile. Any damage noted to the room should be photographed and documented in the crime report.

The following requirements shall apply to a juvenile offender who is held inside a locked enclosure:

(a) The juvenile shall constantly be monitored by an audio/video system during the entire custody.

(b) Juveniles shall have constant auditory access to office members (15 CCR 1147).

(c) Initial placement into and removal from a locked enclosure shall be logged (Welfare and Institutions Code § 207.1(d)).

(d) Unscheduled safety checks to provide for the health and welfare of the juvenile by a staff member, no less than once every 15 minutes, shall occur (15 CCR 1147; 15 CCR 1151).

1. All safety checks shall be logged.
2. The safety check should involve questioning the juvenile as to his/her well-being (sleeping juveniles or apparently sleeping juveniles should be awakened).
3. Requests or concerns of the juvenile should be logged.

(e) Males and females shall not be placed in the same locked room (15 CCR 1147).

(f) Juvenile offenders should be separated according to severity of the crime (e.g., felony or misdemeanor).

(g) Restrained juveniles shall not be mixed in a cell or room with unrestrained juveniles.

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309.12 SUICIDE ATTEMPT, DEATH, OR SERIOUS INJURY OF A JUVENILE

The N/A will ensure procedures are in place to address the suicide attempt, death, or serious injury of any juvenile held at the Contra Costa County District Attorney's Office (15 CCR 1142; 15 CCR 1047). The procedures will address:

(a) Immediate notification of the on-duty supervisor, Chief of Investigations, and Investigation Unit Supervisor.

(b) Notification of the parent, guardian, or person standing in loco parentis of the juvenile.

(c) Notification of the appropriate prosecutor.

(d) Notification of the County attorney.

(e) Notification to the coroner.

(f) Notification of the juvenile court.

(g) In the case of a death, providing a report to the Attorney General under Government Code § 12525 within 10 calendar days of the death, and forwarding the same report to the Board of State and Community Corrections within the same time frame (15 CCR 1046).

(h) A medical and operational review of deaths and suicide attempts pursuant to 15 CCR 1046.

(i) Evidence preservation.

309.13 INTERVIEWING OR INTERROGATING JUVENILE SUSPECTS

No interview or interrogation of a juvenile should occur unless the juvenile has the apparent capacity to consent, and does consent to an interview or interrogation.

Prior to conducting a custodial interrogation, including the waiver of *Miranda* rights, a sworn member shall permit a juvenile 15 years of age or younger to consult with legal counsel in person, by telephone, or by video conference. The consultation may not be waived by the juvenile. The requirement to consult with legal counsel does not apply when (Welfare and Institutions Code § 625.6):

(a) Information is necessary to protect life or property from an imminent threat.

(b) The questions are limited to what is reasonably necessary to obtain the information relating to the threat.

309.14 FORMAL BOOKING

No juvenile offender shall be formally booked without the authorization of the arresting sworn member's supervisor.

Any juvenile 14 years of age or older who is taken into custody for a felony, or any juvenile whose acts amount to a sex crime, shall be booked, fingerprinted, and photographed.

For all other acts defined as crimes, juveniles may be booked, fingerprinted or photographed upon the approval from a supervisor,giving due consideration to the following:

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(a) The gravity of the offense

(b) The past record of the offender

(c) The age of the offender

309.15 RELEASE OF INFORMATION CONCERNING JUVENILES

Court decisions and legislation have combined to carefully specify situations in which information may be given out or exchanged when a case involves a juvenile. Members of this office shall not divulge any information regarding juveniles unless they are certain of the legal authority to do so.

A copy of the current policy of the juvenile court concerning authorized release of information and appropriate acknowledgment forms shall be kept with copies of this procedure in the Contra Costa County District Attorney's Office Policy Manual. Such releases are authorized by Welfare and Institutions Code § 827.

Welfare and Institutions Code § 828 authorizes the release of certain information to other agencies. It shall be the responsibility of the Office Manager and the appropriate Investigations Division supervisors to ensure that personnel of those bureaus act within legal guidelines.

309.16 BOARD OF STATE AND COMMUNITY CORRECTIONS CERTIFICATION

The N/A Lieutenant shall coordinate the procedures related to the custody of juveniles held at the Contra Costa County District Attorney's Office and ensure any required certification is maintained (Welfare and Institution Code § 210.2).

309.17 RELIGIOUS ACCOMMODATION

Juveniles have the right to the same religious accommodation as adults in temporary custody (see the Temporary Custody of Adults Policy).

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Adult Abuse

310.1 PURPOSE AND SCOPE

Contra Costa County District Attorney's Office Investigations Division personnel will most often become involved in Adult Abuse cases after initial investigations and reports have been completed by local law enforcement agencies; however, on occasion, sworn members may "on-view" or receive direct information regarding an Adult Abuse situation. This policy provides members of the Contra Costa County District Attorney's Office Investigations Division with direction and understanding of their role in the prevention, detection and intervention in incidents of adult abuse.

310.1.1 DEFINITIONS

Definitions related to this policy include:

Adult abuse - Any offense or attempted offense involving violence or neglect of an adult victim when committed by a person responsible for the adult's care, or any other act that would mandate reporting or notification to a social service agency or law enforcement (Penal Code § 368).

Abuse of an elder (age 65 or older) or dependent adult - Physical abuse, neglect, financial abuse, abandonment, isolation, abduction, or other treatment with resulting physical harm or pain or mental suffering; or the deprivation by a care custodian of goods or services that are necessary to avoid physical harm or mental suffering. Neglect includes self-neglect (Welfare and Institutions Code § 15610.07; Penal Code § 368.5).

310.2 POLICY

It is the policy of the Contra Costa County District Attorney's Office 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 suspects and ensure proper reporting and notification as required by law.

310.3 INVESTIGATIONS AND REPORTING

All reported or suspected cases of adult abuse require investigation and a report, even if the allegations appear unfounded or unsubstantiated.

Investigations and reports related to suspected cases of adult abuse should address, as applicable:

(a) The overall basis for the contact. This should be done by the investigating sworn member in all circumstances where a suspected adult abuse victim is contacted.

(b) Any relevant statements the victim may have made and to whom he/she made the statements.

(c) If a person is taken into protective custody, the reasons, the name and title of the person making the decision, and why other alternatives were not appropriate.

(d) Documentation of any visible injuries or any injuries identified by the victim. This should include photographs of such injuries, if practicable.

(e) Whether the victim was transported for medical treatment or a medical examination.

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(f) Whether the victim identified a household member as the alleged perpetrator, and a list of the names of any other potential victims or witnesses who may reside in the residence.

(g) Identification of any prior related reports or allegations of abuse, including other jurisdictions, as reasonably known.

(h) Previous addresses of the victim and suspect.

(i) Other potential witnesses who have not yet been interviewed, such as relatives or others close to the victim's environment.

(j) Results of investigations shall be provided to those agencies (Adult Protective Services (APS), long-term ombudsman) that referred or reported the adult abuse (Welfare and Institutions Code § 15640(f)).

(k) Whether a death involved the End of Life Option Act:

1. Whether or not assistance was provided to the person beyond that allowed by law (Health and Safety Code § 443.14)
2. Whether an individual knowingly altered or forged a request for an aid-in-dying drug to end a person's life without his/her authorization, or concealed or destroyed a withdrawal or rescission of a request for an aid-in-dying drug (Health and Safety Code § 443.17)
3. Whether coercion or undue influence was exerted on the person to request or ingest an aid-in-dying drug or to destroy a withdrawal or rescission of a request for such medication (Health and Safety Code § 443.17)
4. Whether an aid-in-dying drug was administered to a person without his/her knowledge or consent (Health and Safety Code § 443.17).

Any unexplained death of an adult who was in the care of a guardian or caretaker should be considered as potential adult abuse and investigated similarly.

310.4 SWORN MEMBER RESPONSIBILITIES

Sworn members should:

(a) Conduct interviews in appropriate interview facilities.

(b) Be familiar with forensic interview techniques specific to adult abuse investigations.

(c) Present all cases of alleged adult abuse to the prosecutor for review.

(d) Coordinate with other enforcement agencies, social service agencies and facility administrators as needed.

(e) Provide referrals to therapy services, victim advocates, guardians and support for the victim and family as appropriate.

(f) Participate in or coordinate with multidisciplinary investigative teams as applicable (Welfare and Institutions Code § 15610.55).

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310.5 MANDATORY NOTIFICATION

Members of the Contra Costa County District Attorney's Office shall notify the local office of the California Department of Social Services (CDSS) APS agency when they reasonably suspect, have observed, or have knowledge of an incident that reasonably appears to be abuse of an elder (age 65 or older) or dependent adult, or are told by an elder or dependent adult that he/she has experienced abuse (Welfare and Institutions Code § 15630(b)).

Notification shall be made by telephone as soon as practicable and a written report shall be provided within two working days as provided in Welfare and Institutions Code § 15630(b)(c)).

A dependent adult is an individual, regardless of whether the individual lives independently, 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 also includes those admitted as inpatients to a 24-hour health facility, as defined in state law (Welfare and Institutions Code § 15610.23).

Notification shall 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)):

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 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.
4. When a report of abuse is received by the Office, the local ombudsman shall be called to coordinate efforts to provide the most immediate and appropriate response (Welfare and Institutions Code § 15630(b)).

(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 as soon as practicable (Welfare and Institutions Code § 15630(b)).

(c) The California Department of Public Health (DPH) shall be notified of all known or suspected abuse in a long-term care facility.

(d) The SDSS shall be notified of all known or suspected abuse occurring in a residential care facility for the elderly or in an adult day program.

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(e) If the abuse occurred in an adult day health care center, DPH and the California Department of Aging shall be notified.

(f) 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.

(g) The District Attorney's office shall be notified of all cases of physical abuse and financial abuse in a long-term care facility.

(h) If the abuse occurred at a state mental hospital or a state developmental center, notification shall be made to the designated investigators of the California Department of State Hospitals or the California Department of Developmental Services as soon as practicable but no later than two hours after law enforcement becomes aware of the abuse (Welfare and Institutions Code § 15630(b)).

1. When a report of abuse is received by the Office, investigation efforts shall be coordinated with the designated investigators of the California Department of State Hospitals or the California Department of Developmental Services (Welfare and Institutions Code § 15630(b)).

(i) If during an investigation it is determined that the adult abuse is being committed by a licensed health practitioner as identified in Welfare and Institutions Code § 15640(b), the appropriate licensing agency shall be immediately notified (Welfare and Institutions Code 15640(b)).

(j) When the Office receives a report of abuse, neglect or abandonment of an elder or dependent adult alleged to have occurred in a long-term care facility, the licensing agency shall be notified by telephone as soon as practicable (Welfare and Institutions Code § 15640(e)).

The Investigations Division 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 is not required for a person who was merely present when a person self-administered a prescribed aid-in-dying drug or a person prepared an aid-in-dying drug so long as the person did not assist the individual in ingesting the aid-in-dying drug (Health and Safety Code § 443.14; Health and Safety Code § 443.18).

310.5.1 NOTIFICATION PROCEDURE

Notification should include the following information, if known (Welfare and Institutions Code § 15630(e)):

(a) The name of the person making the report.

(b) The name and age of the elder or dependent adult.

(c) The present location of the elder or dependent adult.

(d) The names and addresses of family members or any other adult responsible for the care of the elder or dependent adult.

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(e) The nature and extent of the condition of the elder or dependent adult.

(f) The date of incident.

(g) Any other information, including information that led the person to suspect elder or dependent adult abuse.

310.6 PROTECTIVE CUSTODY

Before taking an adult abuse victim into protective custody when facts indicate the adult may not be able to care for him/herself, the sworn member should make reasonable attempts to contact APS. Generally, removal of an adult abuse victim from his/her family, guardian or other responsible adult should be left to the welfare authorities when they are present or have become involved in an investigation.

Generally, sworn members of this Office should remove an adult abuse victim from his/her family or guardian without a court order only when no other effective alternative is reasonably available and immediate action reasonably appears necessary to protect the victim. Prior to taking an adult abuse victim into protective custody, the sworn member should take reasonable steps to deliver the adult to another qualified legal guardian, unless it reasonably appears that the release would endanger the victim or result in abduction. If this is not a reasonable option, the sworn member shall ensure that the adult is delivered to APS.

Whenever practicable, the sworn member should inform a supervisor of the circumstances prior to taking an adult abuse victim into protective custody. If prior notification is not practicable, sworn members should contact a supervisor promptly after taking the adult into protective custody.

When adult abuse victims are under state control, have a state-appointed guardian or there are other legal holdings for guardianship, it may be necessary or reasonable to seek a court order on behalf of the adult victim to either remove the adult from a dangerous environment (protective custody) or restrain a person from contact with the adult.

310.6.1 EMERGENCY PROTECTIVE ORDERS

In any situation where a sworn member reasonably believes that an elder or dependent adult is in immediate and present danger of abuse based on an allegation of a recent incident of abuse or threat of abuse (other than financial abuse alone), the sworn member may seek an emergency protective order against the person alleged to have committed or threatened such abuse (Family Code § 6250(d)).

310.7 INTERVIEWS

310.7.1 PRELIMINARY INTERVIEWS

Absent extenuating circumstances or impracticality, sworn members should audio record the preliminary interview with a suspected adult abuse victim. Sworn members should avoid multiple interviews with the victim and should attempt to gather only the information necessary to begin an investigation. When practicable, investigating sworn members should defer interviews until a person who is specially trained in such interviews is available.

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310.7.2 DETAINING VICTIMS FOR INTERVIEWS

A sworn member should not detain an adult involuntarily who is suspected of being a victim of abuse solely for the purpose of an interview or physical exam without his/her consent or the consent of a guardian unless one of the following applies:

(a) Exigent circumstances exist, such as:

1. A reasonable belief that medical issues of the adult need to be addressed immediately.
2. A reasonable belief that the adult is or will be in danger of harm if the interview or physical exam is not immediately completed.
3. The alleged offender is a family member or guardian and there is reason to believe the adult may be in continued danger.

(b) A court order or warrant has been issued.

310.8 MEDICAL EXAMINATIONS

When an adult abuse investigation requires a medical examination, the investigating sworn member should obtain consent for such examination from the victim, guardian, agency or entity having legal custody of the adult. The sworn member should also arrange for the adult's transportation to the appropriate medical facility.

In cases where the alleged offender is a family member, guardian, agency or entity having legal custody and is refusing to give consent for the medical examination, sworn members should notify a supervisor before proceeding. If exigent circumstances do not exist or if state law does not provide for sworn members to take the adult for a medical examination, other government agencies or services that may obtain a court order for such an examination should be considered.

310.9 DRUG-ENDANGERED VICTIMS

A coordinated response by law enforcement and social services agencies is appropriate to meet the immediate and longer-term medical and safety needs of an adult abuse victim who has been exposed to the manufacturing, trafficking or use of narcotics.

310.9.1 SWORN MEMBER RESPONSIBILITIES

Sworn members responding to a drug lab or other narcotics crime scene where an adult abuse victim is present or where there is evidence that an adult abuse victim lives should:

(a) Document the environmental, medical, social and other conditions of the adult, using photography as appropriate and the checklist or form developed for this purpose.

(b) Notify the Investigations Division supervisor so an interagency response can begin.

310.9.2 SUPERVISOR RESPONSIBILITIES

The Investigations Division supervisor should:

(a) Work with professionals from the appropriate agencies, including APS, other law enforcement agencies, medical service providers and local prosecutors, to develop community specific procedures for responding to situations where there are adult

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abuse victims endangered by exposure to methamphetamine labs or the manufacture and trafficking of other drugs.

(b) Activate any available interagency response when a sworn member notifies the Investigations Division supervisor that he/she has responded to a drug lab or other narcotics crime scene where an adult abuse victim is present or where evidence indicates that an adult abuse victim lives.

(c) Develop a report format or checklist for use when sworn members respond to drug labs or other narcotics crime scenes. The checklist will help sworn members document the environmental, medical, social and other conditions that may affect the adult.

310.10 TRAINING

The Office should provide training on best practices in adult abuse investigations to members tasked with investigating these cases. The training should include:

(a) Participating in multidisciplinary investigations, as appropriate.

(b) Conducting interviews.

(c) Availability of therapy services for adults and families.

(d) Availability of specialized forensic medical exams.

(e) Cultural competence (including interpretive services) related to adult abuse investigations.

(f) Availability of victim advocates or other support.

310.11 RECORDS BUREAU RESPONSIBILITIES

The Records Section is responsible for:

(a) Providing a copy of the adult abuse report to the APS, ombudsman or other agency as applicable within two working days or as required by law (Welfare and Institutions Code § 15630; Welfare and Institutions Code § 15640(c)).

(b) Retaining the original adult abuse report with the initial case file.

310.12 JURISDICTION

The Contra Costa County District Attorney's Office has concurrent jurisdiction with state law enforcement agencies when investigating elder and dependent adult abuse and all other crimes against elder victims and victims with disabilities (Penal Code § 368.5).

Adult protective services agencies and local long-term care ombudsman programs also have jurisdiction within their statutory authority to investigate elder and dependent adult abuse and criminal neglect and may assist in criminal investigations upon request in such cases. However, this office will retain responsibility for the criminal investigations (Penal Code § 368.5).

310.13 RELEVANT STATUTES

Penal Code § 368 (c)

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Any person who knows or reasonably should know that a person is an elder or dependent adult and who, under circumstances or conditions other than those likely to produce great bodily harm or death, willfully causes or permits any elder or dependent adult to suffer, or inflicts thereon unjustifiable physical pain or mental suffering, or having the care or custody of any elder or dependent adult, willfully causes or permits the person or health of the elder or dependent adult to be injured or willfully causes or permits the elder or dependent adult to be placed in a situation in which his or her person or health may be endangered, is guilty of a misdemeanor.

Penal Code § 368 (f)

(f) A person who commits the false imprisonment of an elder or a dependent adult by the use of violence, menace, fraud, or deceit is punishable by imprisonment pursuant to subdivision (h) of Section 1170 for two, three, or four years.

Welfare and Institutions Code § 15610.05

“Abandonment” means the desertion or willful forsaking of an elder or a dependent adult by anyone having care or custody of that person under circumstances in which a reasonable person would continue to provide care and custody.

Welfare and Institutions Code § 15610.06

“Abduction” means the removal from this state and the restraint from returning to this state, or the restraint from returning to this state, of any elder or dependent adult who does not have the capacity to consent to the removal from this state and the restraint from returning to this state, or the restraint from returning to this state, as well as the removal from this state or the restraint from returning to this state, of any conservatee without the consent of the conservator or the court.

Welfare and Institutions Code § 15610.30

(a) “Financial abuse” of an elder or dependent adult occurs when a person or entity does any of the following:

(1) Takes, secretes, appropriates, obtains, or retains real or personal property of an elder or dependent adult for a wrongful use or with intent to defraud, or both.

(2) Assists in taking, secreting, appropriating, obtaining, or retaining real or personal property of an elder or dependent adult for a wrongful use or with intent to defraud, or both.

(3) Takes, secretes, appropriates, obtains, or retains, or assists in taking, secreting, appropriating, obtaining, or retaining, real or personal property of an elder or dependent adult by undue influence, as defined in Section 15610.70.

(b) A person or entity shall be deemed to have taken, secreted, appropriated, obtained, or retained property for a wrongful use if, among other things, the person or entity takes, secretes, appropriates, obtains, or retains the property and the person or entity knew or should have known that this conduct is likely to be harmful to the elder or dependent adult.

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(c) For purposes of this section, a person or entity takes, secretes, appropriates, obtains, or retains real or personal property when an elder or dependent adult is deprived of any property right, including by means of an agreement, donative transfer, or testamentary bequest, regardless of whether the property is held directly or by a representative of an elder or dependent adult.

(d) For purposes of this section, “representative” means a person or entity that is either of the following:

(1) A conservator, trustee, or other representative of the estate of an elder or dependent adult.

(2) An attorney-in-fact of an elder or dependent adult who acts within the authority of the power of attorney.

Welfare and Institutions Code § 15610.43

(a) “Isolation” means any of the following:

(1) Acts intentionally committed for the purpose of preventing, and that do serve to prevent, an elder or dependent adult from receiving his or her mail or telephone calls.

(2) Telling a caller or prospective visitor that an elder or dependent adult is not present, or does not wish to talk with the caller, or does not wish to meet with the visitor where the statement is false, is contrary to the express wishes of the elder or the dependent adult, whether he or she is competent or not, and is made for the purpose of preventing the elder or dependent adult from having contact with family, friends, or concerned persons.

(3) False imprisonment, as defined in Section 236 of the Penal Code.

(4) Physical restraint of an elder or dependent adult, for the purpose of preventing the elder or dependent adult from meeting with visitors.

(b) The acts set forth in subdivision (a) shall be subject to a rebuttable presumption that they do not constitute isolation if they are performed pursuant to the instructions of a physician and surgeon licensed to practice medicine in the state, who is caring for the elder or dependent adult at the time the instructions are given, and who gives the instructions as part of his or her medical care.

(c) The acts set forth in subdivision (a) shall not constitute isolation if they are performed in response to a reasonably perceived threat of danger to property or physical safe

Welfare and Institutions Code § 15610.57

(a) “Neglect” means either of the following:

(1) The negligent failure of any person having the care or custody of an elder or a dependent adult to exercise that degree of care that a reasonable person in a like position would exercise.

(2) The negligent failure of an elder or dependent adult to exercise that degree of self care that a reasonable person in a like position would exercise.

(b) Neglect includes, but is not limited to, all of the following:

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(1) Failure to assist in personal hygiene, or in the provision of food, clothing, or shelter.

(2) Failure to provide medical care for physical and mental health needs. No person shall be deemed neglected or abused for the sole reason that he or she voluntarily relies on treatment by spiritual means through prayer alone in lieu of medical treatment.

(3) Failure to protect from health and safety hazards.

(4) Failure to prevent malnutrition or dehydration.

(5) Failure of an elder or dependent adult to satisfy the needs specified in paragraphs (1) to (4), inclusive, for himself or herself as a result of poor cognitive functioning, mental limitation, substance abuse, or chronic poor health.

Welfare and Institutions Code § 15610.63

15610.63. “Physical abuse” means any of the following:

(a) Assault, as defined in Section 240 of the Penal Code.

(b) Battery, as defined in Section 242 of the Penal Code.

(c) Assault with a deadly weapon or force likely to produce great bodily injury, as defined in Section 245 of the Penal Code.

(d) Unreasonable physical constraint, or prolonged or continual deprivation of food or water.

(e) Sexual assault, that means any of the following:

(1) Sexual battery, as defined in Section 243.4 of the Penal Code.

(2) Rape, as defined in Section 261 of the Penal Code.

(3) Rape in concert, as described in Section 264.1 of the Penal Code.

(4) Spousal rape, as defined in Section 262 of the Penal Code.

(5) Incest, as defined in Section 285 of the Penal Code.

(6) Sodomy, as defined in Section 286 of the Penal Code.

(7) Oral copulation, as defined in Section 287 or former Section 288a of the Penal Code.

(8) Sexual penetration, as defined in Section 289 of the Penal Code.

(9) Lewd or lascivious acts as defined in paragraph (2) of subdivision (b) of Section 288 of the Penal Code.

(f) Use of a physical or chemical restraint or psychotropic medication under any of the following conditions:

(1) For punishment.

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(2) For a period beyond that for which the medication was ordered pursuant to the instructions of a physician and surgeon licensed in the State of California, who is providing medical care to the elder or dependent adult at the time the instructions are given.

(3) For any purpose not authorized by the physician and surgeon.

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Discriminatory Harassment

311.1 PURPOSE AND SCOPE

The purpose of this policy is to prevent office members from being subjected to discriminatory harassment, including sexual harassment and retaliation. Nothing in this policy is intended to create a legal or employment right or duty that is not created by law.

311.2 POLICY

The Contra Costa County District Attorney's Office 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 (Government Code § 12940(k); 2 CCR 11023). The Office will not tolerate discrimination against a member in hiring, promotion, discharge, compensation, fringe benefits and other privileges of employment. The Office will take preventive and corrective action to address any behavior that violates this policy or the rights it is designed to protect.

The nondiscrimination policies of the Office 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 a member to discipline.

311.3 DEFINITIONS

Definitions related to this policy include:

311.3.1 DISCRIMINATION

The Office prohibits all forms of discrimination, including any employment-related action by a member that adversely affects an applicant or member and is based on actual or perceived race, ethnicity, national origin, religion, sex, sexual orientation, gender identity or expression, age, disability, pregnancy, genetic information, veteran status, marital status, and any other classification or status 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; making 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 office equipment and/or systems to transmit or receive offensive material, statements, or pictures. Such conduct is contrary to office policy and to a work environment that is free of discrimination.

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311.3.2 RETALIATION

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

311.3.3 SEXUAL HARASSMENT

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

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.

311.3.4 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 the Equal Employment Opportunity Commission (EEOC) and the California Fair Employment and Housing Council guidelines.

(b) Bona fide requests or demands by a supervisor that the member improve the member's work quality or output, that the member report to the job site on time, that the member comply with County or office rules or regulations, or any other appropriate work-related communication between supervisor and member.

311.4 RESPONSIBILITIES

This policy applies to all office personnel. All members shall follow the intent of these guidelines in a manner that reflects office policy, professional standards, and the best interest of the Office 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 the member's 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 of Investigations, the Director of Human Resources, or the County Administrator.

Any member who believes, in good faith, that the member has been discriminated against, harassed, or subjected to retaliation, or who has observed harassment, discrimination, or

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retaliation, 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.

311.4.1 QUESTIONS OR CLARIFICATION

Members with questions regarding what constitutes discrimination, sexual harassment, or retaliation are encouraged to contact a supervisor, a manager, the Chief of Investigations, the Director of Human Resources, the County Administrator, or the California Department of Fair Employment and Housing (DFEH) for further information, direction, or clarification (Government Code § 12950).

311.4.2 SUPERVISOR RESPONSIBILITIES

The responsibilities of supervisors and managers shall include but are not limited to:

(a) Continually monitoring the work environment and striving to ensure that it is free from all types of unlawful discrimination, including harassment or retaliation.

(b) Taking prompt, appropriate action within their work units to avoid and minimize the incidence of any form of discrimination, harassment, or retaliation.

(c) Ensuring that their subordinates understand their responsibilities under this policy.

(d) Ensuring 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) Making a timely determination regarding the substance of any allegation based upon all available facts.

(f) Notifying the Chief of Investigations or the Director of Human Resources in writing of the circumstances surrounding any reported allegations or observed acts of discrimination, harassment, or retaliation no later than the next business day.

311.4.3 SUPERVISOR’S ROLE

Supervisors and managers shall be aware of the following:

(a) Behavior of supervisors and managers should represent the values of the Office and professional standards.

(b) False or mistaken accusations of discrimination, harassment, or retaliation can have negative effects on the careers of innocent members.

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 members, or issuing discipline, in a manner that is consistent with established procedures.

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311.5 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 Office that all complaints of discrimination, retaliation, or harassment shall be fully documented and promptly and thoroughly investigated.

311.5.1 SUPERVISOR RESOLUTION

Members who believe they are experiencing discrimination, harassment, or retaliation should be encouraged to inform the individual that the behavior is unwelcome, offensive, unprofessional, or inappropriate. However, if the member feels uncomfortable or threatened or has difficulty expressing the member's 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.

311.5.2 FORMAL INVESTIGATION

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

The person 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 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 an investigation.

Formal investigation of the complaint will be confidential to the extent possible and will include but is not limited to details of the specific incident, frequency and 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 of Investigations, the Director of Human Resources, or the County Administrator.

311.5.3 ALTERNATIVE COMPLAINT PROCESS

No provision of this policy shall be construed to prevent any member from seeking legal redress outside the Office. Members who believe that they have been harassed, discriminated against, or retaliated 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. Members are advised that proceeding with complaints under the provisions of this policy does not in any way affect those filing requirements.

311.6 DOCUMENTATION OF COMPLAINTS

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

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(a) Approve by the Chief of Investigations, the County Administrator, or the Director of Human Resources, depending on the ranks of the involved parties.

(b) Maintained in accordance with the office's established records retention schedule.

311.6.1 NOTIFICATION OF DISPOSITION

The complainant and/or victim will be notified in writing of the disposition of the investigation and the actions taken to remedy or address the circumstances giving rise to the complaint.

311.7 WORKING CONDITIONS

The Administrative Services Lieutenant or the authorized designee should be responsible for reviewing facility design and working conditions for discriminatory practices. This person should collaborate with other County employees who are similarly tasked (2 CCR 11034).

311.8 TRAINING

All new members shall be provided with a copy of this policy as part of their orientation. The policy shall be reviewed with each new member. The member shall certify by signing the prescribed form that the member has been advised of this policy, is aware of and understands its contents, and agrees to abide by its provisions during the member's term with the Office.

All members shall receive annual training on the requirements of this policy and shall certify by signing the prescribed form that they have reviewed the policy, understand its contents, and agree that they will continue to abide by its provisions.

311.8.1 STATE-REQUIRED TRAINING

The Sworn member should ensure that employees receive the required state training and education regarding sexual harassment, prevention of abusive conduct, and harassment based on gender identity, gender expression, and sexual orientation as follows (Government Code § 12950.1; 2 CCR 11024):

(a) Supervisory employees shall receive two hours of classroom or other effective interactive training and education within six months of assuming a supervisory position.

(b) All other employees shall receive one hour of classroom or other effective interactive training and education within six months of their employment or sooner for seasonal or temporary employees as described in Government Code § 12950.1.

(c) All employees shall receive refresher training every two years thereafter.

If the required training is to be provided by DFEH online training courses, the Sworn member should ensure that employees are provided the link or website address to the training course (Government Code § 12950).

311.8.2 TRAINING RECORDS

The Sworn member shall be responsible for maintaining records of all discriminatory harassment training provided to members. Records shall be retained in accordance with established records retention schedules and for a minimum of two years (2 CCR 11024).

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311.9 REQUIRED POSTERS

The Office shall display the required posters regarding discrimination, harassment and transgender rights in a prominent and accessible location for members (Government Code § 12950).

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Child Abuse

312.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidelines for the investigation of suspected child abuse. This policy also addresses when Contra Costa County District Attorney's Office members are required to notify Child Protective Services (CPS) of suspected child abuse.

312.1.1 DEFINITIONS

Definitions related to this policy include:

Child - Unless otherwise specified by a cited statute, a child is any 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).

312.2 POLICY

The Contra Costa County District Attorney's Office will investigate all reported incidents of alleged criminal child abuse and ensure CPS is notified as required by law. Primarily, sworn members will become involved in criminal child abuse cases after initial reports and investigations have been conducted by local law enforcement agencies and referred to the Office for disposition; however, this policy provides additional guidance to sworn members who are presented with "on-view" or the direct reporting of a criminal child abuse situation.

312.3 MANDATORY NOTIFICATION

The child protection agency shall be notified when (Penal Code § 11166):

(a) 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

(b) 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.

The District Attorney's office shall be notified in all instances of known or suspected child abuse or neglect reported to local law enforcement agencies. 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).

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,

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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).

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.

312.3.1 NOTIFICATION PROCEDURE
Notification should occur as follows (Penal Code § 11166):

(a) Notification shall be made immediately, or as soon as practicable, by telephone, fax or electronic transmission.

(b) A written follow-up report should be forwarded within 36 hours of receiving the information concerning the incident.

312.4 QUALIFIED INVESTIGATORS

Qualified investigators should be available for child abuse investigations. These investigators should:

(a) Conduct interviews in child appropriate interview facilities.

(b) Be familiar with forensic interview techniques specific to child abuse investigations.

(c) Present all cases of alleged child abuse to the prosecutor for review.

(d) Coordinate with other enforcement agencies, social service agencies and school administrators as needed.

(e) Provide referrals to therapy services, victim advocates, guardians and support for the child and family as appropriate.

(f) Participate in or coordinate with multidisciplinary investigative teams as applicable (Welfare and Institutions Code § 18961.7).

312.5 INVESTIGATIONS AND REPORTING

In all reported or suspected cases of child abuse, a report will be written. Sworn members shall write a report even if the allegations appear unfounded or unsubstantiated.

Investigations and reports related to suspected cases of child abuse should address, as applicable:

(a) The overall basis for the contact. This should be done by the investigating sworn member in all circumstances where a suspected child abuse victim was contacted.

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(b) The exigent circumstances that existed if sworn members interviewed the child victim without the presence of a parent or guardian.

(c) Any relevant statements the child may have made and to whom he/she made the statements.

(d) If a child was taken into protective custody, the reasons, the name and title of the person making the decision, and why other alternatives were not appropriate.

(e) Documentation of any visible injuries or any injuries identified by the child. This should include photographs of such injuries, if practicable.

(f) Whether the child victim was transported for medical treatment or a medical examination.

(g) Whether the victim identified a household member as the alleged perpetrator, and a list of the names of any other children who may reside in the residence.

(h) Identification of any prior related reports or allegations of child abuse, including other jurisdictions, as reasonably known.

(i) Previous addresses of the victim and suspect.

(j) Other potential witnesses who have not yet been interviewed, such as relatives or others close to the victim's environment.

All cases of the unexplained death of a child should be investigated as thoroughly as if it had been a case of suspected child abuse (e.g., a sudden or unexplained death of an infant).

312.5.1 EXTRA JURISDICTIONAL REPORTS

If a report of known or suspected child abuse or neglect that is alleged to have occurred outside this jurisdiction is received, Office members shall ensure that the caller is immediately transferred to the agency with proper jurisdiction for the investigation of the case. If the caller cannot be successfully transferred to the appropriate agency, a report shall be taken and immediately referred by telephone, fax or electronic transfer to the agency with proper jurisdiction (Penal Code 11165.9).

312.6 PROTECTIVE CUSTODY

Before taking any child into protective custody, the sworn member should make reasonable attempts to contact CPS. Generally, removal of a child from his/her family, guardian or other responsible adult should be left to the child welfare authorities when they are present or have become involved in an investigation.

Generally, members of this Office should remove a child from his/her parent or guardian without a court order only when no other effective alternative is reasonably available and immediate action reasonably appears necessary to protect the child. Prior to taking a child into protective custody, the sworn member should take reasonable steps to deliver the child to another qualified parent or legal guardian; unless it reasonably appears that the release would endanger the child or result

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in abduction. If this is not a reasonable option, the sworn member shall ensure that the child is delivered to CPS.

Whenever practicable, the sworn member should inform a supervisor of the circumstances prior to taking a child into protective custody. If prior notification is not practicable, sworn members should contact a supervisor promptly after taking a child into protective custody.

Children may only be removed from a parent or guardian in the following situations when a court order cannot reasonably be obtained in a timely manner (Welfare and Institutions Code § 305):

(a) The sworn member reasonably believes the child is a person described in Welfare and Institutions Code § 300, or a commercially exploited child under Penal Code § 647 and Penal Code § 653.22, and further has good cause to believe that any of the following conditions exist:

1. The child has an immediate need for medical care.
2. The child is in immediate danger of physical or sexual abuse.
3. The physical environment or the fact that the child is left unattended poses an immediate threat to the child's health or safety. In the case of a child left unattended, the sworn member shall first attempt to locate and determine if a responsible parent or guardian is available and capable of assuming custody before taking the child into protective custody.

(b) The sworn member reasonably believes the child requires protective custody under the provisions of Penal Code § 279.6, in one of the following circumstances:

1. It reasonably appears to the sworn member that a person is likely to conceal the child, flee the jurisdiction with the child or, by flight or concealment, evade the authority of the court.
2. There is no lawful custodian available to take custody of the child.
3. There are conflicting custody orders or conflicting claims to custody and the parties cannot agree which party should take custody of the child.
4. The child is an abducted child.

(c) The child is in the company of, or under the control of, a person arrested for Penal Code § 278 (Detainment or concealment of child from legal custodian) or Penal Code § 278.5 (Deprivation of custody of a child or right to visitation) (Penal Code § 279.6).

A child taken into protective custody shall be delivered to CPS unless otherwise directed by court order.

312.6.1 CALIFORNIA SAFELY SURRENDERED BABY LAW

An individual having lawful custody of an infant less than 72 hours old is not guilty of abandonment if the individual voluntarily surrenders physical custody of the infant to personnel on-duty at a safe-

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surrender site, such as a hospital or fire department (Penal Code § 271.5). The law requires the surrender site to notify CPS.

312.6.2 NEWBORNS TESTING POSITIVE FOR DRUGS
Under certain circumstances, sworn members can be prohibited from taking a newborn who is the subject of a proposed adoption into protective custody, even when the newborn has tested positive for illegal drugs or the birth mother tested positive for illegal drugs.

Sworn members shall instead follow the provisions of Welfare and Institutions Code § 305.6 to ensure that the newborn is placed with the adoptive parents when it is appropriate.

312.7 INTERVIEWS

312.7.1 PRELIMINARY INTERVIEWS
Absent extenuating circumstances or impracticality, sworn members should record the preliminary interview with suspected child abuse victims. Sworn members should avoid multiple interviews with a child victim and should attempt to gather only the information necessary to begin an investigation. When practicable, investigating sworn members should defer interviews until a person who is specially trained in such interviews is available. Generally, child victims should not be interviewed in the home or location where the alleged abuse occurred.

312.7.2 DETAINING SUSPECTED CHILD ABUSE VICTIMS FOR AN INTERVIEW
A sworn member should not detain a child involuntarily who is suspected of being a victim of child abuse solely for the purpose of an interview or physical exam without the consent of a parent or guardian unless one of the following applies:

(a) Exigent circumstances exist, such as:

1. A reasonable belief that medical issues of the child need to be addressed immediately.
2. A reasonable belief that the child is or will be in danger of harm if the interview or physical exam is not immediately completed.
3. The alleged offender is the custodial parent or guardian and there is reason to believe the child may be in continued danger.

(b) A court order or warrant has been issued.

312.7.3 INTERVIEWS AT A SCHOOL
Any student at school who is a suspected victim of child abuse shall be afforded the option of being interviewed in private or selecting any qualified available adult member of the school staff to be present. The purpose of the staff member’s presence is to provide comfort and support. The staff member shall not participate in the interview. The selection of a staff member should be such that it does not burden the school with costs or hardship (Penal Code § 11174.3).

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312.8 MEDICAL EXAMINATIONS

If the child has been the victim of abuse that requires a medical examination, the investigating sworn member should obtain consent for such examination from the appropriate parent, guardian or agency having legal custody of the child. The sworn member should also arrange for the child's transportation to the appropriate medical facility.

In cases where the alleged offender is the custodial parent or guardian and is refusing consent for the medical examination, sworn members should notify a supervisor before proceeding. If exigent circumstances do not exist or if state law does not provide for sworn members to take the child for a medical examination, the notified supervisor should consider obtaining a court order for such an examination.

312.9 DRUG-ENDANGERED CHILDREN

A coordinated response by law enforcement and social services agencies is appropriate to meet the immediate and longer-term medical and safety needs of children exposed to the manufacturing, trafficking or use of narcotics.

312.9.1 SUPERVISOR RESPONSIBILITIES

The Investigations Division supervisor should:

(a) Work with professionals from the appropriate agencies, including CPS, other law enforcement agencies, medical service providers and local prosecutors to develop community specific procedures for responding to situations where there are children endangered by exposure to methamphetamine labs or the manufacture and trafficking of other drugs.

(b) Activate any available interagency response when a sworn member notifies an Investigations Division supervisor that the sworn member has responded to a drug lab or other narcotics crime scene where a child is present or where evidence indicates that a child lives there.

(c) Develop a report format or checklist for use when sworn members respond to drug labs or other narcotics crime scenes. The checklist will help sworn members document the environmental, medical, social and other conditions that may affect the child.

312.9.2 SWORN MEMBER RESPONSIBILITIES

Sworn members responding to a drug lab or other narcotics crime scene where a child is present or where there is evidence that a child lives should:

(a) Document the environmental, medical, social and other conditions of the child using photography as appropriate and the checklist or form developed for this purpose.

(b) Notify an Investigations Division supervisor so an interagency response can begin.

312.10 STATE MANDATES AND OTHER RELEVANT LAWS

California requires or permits the following:

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312.10.1 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 Records Maintenance and Release Policy (Penal Code 841.5; Penal Code § 11167.5).

312.10.2 REQUESTS FOR REMOVAL FROM THE CHILD ABUSE CENTRAL INDEX (CACI)

Any person whose name has been forwarded to the California Department of Justice (DOJ) for placement in California's CACI, as a result of an investigation, may request that his/her name be removed from the CACI list. Requests shall not qualify for consideration if there is an active case, ongoing investigation or pending prosecution that precipitated the entry to CACI (Penal Code § 11169). All requests for removal shall be submitted in writing by the requesting person and promptly routed to the CACI hearing officer.

312.10.3 CACI HEARING OFFICER

An Investigations Division supervisor will normally serve as the hearing officer but must not be actively connected with the case that resulted in the person's name being submitted to CACI. Upon receiving a qualified request for removal, the hearing officer shall promptly schedule a hearing to take place during normal business hours and provide written notification of the time and place of the hearing to the requesting party.

312.10.4 CACI HEARING PROCEDURES

The hearing is an informal process where the person requesting removal from the CACI list will be permitted to present relevant evidence (e.g., certified copy of an acquittal, factual finding of innocence) as to why his/her name should be removed. The person requesting the hearing may record the hearing at his/her own expense.

Formal rules of evidence will not apply and the hearing officer may consider, in addition to evidence submitted by the person requesting the hearing, any relevant information including, but not limited to, the following:

(a) Case reports including any supplemental reports

(b) Statements by investigators

(c) Statements from representatives of the District Attorney's Office

(d) Statements by representatives of a child protective agency who may be familiar with the case

After considering all information presented, the hearing officer shall make a determination as to whether the requesting party's name should be removed from the CACI list. Such determination shall be based on a finding that the allegations in the investigation are not substantiated (Penal Code § 11169).

If, after considering the evidence, the hearing officer finds that the allegations are not substantiated, he/she shall cause a request to be completed and forwarded to the DOJ that the

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person's name be removed from the CACI list. A copy of the hearing results and the request for removal will be attached to the case reports.

The findings of the hearing officer shall be considered final and binding.

312.10.5 CHILD DEATH REVIEW TEAM

This Office should cooperate with any interagency child death review team investigation. Written and oral information relating to the death of a child that would otherwise be subject to release restrictions may be disclosed to the child death review team upon written request and approval of a supervisor (Penal Code § 11174.32).

312.11 TRAINING

The Office should provide training on best practices in child abuse investigations to members tasked with investigating these cases. The training should include:

(a) Participating in multidisciplinary investigations, as appropriate.

(b) Conducting forensic interviews.

(c) Availability of therapy services for children and families.

(d) Availability of specialized forensic medical exams.

(e) Cultural competence (including interpretive services) related to child abuse investigations.

(f) Availability of victim advocate or guardian ad litem support.

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Victim and Witness Assistance

313.1 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.

313.2 POLICY

The Contra Costa County District Attorney's Office is committed to providing guidance and assistance to the victims and witnesses of crime. The members of the Contra Costa County District Attorney's Office will show compassion and understanding for victims and witnesses and will make reasonable efforts to provide the support and information identified in this policy.

313.3 CRIME VICTIM LIAISON

The Contra Costa County District Attorney’s Office has a Victim/Witness Unit that provides crime victim liaison services. Investigation Division members shall be familiar with the Victim/Witness Unit mission, the unit’s capabilities and resources, and those Office members assigned to the unit.

313.4 CRIME VICTIMS

Investigation Division members should provide all victims with the applicable victim information handouts.

Investigation Division members should never guarantee a victim’s safety from future harm but may make practical safety suggestions to victims who express fear of future harm or retaliation. Investigation Division members 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 Office material or available victim resources.

313.4.1 VICTIMS OF HUMAN TRAFFICKING/SEX CRIMES

Sworn members investigating or receiving a report involving a victim of human trafficking or sex crime shall inform the victim, or the victim’s parent or guardian if the victim is a minor, that upon the request of the victim the names and images of the victim and his/her immediate family members may be withheld from becoming a matter of public record until the conclusion of the investigation or prosecution (Penal Code § 293).

313.5 VICTIM INFORMATION

The Administrative Services Supervisor shall ensure that victim information handouts are available and current. These should include as appropriate:

(a) Shelters and other community resources for victims of domestic violence.

(b) Community resources for victims of sexual assault.

(c) Assurance that sexual assault victims will not incur out-of-pocket expenses for forensic medical exams, and information about evidence collection, storage, and

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preservation in sexual assault cases (34 USC § 10449; 34 USC § 20109; Penal Code § 13823.95(a)).

(d) An explanation that victims of sexual assault who seek a standardized medical evidentiary examination shall not be required to participate or agree to participate in the criminal justice system, either prior to the examination or at any other time (Penal Code § 13823.95(b)).

(e) An advisement that a person who was arrested may be released on bond or some other form of release and that the victim should not rely upon an arrest as a guarantee of safety.

(f) A clear explanation of relevant court orders and how they can be obtained.

(g) Information regarding available compensation for qualifying victims of crime (Government Code § 13962).

(h) VINE® information (Victim Information and Notification Everyday), including the telephone number and whether this free service is available to allow victims to check on an offender's custody status and to register for automatic notification when a person is released from jail.

(i) Notice regarding U visa and T visa application processes.

(j) Resources available for victims of identity theft.

(k) A place for the sworn member's name, badge number, and any applicable case or incident number.

(l) The "Victims of Domestic Violence" card containing the names, phone numbers, or local county hotlines of local shelters for battered women and rape victim counseling centers within the county and their 24-hour counseling service telephone numbers (Penal Code § 264.2).

(m) The rights of sexual assault victims card with the required information as provided in Penal Code § 680.2.

(n) Any additional information required by state law (Penal Code § 13701; Penal Code § 679.02; Penal Code § 679.04; Penal Code § 679.05; Penal Code § 679.026).

313.6 WITNESSES

Members should never guarantee a witness' safety from future harm or that his/her identity will always remain confidential. Members may make practical safety suggestions to witnesses who express fear of future harm or retaliation.

Sworn members should investigate allegations of witness intimidation and take enforcement action when lawful and reasonable. Witnesses may also be referred to the Office's Victim Witness Unit for further guidance and assistance.

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Hate Crimes

314.1 PURPOSE AND SCOPE

This policy is designed to assist in identifying and handling crimes motivated by hate or other bias toward individuals and groups with legally defined protected characteristics, to define appropriate steps for assisting victims, and to provide a guide to conducting related investigations. It outlines the general policy framework for prevention, response, accessing assistance, victim assistance and follow-up, and reporting as related to law enforcement's role in handling hate crimes. It also serves as a declaration that hate crimes are taken seriously and demonstrates how the Contra Costa County District Attorney's Office may best use its resources to investigate and solve an offense, in addition to building community trust and increasing police legitimacy (Penal Code § 13519.6).

314.1.1 DEFINITION AND LAWS

In accordance with Penal Code § 422.55; Penal Code § 422.56; Penal Code § 422.6; and Penal Code § 422.87, for purposes of all other state law, unless an explicit provision of law or the context clearly requires a different meaning, the following shall apply:

Bias motivation - Bias motivation is a pre-existing negative attitude toward actual or perceived characteristics referenced in Penal Code § 422.55. Depending on the circumstances of each case, bias motivation may include but is not limited to hatred, animosity, resentment, revulsion, contempt, unreasonable fear, paranoia, callousness, thrill-seeking, desire for social dominance, desire for social bonding with those of one's "own kind," or a perception of the vulnerability of the victim due to the victim being perceived as being weak, worthless, or fair game because of a protected characteristic, including but not limited to disability or gender.

Disability - Disability includes mental disability and physical disability as defined in Government Code § 12926, regardless of whether those disabilities are temporary, permanent, congenital, or acquired by heredity, accident, injury, advanced age, or illness.

Disability bias - In recognizing suspected disability-bias hate crimes, sworn members should consider whether there is any indication that the perpetrator was motivated by hostility or other bias, occasioned by factors such as but not limited to dislike of persons who arouse fear or guilt, a perception that persons with disabilities are inferior and therefore "deserving victims," a fear of persons whose visible traits are perceived as being disturbing to others, or resentment of those who need, demand, or receive alternative educational, physical, or social accommodations.

In recognizing suspected disability-bias hate crimes, sworn members should consider whether there is any indication that the perpetrator perceived the victim to be vulnerable and, if so, if this perception is grounded, in whole or in part, in anti-disability bias. This includes but is not limited to situations where a perpetrator targets a person with a particular perceived disability while avoiding other vulnerable-appearing persons, such as inebriated persons or persons with perceived disabilities different from those of the victim. Such circumstances could be evidence that the perpetrator's motivations included bias against persons with the perceived disability of

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the victim and that the crime must be reported as a suspected hate crime and not a mere crime of opportunity.

Gender - Gender means sex and includes a person's gender identity and gender expression.

Gender expression - Gender expression means a person's gender-related appearance and behavior, whether or not stereotypically associated with the person's assigned sex at birth.

Gender identity- Gender identity means each person's internal understanding of their gender, or the perception of a person's gender identity, which may include male, female, a combination of male and female, neither male nor female, a gender different from the person's sex assigned at birth, or transgender (2 CCR § 11030).

Hate crime - “Hate crime” includes but is not limited to a violation of Penal Code § 422.6, and means a criminal act committed, in whole or in part, because of one or more of the following actual or perceived characteristics of the victim:

(a) Disability

(b) Gender

(c) Nationality

(d) Race or ethnicity

(e) Religion

(f) Sexual orientation

(g) Association with a person or group with one or more of these actual or perceived characteristics:

1. “Association with a person or group with these actual or perceived characteristics" includes advocacy for, identification with, or being on the ground owned or rented by, or adjacent to, any of the following: a community center, educational facility, family, individual, office, meeting hall, place of worship, private institution, public agency, library, or other entity, group, or person that has, or is identified with people who have, one or more of those characteristics listed in the definition of “hate crime” under paragraphs 1 to 6, inclusive, of Penal Code § 422.55(a).

Note: A “hate crime” need not be motivated by hate but may be motivated by any bias against a protected characteristic.

Hate incident - A hate incident is an action or behavior motivated by hate or bias but legally protected by the First Amendment right to freedom of expression. Examples of hate incidents include:

- Name-calling
- Insults and epithets
- Distributing hate material in public places

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- Displaying hate material on your own property

Hate speech - The First Amendment to the U.S. Constitution protects most speech, even when it is disagreeable, offensive, or hurtful. The following types of speech are generally not protected:

- Fighting words
- True threats
- Perjury
- Blackmail
- Incitement to lawless action
- Conspiracy
- Solicitation to commit any crime

In whole or in part - “In whole or in part because of” means that the bias motivation must be a cause in fact of the offense whether or not other causes also exist. When multiple concurrent motives exist, the prohibited bias must be a substantial factor in bringing about the particular result. There is no requirement that the bias be a main factor, or that a crime would not have been committed but for the actual or perceived characteristic.

Nationality - Nationality includes citizenship, country of origin, and national origin.

Race or ethnicity - Race or ethnicity includes ancestry, color, and ethnic background.

Religion - Religion includes all aspects of religious belief, observance, and practice and includes agnosticism and atheism.

Sexual orientation - Sexual orientation means heterosexuality, homosexuality, or bisexuality.

Victim - Victim includes but is not limited to:

- Community center
- Educational facility
- Entity
- Family
- Group
- Individual
- Office
- Meeting hall
- Person
- Place of worship
- Private institution

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- Public agency
- Library
- Other victim or intended victim of the offense

314.2 POLICY

It is the policy of this office to safeguard the rights of all individuals irrespective of their disability, gender, nationality, race or ethnicity, religion, sexual orientation, and/or association with a person or group with one or more of these actual or perceived characteristics. Any acts or threats of violence, property damage, harassment, intimidation, or other crimes motivated by hate or bias should be viewed very seriously and given high priority.

This office will employ reasonably available resources and vigorous law enforcement action to identify and arrest hate crime perpetrators. Also, recognizing the particular fears and distress typically suffered by victims, the potential for reprisal and escalation of violence, and the far-reaching negative consequences of these crimes on the community, this office should take all reasonable steps to attend to the security and related concerns of the immediate victims and their families as feasible.

All sworn members are required to be familiar with the policy and use reasonable diligence to carry out the policy unless directed by the Chief of Investigations or other command-level officer to whom the Chief of Investigations formally delegates this responsibility.

314.3 PLANNING AND PREVENTION

In order to facilitate the guidelines contained within this policy, office members will continuously work to build and strengthen relationships with the community, engage in dialogue, and provide education to the community about this policy. Office personnel are also encouraged to learn about the inherent issues concerning their communities in relation to hate crimes.

Although hate incidents are not criminal events, they can be indicators of, or precursors to, hate crimes. Hate incidents should be investigated and documented as part of an overall strategy to prevent hate crimes.

314.3.1 RELEASE OF INFORMATION

Establishing a relationship with stakeholders, before any incident occurs, to develop a network and protocol for disclosure often assists greatly in any disclosure.

The benefit of public disclosure of hate crime incidents includes:

(a) Dissemination of correct information.

(b) Assurance to affected communities or groups that the matter is being properly and promptly investigated.

(c) The ability to request information regarding the commission of the crimes from the victimized community.

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Information or records relating to hate crimes subject to public disclosure shall be released as provided by the Records Maintenance and Release Policy or as allowed by law. In accordance with the Media Relations Policy, the supervisor, public information officer, or the authorized designee should be provided with information that can be responsibly reported to the media. When appropriate, the office spokesperson should reiterate that hate crimes will not be tolerated, will be investigated seriously, and will be prosecuted to the fullest extent of the law.

The Office should consider the following when releasing information to the public regarding hate crimes and hate incidents that have been reported within the jurisdiction:

- Inform community organizations in a timely manner when a community group has been the target of a hate crime.
- Inform the community of the impact of these crimes on the victim, the victim's family, and the community, and of the assistance and compensation available to victims.
- Inform the community regarding hate crime law and the legal rights of, and remedies available to, victims of hate crimes.
- Provide the community with ongoing information regarding hate crimes and/or hate incidents.

314.4 RESPONSE, VICTIM ASSISTANCE, AND FOLLOW-UP

314.4.1 INITIAL RESPONSE

First responding sworn members should know the role of all office personnel as they relate to the office's investigation of hate crimes and/or incidents. Responding sworn members should evaluate the need for additional assistance and, working with supervision and/or investigations, access needed assistance if applicable.

At the scene of a suspected hate or bias crime, sworn members should take preliminary actions reasonably deemed necessary, including but not limited to the following:

(a) Use agency checklist (per Penal Code § 422.87) to assist in the investigation of any hate crime (see Appendix).

(b) Stabilize the victims and request medical attention when necessary.

(c) Properly protect the safety of victims, witnesses, and perpetrators.

  1. Assist victims in seeking a Temporary Restraining Order (if applicable).

(d) Notify other appropriate personnel in the chain of command, depending on the nature and seriousness of the offense and its potential inflammatory and related impact on the community.

(e) Properly protect, preserve, and process the crime scene, and remove all physical evidence of the incident as soon as possible after the offense is documented. If evidence of an inflammatory nature cannot be physically removed, the property owner should be contacted to facilitate removal or covering as soon as reasonably possible. Office personnel should follow up with the property owner to determine if this was accomplished in a timely manner.

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(f) Collect and photograph physical evidence or indicators of hate crimes such as:

1. Hate literature.
2. Spray paint cans.
3. Threatening letters.
4. Symbols used by hate groups.

(g) Identify criminal evidence on the victim.

(h) Request the assistance of translators or interpreters when needed to establish effective communication with witnesses, victims, or others as appropriate.

(i) Conduct a preliminary investigation and record pertinent information including but not limited to:

1. Identity of suspected perpetrators.
2. Identity of witnesses, including those no longer at the scene.
3. The offer of victim confidentiality per Government Code § 6254.
4. Prior occurrences in this area or with this victim.
5. Statements made by suspects; exact wording is critical.
6. The victim's protected characteristics and determine if bias was a motivation “in whole or in part” in the commission of the crime.

(j) Adhere to Penal Code § 422.93, which protects hate crime victims and witnesses from being reported to federal immigration authorities if they have not committed any crime under state law.

(k) Provide information regarding immigration remedies available to victims of crime (e.g., U-Visa, T-Visa, S-Visa).

(l) Provide the office’s Hate Crimes Brochure (per Penal Code § 422.92) if asked, if necessary, or per policy.

(m) Utilize proper techniques for interviewing people with disabilities and be aware of and provide appropriate accommodations (e.g., ADA standards, Braille, visuals, translators for the deaf or hard of hearing).

(n) Document any suspected multi-mission extremist crimes.

314.4.2 INVESTIGATION

Investigators at the scene of, or performing follow-up investigation on, a suspected hate or bias crime or hate incident should take all actions deemed reasonably necessary, including but not limited to the following:

(a) Consider typologies of perpetrators of hate crimes and incidents, including but not limited to thrill, reactive/defensive, and mission (hard core).

(b) Utilize investigative techniques and methods to handle hate crimes or hate incidents in a professional manner.

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(c) Utilize proper techniques for interviewing people with disabilities and be aware of and provide appropriate accommodations (e.g., ADA standards, Braille, visuals, translators for the deaf or hard of hearing).

(d) Properly investigate any report of a hate crime committed under the color of authority per Penal Code § 422.6 and Penal Code § 13519.6.

(e) Document physical evidence or indicators of hate crimes, in accordance with the provisions of the Property and Evidence Policy, such as:

1. Hate literature.
2. Spray paint cans.
3. Threatening letters.
4. Symbols used by hate groups.
5. Desecration of religious symbols, objects, or buildings.

(f) Request the assistance of translators or interpreters when needed to establish effective communication.

(g) Conduct a preliminary investigation and record information regarding:

1. Identity of suspected perpetrators.
2. Identity of witnesses, including those no longer at the scene.
3. Offer of victim confidentiality per Government Code § 6254.
4. Prior occurrences, in this area or with this victim.
5. Statements made by suspects; exact wording is critical.
6. Document the victim’s protected characteristics.

(h) Provide victim assistance and follow-up.

(i) Canvass the area for additional witnesses.

(j) Examine suspect’s social media activity for potential evidence of bias motivation.

(k) Coordinate the investigation with office, state, and regional intelligence operations. These sources can provide the investigator with an analysis of any patterns, organized hate groups, and suspects potentially involved in the offense.

(l) Coordinate the investigation with the crime scene investigation unit (if applicable) or other appropriate units of the Office.

(m) Determine if the incident should be classified as a hate crime.

(n) Take reasonable steps to provide appropriate assistance to hate crime victims, including the following measures:

1. Contact victims periodically to determine whether they are receiving adequate and appropriate assistance.
2. Provide ongoing information to victims about the status of the criminal investigation.

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3. Provide victims and any other interested persons the brochure on hate crimes per Penal Code § 422.92 and information on any local advocacy groups (if asked).

(o) Document any suspected multi-mission extremist crimes.

(p) Coordinate with other law enforcement agencies in the area to assess patterns of hate crimes and/or hate incidents, and determine if organized hate groups are involved.

314.4.3 SUPERVISION

The supervisor shall confer with the initial responding sworn member and take reasonable steps to ensure that necessary preliminary actions have been taken. The supervisor shall request any appropriate personnel necessary to accomplish the following:

(a) Provide immediate assistance to the crime victim by:

1. Expressing the office's official position on the importance of these cases and the measures that will be taken to apprehend the perpetrators.

2. Expressing the office's interest in protecting victims' anonymity (confidentiality forms, Government Code § 6254) to the extent reasonably possible. Allow the victims to convey their immediate concerns and feelings.

3. Identifying individuals or agencies that may provide victim assistance and support. Local victim assistance resources may include family members or close acquaintances, clergy, or a office chaplain, as well as community service agencies that provide shelter, food, clothing, child care, or other related services (per Penal Code § 422.92).

(b) Take reasonable steps to ensure that all relevant facts are documented on an incident and/or arrest report and make an initial determination as to whether the incident should be classified as a hate crime for federal and state bias-crimes reporting purposes.

(c) Notify other appropriate personnel in the chain of command, depending on the nature and seriousness of the offense and its potential inflammatory and related impact on the community.

(d) In cases of large-scale hate crime waves, or in circumstances where the potential exists for subsequent hate crimes or incidents, consider directing resources to protect vulnerable sites (such as assigning a sworn memberto specific locations that could become targets).

(e) Verify hate crimes are being properly reported, including reporting to the Department of Justice, pursuant to Penal Code § 13023.

(f) Verify adherence to Penal Code § 422.93, which protects hate crime victims and witnesses from being reported to federal immigration authorities if they have not committed any crime under state law. Supervisors should also be aware of the immigration remedies available to victims of crime (e.g., U-Visa, T-Visa, S-Visa).

(g) Respond to and properly initiate an investigation of any reports of hate crimes committed under the color of authority.

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(h) Provide appropriate assistance, including activating the California Department of Justice hate crime rapid response protocol if necessary. For additional information refer to the California Department of Justice website.

(i) Verify reporting of any suspected multi-mission extremist crimes to the agency Hate Crimes Coordinator.

(j) Make a final determination as to whether the incident should be classified as a hate crime and forward to the Chief of Investigations for approval.

314.5 TRAINING

All members of this office will receive POST-approved training on hate crime recognition and investigation as provided by Penal Code § 13519.6. Training should include (Penal Code § 422.87):

(a) Recognition of bias motivators such as ranges of attitudes and perceptions toward a specific characteristic or group, including disability bias and gender bias.

(b) Accurate reporting by sworn members, including information on the general underreporting of hate crimes.

(c) Distribution of hate crime brochures.

314.6 APPENDIX

See attachments:

Statutes and Legal Requirements.pdf

Hate Crime Checklist.pdf

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Standards of Conduct

315.1 PURPOSE AND SCOPE

This policy establishes standards of conduct that are consistent with the values and mission of the Contra Costa County District Attorney's Office and are expected of all office 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 conduct. In addition to the provisions of this policy, members are subject to all other provisions contained in this manual, as well as any additional guidance on conduct that may be disseminated by this office or a member's supervisors.

315.2 POLICY

The continued employment or appointment of every member of the Contra Costa County District Attorney's Office Investigations Division shall be based on conduct that reasonably conforms to the guidelines set forth herein. Failure to meet the guidelines set forth in this policy, whether on- or off-duty, may be cause for disciplinary action.

315.3 DIRECTIVES AND ORDERS

Members shall comply with lawful directives and orders from any office supervisor or person in a position of authority, absent a reasonable and bona fide justification.

315.3.1 UNLAWFUL OR CONFLICTING ORDERS

Supervisors shall not knowingly issue orders or directives that, if carried out, would result in a violation of any law or office policy. Supervisors should not issue orders that conflict with any previous order without making reasonable clarification that the new order is intended to countermand the earlier order.

No member is required to obey any order that appears to be in direct conflict with any federal law, state law or local ordinance. Following a known unlawful order is not a defense and does not relieve the member from criminal or civil prosecution or administrative discipline. If the legality of an order is in doubt, the affected member shall ask the issuing supervisor to clarify the order or shall confer with a higher authority. The responsibility for refusal to obey rests with the member, who shall subsequently be required to justify the refusal.

Unless it would jeopardize the safety of any individual, members who are presented with a lawful order that is in conflict with a previous lawful order, office policy or other directive shall respectfully inform the issuing supervisor of the conflict. The issuing supervisor is responsible for either resolving the conflict or clarifying that the lawful order is intended to countermand the previous lawful order or directive, in which case the member is obliged to comply. Members who are compelled to follow a conflicting lawful order after having given the issuing supervisor the opportunity to correct the conflict, will not be held accountable for disobedience of the lawful order or directive that was initially issued.

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The person countermanding the original order shall notify, in writing, the person issuing the original order, indicating the action taken and the reason.

315.3.2 SUPERVISOR RESPONSIBILITIES
Supervisors and managers are required to follow all policies and procedures and may be subject to discipline for:

(a) Failure to be reasonably aware of the performance of their subordinates or to provide appropriate guidance and control.

(b) Failure to promptly and fully report any known misconduct of a member to his/her immediate supervisor or to document such misconduct appropriately or as required by policy.

(c) Directing a subordinate to violate a policy or directive, acquiesce to such a violation, or are indifferent to any such violation by a subordinate.

(d) The unequal or disparate exercise of authority on the part of a supervisor toward any member for malicious or other improper purpose.

315.4 GENERAL STANDARDS

Members shall conduct themselves, whether on- or off-duty, in accordance with the United States and California constitutions and all applicable laws, ordinances, and rules enacted or established pursuant to legal authority.

Members shall familiarize themselves with policies and procedures and are responsible for compliance with each. Members should seek clarification and guidance from supervisors in the event of any perceived ambiguity or uncertainty.

Discipline may be initiated for any good cause. It is not mandatory that a specific policy or rule violation be cited to sustain discipline. This policy is not intended to cover every possible type of misconduct.

315.5 CAUSES FOR DISCIPLINE

The following are illustrative of causes for disciplinary action. This list is not intended to cover every possible type of misconduct and does not preclude the recommendation of disciplinary action for violation of other rules, standards, ethics and specific action or inaction that is detrimental to efficient office service:

315.5.1 LAWS, RULES AND ORDERS

(a) Violation of, or ordering or instructing a subordinate to violate any policy, procedure, rule, order, directive, requirement or failure to follow instructions contained in office or County manuals.

(b) Disobedience of any legal directive or order issued by any office member of a higher rank.

(c) Violation of federal, state, local or administrative laws, rules or regulations.

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315.5.2 ETHICS

(a) Using or disclosing one’s status as a member of the Contra Costa County District Attorney's Office in any way that could reasonably be perceived as an attempt to gain influence or authority for non-office business or activity.

(b) The wrongful or unlawful exercise of authority on the part of any member for malicious purpose, personal gain, willful deceit or any other improper purpose.

(c) The receipt or acceptance of a reward, fee or gift from any person for service incident to the performance of the member's duties (lawful subpoena fees and authorized work permits excepted).

(d) Acceptance of fees, gifts or money contrary to the rules of this office and/or laws of the state.

(e) Offer or acceptance of a bribe or gratuity.

(f) Misappropriation or misuse of public funds, property, personnel or services.

(g) Any other failure to abide by the standards of ethical conduct.

315.5.3 DISCRIMINATION, OPPRESSION, OR FAVORITISM

Unless required by law or policy, discriminating against, oppressing, or providing favoritism to any person because of actual or perceived characteristics such as race, ethnicity, national origin, religion, sex, sexual orientation, gender identity or expression, age, disability, economic status, cultural group, veteran status, marital status, and any other classification or status protected by law, or intentionally denying or impeding another in the exercise or enjoyment of any right, privilege, power, or immunity, knowing the conduct is unlawful.

315.5.4 RELATIONSHIPS

(a) Unwelcome solicitation of a personal or sexual relationship while on-duty or through the use of one’s official capacity.

(b) Engaging in on-duty sexual activity including, but not limited to, sexual intercourse, excessive displays of public affection or other sexual contact.

(c) Establishing or maintaining an inappropriate personal or financial relationship, as a result of an investigation, with a known victim, witness, suspect or defendant while a case is being investigated or prosecuted, or as a direct result of any official contact.

(d) Associating with or joining a criminal gang, organized crime and/or criminal syndicate when the member knows or reasonably should know 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 this office.

(e) Associating on a personal, rather than official basis with persons who demonstrate recurring involvement in serious violations of state or federal laws after the member knows, or reasonably should know of such criminal activities, except as specifically directed and authorized by this office.

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315.5.5 ATTENDANCE

(a) Leaving the job to which the member is assigned during duty hours without reasonable excuse and proper permission and approval.

(b) Unexcused or unauthorized absence or tardiness.

(c) Excessive absenteeism or abuse of leave privileges.

(d) Failure to report to work or to the place of assignment at the time specified and fully prepared to perform duties without reasonable excuse.

315.5.6 UNAUTHORIZED ACCESS, DISCLOSURE, OR USE

(a) Unauthorized and inappropriate intentional release of confidential or protected information, materials, data, forms, or reports obtained as a result of the member's position with this office.

  (a) Members of this office shall not disclose the name, address, or image of any victim of human trafficking except as authorized by law (Penal Code § 293).

(b) Disclosing to any unauthorized person any active investigation information.

(c) The use of any information, photograph, video, or other recording obtained or accessed as a result of employment or appointment to this office for personal or financial gain or without the express authorization of the Chief of Investigations or the authorized designee.

(d) Loaning, selling, allowing unauthorized use, giving away, or appropriating any office property for personal use, personal gain, or any other improper or unauthorized use or purpose.

(e) Using office 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.

315.5.7 EFFICIENCY

(a) Neglect of duty.

(b) Unsatisfactory work performance including but not limited to failure, incompetence, inefficiency, or delay in performing and/or carrying out proper orders, work assignments, or the instructions of supervisors without a reasonable and bona fide excuse.

(c) Concealing, attempting to conceal, removing, or destroying defective or incompetent work.

(d) Unauthorized sleeping during on-duty time or assignments.

(e) Failure to notify the Office within 24 hours of any change in residence address or contact numbers.

(f) Failure to notify the Department of Human Resources of changes in relevant personal information (e.g., information associated with benefits determination) in a timely fashion.

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315.5.8 PERFORMANCE

(a) Failure to disclose or misrepresenting material facts, or making 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.

(b) The falsification of any work-related records, making misleading entries or statements with the intent to deceive or the willful and unauthorized removal, alteration, destruction and/or mutilation of any office record, public record, book, paper or document.

(c) Failure to participate in, or 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 office -related business.

(d) Being untruthful or knowingly making false, misleading or malicious statements that are reasonably calculated to harm the reputation, authority or official standing of this office or its members.

(e) Disparaging remarks or conduct concerning duly constituted authority to the extent that such conduct disrupts the efficiency of this office or subverts the good order, efficiency and discipline of this office or that would tend to discredit any of its members.

(f) Unlawful gambling or unlawful betting at any time or any place. Legal gambling or betting under any of the following conditions:

1. While on office premises.
2. At any work site, while on-duty or while in uniform, or while using any office equipment or system.
3. Gambling activity undertaken as part of a sworn member official duties and with the express knowledge and permission of a direct supervisor is exempt from this prohibition.

(g) Improper political activity including:

1. Unauthorized attendance while on-duty at official legislative or political sessions.
2. Solicitations, speeches or distribution of campaign literature for or against any political candidate or position while on-duty or, on office property except as expressly authorized by County policy, the memorandum of understanding, or the Chief of Investigations.

(h) Engaging in political activities during assigned working hours except as expressly authorized by County policy, the memorandum of understanding, or the Chief of Investigations.

(i) Any act on- or off-duty that brings discredit to this office.

315.5.9 CONDUCT

(a) Failure of any member to promptly and fully report activities on his/her part or the part of any other member where such activities resulted in contact with any other law enforcement agency or that may result in criminal prosecution or discipline under this policy.

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(b) Unreasonable and unwarranted force to a person encountered or a person under arrest.

(c) Exceeding lawful peace officer powers by unreasonable, unlawful or excessive conduct.

(d) Unauthorized or unlawful fighting, threatening or attempting to inflict unlawful bodily harm on another.

(e) Engaging in horseplay that reasonably could result in injury or property damage.

(f) Discourteous, disrespectful or discriminatory treatment of any member of the public or any member of this office or the County.

(g) Use of obscene, indecent, profane or derogatory language while on-duty or in uniform.

(h) Criminal, dishonest, or disgraceful conduct, whether on- or off-duty, that adversely affects the member's relationship with this office.

(i) Unauthorized possession of, loss of, or damage to office property or the property of others, or endangering it through carelessness or maliciousness.

(j) Attempted or actual theft of office property; misappropriation or misuse of public funds, property, personnel or the services or property of others; unauthorized removal or possession of office property or the property of another person.

(k) Activity that is incompatible with a member's conditions of employment or appointment as established by law or that violates a provision of any memorandum of understanding or contract to include fraud in securing the appointment or hire.

(l) Initiating any civil action for recovery of any damages or injuries incurred in the course and scope of employment or appointment without first notifying the Chief of Investigations of such action.

(m) Any other on- or off-duty conduct which any member knows or reasonably should know is unbecoming a member of this office, is contrary to good order, efficiency or morale, or tends to reflect unfavorably upon this office or its members.

315.5.10 SAFETY

(a) Failure to observe or violating office safety standards or safe working practices.

(b) Failure to maintain current licenses or certifications required for the assignment or position (e.g., driver license, first aid).

(c) Failure to maintain good physical condition sufficient to adequately and safely perform law enforcement duties.

(d) Unsafe firearm or other dangerous weapon handling to include loading or unloading firearms in an unsafe manner, either on- or off- duty.

(e) Carrying, while on the premises of the work place, any firearm or other lethal weapon that is not authorized by the member's appointing authority.

(f) Unsafe or improper driving habits or actions in the course of employment or appointment.

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(g) Any personal action contributing to a preventable traffic collision.

(h) Concealing or knowingly failing to report any on-the-job or work-related accident or injury as soon as practicable but within 24 hours.

315.5.11 INTOXICANTS

(a) Reporting for work or being at work while intoxicated or when the member's ability to perform assigned duties is impaired due to the use of alcohol, medication or drugs, whether legal, prescribed or illegal.

(b) Possession or use of alcohol at any work site or while on-duty, except as authorized in the performance of an official assignment. A member who is authorized to consume alcohol is not permitted to do so to such a degree that it may impair on-duty performance.

(c) Unauthorized possession, use of, or attempting to bring a controlled substance, illegal drug or non-prescribed medication to any work site.

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Information Technology Use

316.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidelines for the proper use of office information technology resources, including computers, electronic devices, hardware, software and systems.

316.1.1 DEFINITIONS

Definitions related to this policy include:

Computer system - All computers (on-site and portable), electronic devices, hardware, software, and resources owned, leased, rented or licensed by the Contra Costa County District Attorney's Office that are provided for official use by its members. This includes all access to, and use of, Internet Service Providers (ISP) or other service providers provided by or through the Office or office funding.

Hardware - Includes, but is not limited to, computers, computer terminals, network equipment, electronic devices, telephones, including cellular and satellite, pagers, modems or any other tangible computer device generally understood to comprise hardware.

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

Temporary file, permanent file or file - Any electronic document, information or data residing or located, in whole or in part, on the system including, but not limited to, spreadsheets, calendar entries, appointments, tasks, notes, letters, reports, messages, photographs or videos.

316.2 POLICY

It is the policy of the Contra Costa County District Attorney's Office that members shall use information technology resources, including computers, software and systems, that are issued or maintained by the Office in a professional manner and in accordance with this policy.

316.3 PRIVACY EXPECTATION

Members forfeit any expectation of privacy with regard to emails, texts, or anything published, shared, transmitted, or maintained through file-sharing software or any internet site that is accessed, transmitted, received, or reviewed on any office computer system.

The Office 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 Office, including the office email system, computer network, and/or any information placed into storage on any office system or device. This includes records of all keystrokes or Web-browsing history made at any office computer or over any office network. The fact that access to a database, service, or website requires a username or password will not create an expectation of privacy if it is accessed through office computers, electronic devices, or networks.

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The Office shall not require a member to disclose a personal username or password for accessing personal social media or to open a personal social website; however, the Office may request access when it is reasonably believed to be relevant to the investigation of allegations of work-related misconduct (Labor Code § 980).

316.4 RESTRICTED USE

Members shall not access computers, devices, software or systems for which they have not received prior authorization or the required training. Members shall immediately report unauthorized access or use of computers, devices, software or systems by another member to their supervisors.

Members shall not use another person's access passwords, logon information and other individual security data, protocols and procedures unless directed to do so by a supervisor.

316.4.1 SOFTWARE

Members 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 a computer virus or malicious software, members shall not install any unlicensed or unauthorized software on any office computer. Members shall not install personal copies of any software onto any office computer.

When related to criminal investigations, software program files may be downloaded only with the approval of the information systems technology (IT) staff and with the authorization of the Chief of Investigations or the authorized designee.

No member shall knowingly make, acquire or use unauthorized copies of computer software that is not licensed to the Office while on office premises, computer systems or electronic devices. Such unauthorized use of software exposes the Office and involved members to severe civil and criminal penalties.

Introduction of software by members should only occur as part of the automated maintenance or update process of office- or County-approved or installed programs by the original manufacturer, producer or developer of the software.

Any other introduction of software requires prior authorization from IT staff and a full scan for malicious attachments.

316.4.2 HARDWARE

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

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316.4.3 INTERNET USE

Internet access provided by or through the Office shall be strictly limited to office-related activities. Internet sites containing information that is not appropriate or applicable to office use and which shall not be intentionally accessed include but are not limited to adult forums, pornography, gambling, chat rooms, and similar or related internet sites. Certain exceptions may be permitted with the express approval of a supervisor as a function of a member's assignment.

Downloaded information shall be limited to messages, mail, and data files.

316.4.4 OFF-DUTY USE

Members shall only use technology resources provided by the Office while on-duty or in conjunction with specific on-call assignments unless specifically authorized by a supervisor. This includes the use of telephones, cell phones, texting, email or any other "off the clock" work-related activities. This also applies to personally owned devices that are used to access office resources.

Refer to the Personal Communication Devices Policy for guidelines regarding off-duty use of personally owned technology.

316.5 PROTECTION OF AGENCY SYSTEMS AND FILES

All members have a duty to protect the computer system and related systems and devices from physical and environmental damage and are responsible for the correct use, operation, care, and maintenance of the computer system.

Members shall ensure office computers and access terminals are not viewable by persons who are not authorized users. Computers and terminals should be secured, users logged off and password protections enabled whenever the user is not present. Access passwords, logon information, and other individual security data, protocols, and procedures are confidential information and are not to be shared. Password length, format, structure, and content shall meet the prescribed standards required by the computer system or as directed by a supervisor and shall be changed at intervals as directed by IT staff or a supervisor.

It is prohibited for a member to allow an unauthorized user to access the computer system at any time or for any reason. Members shall promptly report any unauthorized access to the computer system or suspected intrusion from outside sources (including the internet) to a supervisor.

316.6 INSPECTION OR REVIEW

A supervisor or the authorized designee has the express authority to inspect or review the computer system, all temporary or permanent files, related electronic systems or devices, and any contents thereof, whether such inspection or review is in the ordinary course of his/her supervisory duties or based on cause.

Reasons for inspection or review may include, but are not limited to, computer system malfunctions, problems or general computer system failure, a lawsuit against the Office involving one of its members or a member's duties, an alleged or suspected violation of any office policy, a request for disclosure of data, or a need to perform or provide a service.

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The IT staff may extract, download or otherwise obtain any and all temporary or permanent files residing or located in or on the office computer system when requested by a supervisor or during the course of regular duties that require such information.

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Office Use of Social Media

317.1 PURPOSE AND SCOPE

This policy provides guidelines to ensure that any use of social media on behalf of the Office is consistent with the office mission.

This policy does not address all aspects of social media use. Specifically, it does not address:

- Personal use of social media by office members (see the Employee Speech, Expression and Social Networking Policy).
- Use of social media in personnel processes (see the Recruitment and Selection Policy).
- Use of social media as part of a criminal investigation, other than disseminating information to the public on behalf of this office (see the Investigation and Prosecution Policy).

317.1.1 DEFINITIONS

Definitions related to this policy include:

Social media - Any of a wide array of Internet-based tools and platforms that allow for the sharing of information, such as the office website or social networking services

317.2 POLICY

The Contra Costa County District Attorney's Office may use social media as a method of effectively informing the public about office services, issues, investigations and other relevant events.

Office members shall ensure that the use or access of social media is done in a manner that protects the constitutional rights of all.

317.3 AUTHORIZED USERS

Only members authorized by the Chief of Investigations or the authorized designee may utilize social media on behalf of the Office. Authorized members shall use only office-approved equipment during the normal course of duties to post and monitor office-related social media, unless they are specifically authorized to do otherwise by their supervisors.

The Chief of Investigations may develop specific guidelines identifying the type of content that may be posted. Any content that does not strictly conform to the guidelines should be approved by a supervisor prior to posting.

Requests to post information over office social media by members who are not authorized to post should be made through the member’s chain of command.

317.4 AUTHORIZED CONTENT

Only content that is appropriate for public release, that supports the office mission and conforms to all office policies regarding the release of information may be posted.

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Examples of appropriate content include:

(a) Announcements.

(b) Tips and information related to crime prevention.

(c) Investigative requests for information.

(d) Requests that ask the community to engage in projects that are relevant to the office mission.

(e) Real-time safety information that is related to in-progress crimes, geographical warnings or disaster information.

(f) Traffic information.

(g) Press releases.

(h) Recruitment of personnel.

317.4.1 INCIDENT-SPECIFIC USE

In instances of active incidents where speed, accuracy and frequent updates are paramount (e.g., crime alerts, public safety information, traffic issues), the Public Information Officer or authorized designee will be responsible for the compilation of information to be released, subject to the approval of the District Attorney and/or Chief of Investigations or their designee.

317.5 PROHIBITED CONTENT

Content that is prohibited from posting includes, but is not limited to:

(a) Content that is abusive, discriminatory, inflammatory or sexually explicit.

(b) Any information that violates individual rights, including confidentiality and/or privacy rights and those provided under state, federal or local laws.

(c) Any information that could compromise an ongoing investigation.

(d) Any information that could tend to compromise or damage the mission, function, reputation or professionalism of the Contra Costa County District Attorney's Office or its members.

(e) Any information that could compromise the safety and security of office operations, members of the Office, victims, suspects or the public.

(f) Any content posted for personal use.

(g) Any content that has not been properly authorized by this policy or a supervisor.

Any member who becomes aware of content on this office’s social media site that he/she believes is unauthorized or inappropriate should promptly report such content to a supervisor. The supervisor will ensure its removal from public view and investigate the cause of the entry.

317.5.1 PUBLIC POSTING PROHIBITED

Office social media sites shall be designed and maintained to prevent posting of content by the public.

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The Office may provide a method for members of the public to contact department members directly.

317.6 MONITORING CONTENT

The Chief of Investigations will appoint a supervisor to review, at least annually, the use of office social media and report back on, at a minimum, the resources being used, the effectiveness of the content, any unauthorized or inappropriate content and the resolution of any issues.

317.7 RETENTION OF RECORDS

The Office's Law and Motions Unit should work to establish a method of ensuring that public records generated in the process of social media use are retained in accordance with established records retention schedules.

317.8 TRAINING

Authorized members should receive training that, at a minimum, addresses legal issues concerning the appropriate use of social media sites, as well as privacy, civil rights, dissemination and retention of information posted on office sites.

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Report Preparation

318.1 PURPOSE AND SCOPE

Report preparation is a major part of each member's job. The purpose of a report is to document sufficient information to refresh the member's memory and to provide sufficient information for follow-up investigation and successful prosecution. Report writing is the subject of substantial formalized training and on-the-job training.

318.1.1 REPORT PREPARATION

Employees should ensure that reports are sufficiently detailed for their purpose and free from errors prior to submission. It is the responsibility of the assigned employee to complete and submit all reports taken during the shift before going off-duty unless permission to hold the report has been approved by a supervisor. Generally, reports requiring prompt follow-up action on active leads, or arrest reports where the suspect remains in custody should not be held.

Handwritten reports must be prepared legibly. If the report is not legible, the submitting employee will be required by the reviewing supervisor to promptly make corrections and resubmit the report. Employees who dictate reports shall use appropriate grammar, as content is not the responsibility of the typist. Employees who generate reports on computers are subject to all requirements of this policy.

All reports shall accurately reflect the identity of the persons involved, all pertinent information seen, heard or assimilated by any other sense, and any actions taken. Employees shall not suppress, conceal or distort the facts of any reported incident, nor shall any employee make a false report orally or in writing. Generally, the reporting employee's opinions should not be included in reports unless specifically identified as such.

318.2 REQUIRED REPORTING

Written reports are required in all of the following situations on the appropriate office approved form unless otherwise approved by a supervisor.

318.2.1 CRIMINAL ACTIVITY

When a member responds to a call for service, or as a result of self-initiated activity becomes aware of any activity where a crime has occurred, the member shall document the incident regardless of whether a victim desires prosecution. Activity to be documented in a written report includes:

(a) All arrests

(b) All felony crimes

(c) Non-Felony incidents involving threats or stalking behavior

(d) Situations covered by separate policy. These include:

1. Use of Force Policy

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2. Domestic Violence Policy
3. Child Abuse Policy
4. Adult Abuse Policy
5. Hate Crimes Policy
6. Suspicious Activity Reporting Policy

(e) All misdemeanor crimes where the victim desires a report

Misdemeanor crimes where the victim does not desire a report shall be documented using the office-approved alternative reporting method (e.g., dispatch log).

318.2.2 NON-CRIMINAL ACTIVITY

The following incidents shall be documented using the appropriate approved report:

(a) Anytime a sworn member points a firearm at any person

(b) Any use of force against any person by a member of this office (see the Use of Force Policy)

(c) Any firearm discharge (see the Firearms Policy)

(d) Anytime a person is reported missing, regardless of jurisdiction (see the Missing Persons Policy)

(e) Any found property or found evidence

(f) Any traffic collisions above the minimum reporting level (see Traffic Collision Reporting Policy)

(g) Suspicious incidents that may indicate a potential for crimes against children or that a child's safety is in jeopardy

(h) All protective custody detentions

(i) Suspicious incidents that may place the public or others at risk

(j) Whenever the employee believes the circumstances should be documented or at the direction of a supervisor

318.2.3 INJURY OR DAMAGE INVOLVING COUNTY PERSONNEL

Reports shall be taken if an injury occurs that is a result of an act of a County employee. Additionally, reports shall be taken involving damage to County property or County equipment.

318.2.4 MANDATORY REPORTING OF JUVENILE GUNSHOT INJURIES

A report shall be taken when any incident in which a child 18 years or younger suffered an unintentional or self-inflicted gunshot wound. The Records Section shall notify the California Department of Public Health (CDPH) of the incident as required by CDPH (Penal Code § 23685).

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318.3 GENERAL POLICY OF EXPEDITIOUS REPORTING

In general, all sworn members and supervisors shall act with promptness and efficiency in the preparation and processing of all reports. An incomplete report, unorganized reports or reports delayed without supervisory approval are not acceptable. Reports shall be processed according to established priorities or according to special priority necessary under exceptional circumstances.

318.4 REPORT CORRECTIONS

Supervisors shall review reports for content and accuracy. If a correction is necessary, the reviewing supervisor will contact the reporting member and identify the needed correction(s). It shall be the responsibility of the originating member to ensure that any report returned for correction is processed in a timely manner.

318.5 REPORT CHANGES OR ALTERATIONS

Reports that have been approved by a supervisor and submitted to the Records Section for filing and distribution shall not be modified or altered except by way of a supplemental report. Reviewed reports that have not yet been submitted to the Records Section may be corrected or modified by the authoring sworn member only with the knowledge and authorization of the reviewing supervisor.

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Media Relations

319.1 PURPOSE AND SCOPE

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

319.2 RESPONSIBILITIES

The ultimate authority and responsibility for the release of information to the media shall remain with the Chief of Investigations; however, in situations where the Chief of Investigations has given prior approval, Lieutenants may prepare and release information to the media in accordance with this policy and the applicable law.

319.2.1 MEDIA REQUEST

Any member receiving a media request for information or access to a law enforcement situation shall refer the requestor to the Chief of Investigations, or in his/her absence, a supervisor. Prior to releasing any information to the media, members shall consider the following:

(a) At no time shall any member of this Office make any comment or release any official information to the media without prior approval from a supervisor or a designated Office media representative.

(b) In situations involving multiple law enforcement agencies, every reasonable effort should be made to coordinate media releases with the authorized representative of each involved agency prior to the release of any information by this Office.

(c) Under no circumstance should any member of this Office make any comments to the media regarding any law enforcement incident not involving this Office without prior approval of the Chief of Investigations.

319.3 MEDIA ACCESS

Authorized members of the media shall be provided access to scenes of disasters, criminal investigations, emergencies and other law enforcement activities subject to the following conditions (Penal Code § 409.5(d)):

(a) The media representative shall produce valid press credentials that shall be prominently displayed at all times while in areas otherwise closed to the public.

(b) Media representatives may be prevented from interfering with emergency operations and criminal investigations.

1. Reasonable effort should be made to provide a safe staging area for the media that is near the incident and that will not interfere with emergency or criminal investigation operations. All information released to the media

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should be coordinated through the Chief of Investigations or other designated spokesperson.

2. Whenever the presence of media or other aircraft pose a threat to public or officer safety or significantly hampers incident operations, the incident supervisor should consider requesting a Temporary Flight Restriction (TFR). All requests for a TFR should be routed through the Chief of Investigations. The TFR request should include specific information regarding the perimeter and altitude necessary for the incident and should be requested through the appropriate control tower. If the control tower is not known, the Federal Aviation Administration should be contacted (14 CFR 91.137).

(c) No member of this Office who is under investigation shall be subjected to media visits or interviews without the consent of the involved member (Government Code § 3303(e)).

(d) Media interviews with individuals who are in custody should not be permitted without the approval of the Chief of Investigations and the express consent of the person in custody.

A tactical operation should be handled in the same manner as a crime scene, except the news media shall be permitted within the outer perimeter of the scene, subject to any restrictions as determined by the supervisor in charge. Office members shall not jeopardize a tactical operation in order to accommodate the news media. All comments to the media shall be coordinated through the Chief of Investigations or a designated supervisor.

319.3.1 PROVIDING ADVANCE INFORMATION

To protect the safety and rights of members and other persons, advance information about planned actions by law enforcement personnel, such as movement of persons in custody or the execution of an arrest or search warrant, should not be disclosed to the news media, nor should media representatives be invited to be present at such actions except with the prior approval of the Chief of Investigations.

Any exceptions to the above should only be considered for the furtherance of legitimate law enforcement purposes. Prior to approving any exception the Chief of Investigations will consider, at minimum, whether the release of information or presence of the media would unreasonably endanger any individual, prejudice the rights of any person or is otherwise prohibited by law.

319.4 SCOPE OF INFORMATION SUBJECT TO RELEASE

At no time shall identifying information pertaining to a juvenile arrestee (13 years of age and under), victim or witness be publicly released without prior approval of a competent court. The identity of a minor 14 years of age or older shall not be publicly disclosed unless the minor has been arrested for a serious felony and the release of such information has been approved by the Chief of Investigations (Welfare and Institutions Code § 827.5).

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Identifying information concerning deceased individuals shall not be released to the media until notification of next of kin or otherwise cleared through the Coroner's Office.

Any requests for copies of related reports or additional information shall be referred to the Chief of Investigations. Such requests will generally be processed in accordance with the provisions of the Public Records Act (Government Code § 6250, et seq.).

319.4.1 RESTRICTED INFORMATION

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

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Court Appearances and Subpoenas

320.1 PURPOSE AND SCOPE

This policy establishes guidelines for Contra Costa County District Attorney's Office Investigations Division members who are required to appear in court and provides guidelines for the acceptance of subpoenas.

320.2 POLICY

Contra Costa County District Attorney's Office Investigations Division members will respond appropriately to all subpoenas and any other court-ordered appearances.

320.3 SUBPOENAS

Investigations Division members who receive subpoenas related to their employment with this Office are subject to the provisions of this policy. Members 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.

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

320.3.1 SPECIAL NOTIFICATION REQUIREMENTS – TESTIFYING AGAINST THE INTEREST OF THE PEOPLE/STATE

Any member who is subpoenaed to testify, agrees 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 employees in which any of those entities are parties, will notify their immediate supervisor without delay. The supervisor will then notify the Prosecutor, or if in another county, the District Attorney's Office in criminal cases, County Counsel or City Attorney, as may be indicated by the case.

320.3.2 CIVIL SUBPOENA

The Office will compensate members who appear in their official capacities on civil matters arising out of their official duties, as directed by the current memorandum of understanding or collective bargaining agreement.

Civil subpoenas shall not be accepted in a civil action in which the member of the Office is not a party without properly posted fees pursuant to Government Code § 68097.6.

The party in the civil action that seeks to subpoena a member must deposit the stuatory fee of $275 (Government Code § 68097.2) for each appearance before such subpoena will be accepted.

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Parties seeking to have a member make multiple appearances must make additional deposits in advance.

320.3.3 OFF-DUTY RELATED SUBPOENAS
Members receiving valid subpoenas for off-duty actions not related to their employment or appointment will comply with the requirements of the subpoena and will not be compensated for their appearance. Arrangements for time off shall be coordinated through their immediate supervisors.

320.4 FAILURE TO APPEAR

Any member who fails to comply with the terms of any properly served subpoena or court-ordered appearance may be subject to discipline. This includes properly served orders to appear that were issued by a state administrative agency.

320.5 REFUSAL OF SUBPOENAS

Valid reasons for the individually named member not accepting a subpoena include illness or previously scheduled and approved training or vacation.

If a valid reason exists for the refusal of a subpoena, the subpoena shall be promptly returned with a specified reason for the refusal, as well as the date the member will become available. It shall then become the responsibility of the member's supervisor to notify the assigned Deputy District Attorney or other attorney of record of the boa fide unavailability of the member.

If the member's supervisor knows that he/she will be unable to deliver a copy of the subpoena to the member with sufficient time for the member to comply with the subpoena, the supervisor may refuse to accept service (Penal Code § 1328 (d)).

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

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

320.6 STANDBY

To facilitate standby agreements with the courts, members are required to provide and maintain current information on their addresses and contact telephone numbers with the Office.

If a member on standby changes his/her location during the day, the member shall notify the designated Office member of how he/she can be reached. Members are required to remain on standby until released by the court or the party that issued the subpoena.

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320.7 COURTROOM PROTOCOL

When appearing in court, members shall:

(a) Be punctual and prepared to proceed immediately with the case for which they are scheduled to appear.

(b) Dress in business attire if reasonable notice to appear was provided.

(c) Observe all rules of the court in which they are appearing and remain alert to changes in the assigned courtroom where their matter is to be heard.

320.7.1 TESTIMONY

Before the date of testifying, the subpoenaed member shall request a copy of relevant reports and become familiar with the content in order to be prepared for court.

320.8 OVERTIME APPEARANCES

When a member appears in court on his/her off-duty time, he/she will be compensated in accordance with the current memorandum of understanding or collective bargaining agreement.

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Outside Agency Assistance

321.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidance to sworn members when requesting or responding to a request for mutual aid or when assisting another law enforcement agency.

321.2 POLICY

It is the policy of the Contra Costa County District Attorney's Office to promptly respond to requests for assistance by other law enforcement agencies, subject to available resources and consistent with the applicable laws and policies of this Office.

321.3 ASSISTING OUTSIDE AGENCIES

Generally, requests for any type of assistance from another agency should be routed to the Chief of Investigation’s office for approval. In some instances, a memorandum of understanding or other established protocol may exist that eliminates the need for approval of individual requests.

When another law enforcement agency requests assistance from this Office, the Chief of Investigations may authorize, if available, an appropriate number of personnel to assist. Members are reminded that their actions when rendering assistance must conform with applicable laws and be consistent with the policies of this Office.

Sworn members may respond to a request for emergency assistance, however, they shall notify a supervisor of their activity as soon as practicable.

321.3.1 INITIATED ACTIVITY

Any on-duty sworn member who engages in law enforcement activities of any type that are not part of a mutual aid request and take place outside the jurisdiction of the Contra Costa County District Attorney's Office shall notify his/her supervisor or the Chief of Investigations as soon as practicable. This requirement does not apply to special enforcement details or multi-agency units that regularly work in multiple jurisdictions.

321.4 REQUESTING OUTSIDE ASSISTANCE

If assistance is needed from another agency, the member requesting assistance should, if practicable, first notify a supervisor. The handling member or supervisor should direct assisting personnel to where they are needed and to whom they should report when they arrive.

The requesting member should arrange for appropriate radio communication capabilities, if necessary and available, so that communication can be coordinated between assisting personnel.

321.5 REPORTING REQUIREMENTS

Incidents of outside assistance or law enforcement activities that are not documented in a crime report shall be documented in a general case report or as directed by the Chief of Investigations.

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Registered Offender Information

322.1 PURPOSE AND SCOPE

This policy establishes guidelines by which the Contra Costa County District Attorney's Office will address issues associated with certain offenders who are residing in the jurisdiction and how the Office will disseminate information and respond to public inquiries for information about registered sex, arson and drug offenders.

322.2 POLICY

It is the policy of the Contra Costa County District Attorney's Office, in coordination with local law enforcemenet agencies, to identify and monitor registered offenders living within this jurisdiction and to take reasonable steps to address the risks those persons may pose.

322.3 REGISTRATION

The Investigations Division supervisor shall establish a process to reasonably accommodate registration of certain offenders. The process should rebut any allegation on the part of the offender that the registration process was too confusing, burdensome, or difficult for compliance. If it is reasonable to do so, an investigator assigned to related investigations should conduct the registration in order to best evaluate any threat the person may pose to the community. Those assigned to register offenders should receive appropriate training regarding the registration process.

Upon conclusion of the registration process, the investigator shall ensure that the registration information is provided to the California Department of Justice (DOJ) in accordance with applicable law (Penal Code § 457.1; Penal Code § 290 et seq.).

The refusal of a registrant to provide any of the required information or complete the process should initiate a criminal investigation for failure to register.

322.3.1 CONTENTS OF REGISTRATION

The information collected from the registering offenders shall include a signed statement as required by the California DOJ, fingerprints and a photograph, and any other information required by applicable law (Penal Code § 457.1; Penal Code § 290 et seq.).

322.4 MONITORING OF REGISTERED OFFENDERS

The Chief of Investigations or his / her designee should establish a system to periodically, and at least once annually, verify that a registrant remains in compliance with his/her registration requirements after the initial registration. This verification should include:

(a) Efforts to confirm residence using an unobtrusive method, such as an internet search or drive-by of the declared residence.

(b) Review of information on the California DOJ website for sex offenders.

(c) Contact with a registrant’s parole or probation officer.

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Any discrepancies should be reported to the California DOJ.

TheChief of Investigations or his / her disignee should also establish a procedure to routinely disseminate information regarding registered offenders to Contra Costa County District Attorney's Office personnel, including timely updates regarding new or relocated registrants.

322.5 DISSEMINATION OF PUBLIC INFORMATION

Members will not unilaterally make a public notification advising the community of a particular registrant’s presence in the community. Members who identify a significant risk or other public safety issue associated with a registrant should promptly advise their supervisor. The supervisor should evaluate the request and forward the information to the Chief of Investigations if warranted. A determination will be made by the Chief of Investigations, with the assistance of legal counsel as necessary, whether such a public alert should be made.

Members of the public requesting information on sex registrants should be provided the Megan's Law website or the Contra Costa County District Attorney's Office’s website. Information on sex registrants placed on the Contra Costa County District Attorney's Office’s website shall comply with the requirements of Penal Code § 290.46.

The Office Manager may release local registered offender information to residents only in accordance with applicable law (Penal Code § 290.45; Penal Code § 290.46; Penal Code § 457.1), and in compliance with a California Public Records Act (Government Code § 6250-6276.48) request.

322.5.1 LIMITED RELEASE WITHIN COLLEGE CAMPUS COMMUNITY

California law allows the following additional information regarding a registered sex offender on campus, whose information is not available to the public via the internet website, to be released to a campus community (Penal Code § 290.01(d)):

(a) The offender’s full name

(b) The offender’s known aliases

(c) The offender’s sex

(d) The offender’s race

(e) The offender’s physical description

(f) The offender’s photograph

(g) The offender’s date of birth

(h) Crimes resulting in the registration of the offender under Penal Code § 290

(i) The date of last registration

For purposes of this section, campus community shall be defined as those persons present at or regularly frequenting any place constituting campus property, satellite facilities, laboratories, public areas contiguous to the campus and other areas set forth in Penal Code § 290.01(d).

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322.5.2 RELEASE NOTIFICATIONS

Registrant information that is released should include notification that:

(a) The offender registry includes only those persons who have been required by law to register and who are in compliance with the offender registration laws.

(b) The information is provided as a public service and may not be current or accurate.

(c) Persons should not rely solely on the offender registry as a safeguard against offenses in their communities.

(d) The crime for which a person is convicted may not accurately reflect the level of risk.

(e) Anyone who uses information contained in the registry to harass registrants or commit any crime may be subject to criminal prosecution.

(f) The purpose of the release of information is to allow members of the public to protect themselves and their children from sex offenders (Penal Code 290.45).

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Major Incident Notification

323.1 PURPOSE AND SCOPE

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

323.2 POLICY

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

Sworn Members shall be familiar with the Contra Costa County “Law Enforcement Involved Fatal Incident Protocol”, of which this Office adheres to.

323.3 MINIMUM CRITERIA FOR NOTIFICATION

Most situations where the media show a strong interest are also of interest to the Chief of Investigations and the District Attorney. The following list of incident types is provided as a guide for notification and is not intended to be all inclusive:

- Any LEIFI Protocol activation/request
- Significant injury or death to employee - on or off duty
- Death of a prominent Contra Costa official
- Arrest of an Office employee, local law enforcement employee or prominent Contra Costa official

323.4 INVESTIGATION DIVISION MEMBERS RESPONSIBILITY

All Investigations Division personnel are responsible for making appropriate notifications when receiving information concerning a major incident. Members shall attempt to make contact with their direct supervisor and will notify the Chief of Investigations in his/her absence. Members shall make reasonable attempts to obtain as much information on the incident as possible before notification.

323.4.1 STAFF NOTIFICATION

In the event an incident occurs described in the Major Incident Notification Policy, the Chief of Investigations shall be notified along with the District Attorney.

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Death Investigation

324.1 PURPOSE AND SCOPE

The investigation of cases involving death include those ranging from natural cause to homicide. Some causes of death may not be readily apparent and some cases differ substantially from what they appeared to be initially. The thoroughness of death investigations cannot be emphasized enough.

Most often, members of the Contra Costa County District Attorney's Office Investigations Division will become involved in death cases once a completed investigation has been submitted to the Office by a local law enforcement agency for review/prosecution. There are incidents, however, such as a "Law Enforcement Involved Fatal Incident" protocol activation that will include participation of sworn members from the investigation initiation. All sworn members should be aware of proper death investigation procedures and considerations.

324.2 INVESTIGATION CONSIDERATIONS

Death investigation cases require certain actions be taken. Paramedics shall be called in all suspected death cases unless the death is obvious (e.g., decapitated, decomposed). The Chief of Investigations, or in his/her absence, a supervisor shall be notified in all death investigations in which Contra Costa County District Attorney's Office Investigations Division personnel are present.

324.2.1 CORONER REQUEST

Government Code § 27491 and Health & Safety Code § 102850 direct the Coroner to inquire into and determine the circumstances, manner and cause of certain deaths. The Coroner shall be called in any of the following cases:

(a) Unattended deaths (No physician in attendance or during the continued absence of the attending physician. Also, includes all deaths outside hospitals and nursing care facilities).

(b) Deaths where the deceased has not been attended by either a physician or a registered nurse, who is a member of a hospice care interdisciplinary team, as defined by Health and Safety Code § 1746 in the 20 days prior to death.

(c) Physician unable to state the cause of death. Unwillingness does not apply. Includes all sudden, unexpected and unusual deaths and fetal deaths when the underlying cause is unknown.

(d) Known or suspected homicide.

(e) Known or suspected suicide.

(f) Involving any criminal action or suspicion of a criminal act. Includes child and dependent adult negligence and abuse.

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(g) Related to or following known or suspected self-induced or criminal abortion.

(h) Associated with a known or alleged rape or crime against nature.

(i) Following an accident or injury (primary or contributory). Deaths known or suspected as resulting (in whole or in part) from or related to accident or injury, either old or recent.

(j) Drowning, fire, hanging, gunshot, stabbing, cutting, starvation, exposure, alcoholism, drug addiction, strangulation or aspiration.

(k) Accidental poisoning (food, chemical, drug, therapeutic agents).

(l) Occupational diseases or occupational hazards.

(m) Known or suspected contagious disease and constituting a public hazard.

(n) All deaths in operating rooms and all deaths where a patient has not fully recovered from an anesthetic, whether in surgery, recovery room or elsewhere.

(o) In prison or while under sentence. Includes all in-custody and county involved deaths.

(p) All deaths of unidentified persons.

(q) All deaths of state hospital patients.

(r) Suspected Sudden Infant Death Syndrome (SIDS) deaths.

(s) All deaths where the patient is comatose throughout the period of the physician's attendance. Includes patients admitted to hospitals unresponsive and expire without regaining consciousness.

The body shall not be disturbed or moved from the position or place of death without permission of the coroner.

324.2.2 SEARCHING DEAD BODIES

The Coroner or Deputy Coroner is generally the only person permitted to search a body known to be dead from any of the circumstances set forth in Government Code § 27491. The only exception is that a sworn member is permitted to search the body of a person killed in a traffic collision for the limited purpose of locating an anatomical donor card (Government Code § 27491.3). If such a donor card is located, the Coroner or a designee shall be promptly notified. Should exigent circumstances indicate to a sworn member that any search of a known dead body is warranted prior to the arrival of the Coroner or a designee; the investigating sworn member shall first obtain verbal consent from the Coroner or a designee (Government Code § 27491.2).

Whenever possible, a witness, preferably a relative to the deceased or a member of the household, should be requested to remain at the scene with the sworn member pending the arrival of the Coroner or a designee. The name and address of this person shall be included in the narrative of the death report. Whenever personal effects are removed from the body of the deceased by the Coroner or a designee, a receipt shall be obtained. This receipt shall be attached to the death report.

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324.2.3 DEATH NOTIFICATION

When practical, and if not handled by the Coroner’s Office, notification to the next-of-kin of the deceased person shall be made, in person, by the sworn member assigned to the incident. If the next-of-kin lives in another jurisdiction, a law enforcement official from that jurisdiction shall be requested to make the personal notification. If the relatives live outside this county, the Coroner may be requested to make the notification. The Coroner needs to know if notification has been made. Assigned investigative personnel may need to talk to the next-of-kin.

324.2.4 UNIDENTIFIED DEAD BODIES

If the identity of a dead body cannot be established after the Coroner arrives, the Coroner’s office will issue a “John Doe" or "Jane Doe” number for the report.

324.2.5 DEATH INVESTIGATION REPORTING

All incidents involving a death shall be documented on the appropriate form. For the purpose of the Investigations Division member serving in a support role, the report will go on a supplemental form and will be forwarded to a supervisor for review.

324.2.6 SUSPECTED HOMICIDE

If the initially assigned sworn member suspects that the death involves a homicide or other suspicious circumstances, the member’s supervisor shall be notified to determine the possible need for additional personnel to respond to the scene for further immediate investigation.

324.2.7 EMPLOYMENT RELATED DEATHS OR INJURIES

Any member of this agency who responds to and determines that a death, serious illness, or serious injury has occurred as a result of an accident at or in connection with the victim's employment shall ensure that the nearest office of Cal-OSHA is notified by telephone immediately or as soon as practicable with all pertinent information (8 CCR 342(b)).

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Communications with Persons with Disabilities

325.1 PURPOSE AND SCOPE

This policy provides guidance to members when communicating with individuals with disabilities, including those who are deaf or hard of hearing, have impaired speech or vision, or are blind.

325.1.1 DEFINITIONS

Definitions related to this policy include:

Auxiliary aids - Tools used to communicate with people who have a disability or impairment. They include, but are not limited to, the use of gestures or visual aids to supplement oral communication; a notepad and pen or pencil to exchange written notes; a computer or typewriter; an assistive listening system or device to amplify sound; a teletypewriter (TTY) or videophones (video relay service or VRS); taped text; qualified readers; or a qualified interpreter.

Disability or impairment - A physical or mental impairment that substantially limits a major life activity, including hearing or seeing, regardless of whether the disabled person uses assistive or adaptive devices or auxiliary aids. Individuals who wear ordinary eyeglasses or contact lenses are not considered to have a disability (42 USC § 12102).

Qualified interpreter - A person who is able to interpret effectively, accurately and impartially, both receptively and expressively, using any necessary specialized vocabulary. Qualified interpreters include oral interpreters, translators, sign language interpreters and intermediary interpreters.

325.2 POLICY

It is the policy of the Contra Costa County District Attorney's Office to reasonably ensure that people with disabilities, including victims, witnesses, suspects and arrestees have equal access to law enforcement services, programs and activities. Members must make efforts to communicate effectively with individuals with disabilities.

The Office will not discriminate against or deny any individual access to services, rights or programs based upon disabilities.

325.3 AMERICANS WITH DISABILITIES (ADA) COORDINATOR

The District Attorney has delegated certain responsibilities to an ADA Coordinator (28 CFR 35.107). The ADA Coordinator is appointed by, and directly responsible, to the District Attorney or his/her authorized designee. The Office’s ADA Coordinator is a member of the District Attorney’s administrative staff. Investigations Division members should be aware of the ADA Coordinator’s role within the Office as ADA training and subject matter updates are provided to Investigations Division personnel through the ADA Coordinator.

The responsibilities of the ADA Coordinator shall include, but not be limited to:

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(a) Working with the County ADA coordinator regarding the Contra Costa County District Attorney's Office's efforts to ensure equal access to services, programs and activities.

(b) Developing reports, new procedures, or recommending modifications to this policy.

(c) Acting as a liaison with local disability advocacy groups or other disability groups regarding access to department services, programs and activities.

(d) Ensuring that a list of qualified interpreter services is maintained and available to each N/A and N/A. The list should include information regarding the following:

1. Contact information
2. Availability

(e) Developing procedures that will enable members to access auxiliary aids or services, including qualified interpreters, and ensure the procedures are available to all members.

(f) Ensuring signage is posted in appropriate areas, indicating that auxiliary aids are available free of charge to people with disabilities.

(g) Ensuring appropriate processes are in place to provide for the prompt and equitable resolution of complaints and inquiries regarding discrimination in access to department services, programs and activities.

325.4 FACTORS TO CONSIDER

Because the nature of any law enforcement contact may vary substantially from one situation to the next, members of this Office should consider all information reasonably available to them when determining how to communicate with an individual with a disability. Members should carefully balance all known factors in an effort to reasonably ensure people who are disabled have equal access to services, programs and activities. These factors may include, but are not limited to:

(a) Members should not always assume that effective communication is being achieved. The fact that an individual appears to be nodding in agreement does not always mean he/she completely understands the message. When there is any doubt, members should ask the individual to communicate back or otherwise demonstrate their understanding.

(b) The nature of the disability (e.g., deafness or blindness vs. hard of hearing or low vision).

(c) The nature of the law enforcement contact (e.g., emergency vs. non-emergency, custodial vs. consensual contact).

(d) The availability of auxiliary aids. The fact that a particular aid is not available does not eliminate the obligation to reasonably ensure access. However, in an emergency, availability may factor into the type of aid used.

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325.5 INITIAL AND IMMEDIATE CONSIDERATIONS

Recognizing that various law enforcement encounters may be potentially volatile and/or emotionally charged, members should remain alert to the possibility of communication problems.

Members should exercise special care in the use of all gestures, and verbal and written communication to minimize initial confusion and misunderstanding when dealing with any individual with known or suspected disabilities.

In a non-emergency situation, when a member knows or suspects an individual requires assistance to effectively communicate, the member shall identify the individual's choice of auxiliary aid or service.

The individual's preferred communication method must be honored unless another effective method of communication exists under the circumstances (28 CFR 35.160).

Factors to consider when determining whether an alternative method is effective include:

(a) The methods of communication usually used by the individual.

(b) The nature, length and complexity of the communication involved.

(c) The context of the communication.

In emergency situations involving an imminent threat to the safety or welfare of any person, members may use whatever auxiliary aids and services that reasonably appear effective under the circumstances. This may include, for example, exchanging written notes or using the services of a person who knows sign language but is not a qualified interpreter, even if the person who is deaf or hard of hearing would prefer a qualified sign language interpreter or another appropriate auxiliary aid or service. Once the emergency has ended, the continued method of communication should be reconsidered. The member should inquire as to the individual's preference and give primary consideration to that preference.

If an individual who is deaf, hard of hearing or has impaired speech must be handcuffed while in the custody of the Contra Costa County District Attorney's Office, consideration should be given, safety permitting, to placing the handcuffs in the front of the body to facilitate communication using sign language or writing.

325.6 TYPES OF ASSISTANCE AVAILABLE

Contra Costa County District Attorney's Office members shall never refuse to assist an individual with disabilities who is requesting assistance. The Office will not charge anyone to receive auxiliary aids, nor shall they require anyone to furnish their own auxiliary aid or service as a condition for receiving assistance. The Office will make every reasonable effort to provide equal access and timely assistance to individuals who are disabled through a variety of services.

A person who is disabled may choose to accept Office-provided auxiliary aids or services or they may choose to provide their own.

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Office-provided auxiliary aids or services may include, but are not limited to, the assistance methods described in this policy.

325.7 AUDIO RECORDINGS AND ENLARGED PRINT

The Office may develop audio recordings to assist people who are blind or have a visual impairment with accessing important information. If such a recording is not available, members may read aloud from the appropriate form, for example a personnel complaint form, or provide forms with enlarged print.

325.8 QUALIFIED INTERPRETERS

A qualified interpreter may be needed in lengthy or complex transactions (e.g., interviewing a victim, witness, suspect or arrestee), if the individual to be interviewed normally relies on sign language or speechreading (lip-reading) to understand what others are saying. The qualified interpreter should not be a person with an interest in the case or investigation involving the disabled individual. A person providing interpretation services may be required to establish the accuracy and trustworthiness of the interpretation in a court proceeding.

Qualified interpreters should be:

(a) Available within a reasonable amount of time but in no event longer than one hour if requested.

(b) Experienced in providing interpretation services related to law enforcement matters.

(c) Familiar with the use of VRS and/or video remote interpreting services.

(d) Certified in either American Sign Language (ASL) or Signed English (SE).

(e) Able to understand and adhere to the interpreter role without deviating into other roles, such as counselor or legal adviser.

(f) Knowledgeable of the ethical issues involved when providing interpreter services.

Members should use Office-approved procedures to request a qualified interpreter at the earliest reasonable opportunity, and generally not more than 15 minutes after a request for an interpreter has been made or it is reasonably apparent that an interpreter is needed. No individual who is disabled shall be required to provide his/her own interpreter (28 CFR 35.160).

325.9 TTY AND RELAY SERVICES

In situations where an individual without a disability would have access to a telephone (e.g., booking or attorney contacts), members must also provide those who are deaf, hard of hearing or have impaired speech the opportunity to place calls using an available TTY (also known as a telecommunications device for deaf people, or TDD). Members shall provide additional time, as needed, for effective communication due to the slower nature of TTY and TDD communications.

The Office will accept all TTY or TDD calls placed by those who are deaf or hard of hearing and received via a telecommunications relay service (28 CFR 35.162).

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Note that relay services translate verbatim, so the conversation must be conducted as if speaking directly to the caller.

325.10 COMMUNITY VOLUNTEERS

Interpreter services may be available from community volunteers who have demonstrated competence in communication services, such as ASL or SE, and have been approved by the Office to provide interpreter services.

Where qualified interpreters are unavailable to assist, approved community volunteers who have demonstrated competence may be called upon when appropriate. However, Office members must carefully consider the nature of the contact and the relationship between the individual with the disability and the volunteer to ensure that the volunteer can provide neutral and unbiased assistance.

325.11 FAMILY AND FRIENDS

While family or friends may offer to assist with interpretation, members should carefully consider the circumstances before relying on such individuals. The nature of the contact and relationship between the individual with the disability and the person offering services must be carefully considered (e.g., victim/suspect).

Children shall not be relied upon except in emergency or critical situations when there is no qualified interpreter reasonably available.

Adults may be relied upon when (28 CFR 35.160):

(a) There is an emergency or critical situation and there is no qualified interpreter reasonably available.

(b) The person with the disability requests that the adult interpret or facilitate communication and the adult agrees to provide such assistance, and reliance on that adult for such assistance is reasonable under the circumstances.

325.12 REPORTING

Whenever any member of this Office is required to complete a report or other documentation, and communication assistance has been provided, such services should be noted in the related report. Members should document the type of communication services utilized and whether the individual elected to use services provided by the Office or some other identified source. If the individual’s express preference is not honored, the member must document why another method of communication was used.

All written communications exchanged in a criminal case shall be attached to the report or placed into evidence.

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325.13 FIELD ENFORCEMENT

The Office recognizes that it would be virtually impossible to provide immediate access to complete communication services to every member of this Office. Members must assess each situation and consider the length, complexity and importance of the communication, as well as the individual's preferred method of communication, when determining the type of resources to use and whether a qualified interpreter is needed.

Although not every situation can be addressed in this policy, it is important that members are able to effectively communicate the reason for a contact, the need for information and the meaning or consequences of any enforcement action. For example, it would be meaningless to verbally request consent to search if the sworn member is unable to effectively communicate with an individual who is deaf or hard of hearing and requires communications assistance.

If available, sworn members should obtain the assistance of a qualified interpreter before placing an individual with a disability under arrest. Individuals who are arrested and are assisted by service animals should be permitted to make arrangements for the care of such animals prior to transport.

325.13.1 FIELD RESOURCES

Examples of methods that may be sufficient for transactions, such as checking a license or giving directions to a location or for urgent situations such as responding to a violent crime in progress, may, depending on the circumstances, include such simple things as:

(a) Hand gestures or visual aids with an individual who is deaf, hard of hearing or has impaired speech.

(b) Exchange of written notes or communications.

(c) Verbal communication with an individual who can speech read by facing the individual and speaking slowly and clearly.

(d) Use of computer, word processing, personal communication device or similar device to exchange texts or notes.

(e) Slowly and clearly speaking or reading simple terms to individuals who have a visual or mental impairment.

Members should be aware that these techniques may not provide effective communication as required by law and this policy depending on the circumstances.

325.14 CUSTODIAL INTERROGATIONS

In an effort to ensure that the rights of individuals who are deaf, hard of hearing or have speech impairment are protected during a custodial interrogation, this Office will provide interpreter services before beginning an interrogation, unless exigent circumstances exist or the individual has made a clear indication that he/she understands the process and desires to proceed without an interpreter. The use of a video remote interpreting service should be considered, where appropriate, if a live interpreter is not available. *Miranda* warnings shall be provided to suspects

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who are deaf or hard of hearing by a qualified interpreter or by providing a written *Miranda* warning card.

In order to ensure that communications during custodial investigations are accurately documented and are admissible as evidence, interrogations should be recorded whenever reasonably possible. See guidance on recording custodial interrogations in the Investigation and Prosecution Policy.

325.15 ARREST AND BOOKINGS

If an individual with speech or hearing disabilities is arrested, the arresting sworn member shall use Office-approved procedures to provide a qualified interpreter at the place of arrest or booking as soon as reasonably practicable, unless the individual indicates that he/she prefers a different auxiliary aid or service or the member reasonably determines another effective method of communication exists under the circumstances.

When gathering information during the booking process, members should remain alert to the impediments that often exist when communicating with those who are deaf, hard of hearing, who have impaired speech or vision, are blind, or have other disabilities. In the interest of the arrestee's health and welfare, the safety and security of the facility and to protect individual rights, it is important that accurate medical screening and booking information be obtained. If necessary, members should seek the assistance of a qualified interpreter whenever there is concern that accurate information cannot be obtained or that booking instructions may not be properly understood by the individual.

Individuals who require and possess personally owned communication aids (e.g., hearing aids, cochlear processors) should be permitted to retain them while in custody.

325.16 COMPLAINTS

The Office shall ensure that individuals with disabilities who wish to file a complaint regarding members of this Office are able to do so. The Office may provide a qualified interpreter or forms in enlarged print, as appropriate. Complaints will be referred to the Office ADA Coordinator.

Investigations into such complaints shall be handled in accordance with the Personnel Complaints Policy. Qualified interpreters used during the investigation of a complaint should not be members of this Office.

325.17 COMMUNITY OUTREACH

Community outreach programs and other such services offered by this Office are important to the ultimate success of more traditional law enforcement duties. This Office will continue to work with community groups, local businesses and neighborhoods to provide equal access to such programs and services.

325.18 TRAINING

To ensure that all members who may have contact with individuals who are disabled are properly trained, the Office will provide periodic training that should include:

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(a) Awareness and understanding of this policy and related procedures, related forms and available resources.

(b) Procedures for accessing qualified interpreters and other available resources.

(c) Working with in-person and telephone interpreters and related equipment.

The Chief of Investigations or his/her disignee shall be responsible for ensuring new members receive training related to interacting with individuals who have disabilities, including individuals who are deaf, hard of hearing, who have impaired speech or vision, or are blind. Those who may have contact with such individuals should receive refresher training at least once every two years thereafter. The Chief of Investigations or his/her designee shall maintain records of all training provided, and will retain a copy in each member's training file in accordance with established records retention schedules.

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Private Persons Arrests

326.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidance for the handling of private person's arrests made pursuant to Penal Code § 837.

326.2 ADVISING PRIVATE PERSONS OF THE ARREST PROCESS

Although sworn members are not first responders, they may encounter a situation in which a private person arrest is necessary.

Penal Code § 836(b) expressly mandates that all sworn members shall advise victims of domestic violence of the right to make a private person's arrest, including advice on how to safely execute such an arrest. In all other situations, sworn members should use sound discretion in determining whether or not to advise an individual of the arrest process.

(a) When advising any individual regarding the right to make a private person's arrest, sworn members should refrain from encouraging or dissuading any individual from making such an arrest and should instead limit advice to the legal requirements for such an arrest as listed below.

(b) Private individuals should be discouraged from using force to affect a private person's arrest, and absent immediate threat to their own safety or the safety of others, private individuals should be encouraged to refer matters to law enforcement officials for further investigation or arrest.

326.3 ARRESTS BY PRIVATE PERSONS

Penal Code § 837 provides that a private person may arrest another:

(a) For a public offense committed or attempted in his or her presence;

(b) When the person arrested has committed a felony, although not in his or her presence;

(c) When a felony has been in fact committed, and he or she has reasonable cause for believing the person arrested has committed it.

Unlike peace officers, private persons may not make an arrest on suspicion that a felony has been committed - the felony must in fact have taken place.

326.4 SWORN MEMBER RESPONSIBILITIES

Any sworn member presented with a private person wishing to make an arrest must determine whether or not there is reasonable cause to believe that such an arrest would be lawful (Penal Code § 847).

(a) Should any sworn member determine that there is no reasonable cause to believe that a private person's arrest is lawful, the sworn member should take no action to further detain or restrain the individual beyond that which reasonably appears necessary to

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investigate the matter, determine the lawfulness of the arrest and protect the public safety.

1. Any sworn member who determines that a private person's arrest appears to be unlawful should promptly release the arrested individual pursuant to Penal Code § 849(b)(1). The sworn member must include the basis of such a determination in a related report.
2. Absent reasonable cause to support a private person's arrest or other lawful grounds to support an independent arrest by the sworn member, the sworn member should advise the parties that no arrest will be made and that the circumstances will be documented in a related report.

(b) Whenever a sworn member determines that there is reasonable cause to believe that a private person's arrest is lawful, the sworn member may exercise any of the following options:

1. Take the individual into physical custody for booking
2. Release the individual pursuant to a Notice to Appear
3. Release the individual pursuant to Penal Code § 849

326.5 REPORTING REQUIREMENTS

In all circumstances in which a private person is claiming to have made an arrest, the individual must complete and sign a Private Person's Arrest form under penalty of perjury.

In addition to the Private Person's Arrest Form (and any other related documents such as citations, booking forms, etc.), sworn members shall complete a narrative report regarding the circumstances and disposition of the incident.

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Anti-Reproductive Rights Crimes Reporting

327.1 PURPOSE AND SCOPE

This policy shall establish a procedure for the mandated reporting of Anti-Reproductive Rights Crimes (ARRC) to the Attorney General pursuant to the Reproductive Rights Law Enforcement Act (Penal Code § 13775 et seq.).

327.2 DEFINITIONS

Penal Code § 423.2 provides that the following acts shall be considered Anti-Reproductive Rights Crimes (ARRC) when committed by any person, except a parent or guardian acting towards his or her minor child or ward:

(a) By force, threat of force, or physical obstruction that is a crime of violence, intentionally injures, intimidates, interferes with, or attempts to injure, intimidate, or interfere with any person or entity because that person or entity is a reproductive health services client, provider, or assistant, or in order to intimidate any person or entity, or any class of persons or entities, from becoming or remaining a reproductive health services client, provider, or assistant

(b) By non-violent physical obstruction, intentionally injures, intimidates, or interferes with, or attempts to injure, intimidate, or interfere with, any person or entity because that person or entity is a reproductive health services client, provider, or assistant, or in order to intimidate any person or entity, or any class of persons or entities, from becoming or remaining a reproductive health services client, provider or assistant

(c) Intentionally damages or destroys the property of a person, entity, or facility, or attempts to do so, because the person, entity, or facility is a reproductive health services client, provider, assistant, or facility

327.3 REPORTING REQUIREMENTS TO THE ATTORNEY GENERAL

(a) Upon the receipt of the report of an ARRC, it shall be the responsibility of the employee taking such a report to also complete an ARRC Data Collection Worksheet (BCIA 8371) in accordance with the instructions contained on such forms.

(b) The ARRC Data Collection Worksheet shall be processed with all related reports and forwarded to the Chief of Investigations.

(c) By the tenth day of each month, it shall be the responsibility of the Chief of Investigations to ensure that a Summary Worksheet (BCIA 8370) is submitted to the Department of Justice Criminal Justice Statistics Center.

1. In the event that no ARRC(s) were reported during the previous month, a Summary Worksheet shall be submitted to Department of Justice with an indication that no such crimes were reported.

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2. Any ARRC(s) reported in the Summary Worksheet shall be accompanied by a copy of the related Data Collection Worksheet(s).

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Mandatory Employer Notification

328.1 PURPOSE AND SCOPE

The purpose of this policy is to describe the requirements and procedures to follow when a public or private school employee (teacher and non-teacher) has been arrested under certain circumstances.

328.2 POLICY

The Contra Costa County District Attorney's Office will meet the reporting requirements of California law.

328.3 MANDATORY SCHOOL EMPLOYEE ARREST REPORTING

In the event a school employee is arrested for any offense enumerated below, the Chief of Investigations or his/her designee is required to report the arrest as follows.

328.3.1 ARREST OF PUBLIC SCHOOL TEACHER

In the event a public school teacher is arrested for any controlled substance offense enumerated in Health and Safety Code § 11591 or Health and Safety Code § 11364, in so far as that section relates to Health and Safety Code § 11054(d)(12), or for any of the offenses enumerated in Penal Code § 290, Penal Code § 261(a), or Education Code § 44010, the Chief of Investigations or his/her designee is mandated to immediately notify by telephone the superintendent of the school district employing the teacher and to immediately give written notice of the arrest to the Commission on Teacher Credentialing and to the superintendent of schools in the county where the person is employed (Health and Safety Code § 11591; Penal Code § 291).

328.3.2 ARREST OF PUBLIC SCHOOL NON-TEACHER EMPLOYEE

In the event a public school non-teacher employee is arrested for any controlled substance offense enumerated in Health and Safety Code § 11591 or Health and Safety Code § 11364, in so far as that section relates to Health and Safety Code § 11054(d)(12), or for any of the offenses enumerated in Penal Code § 290, Penal Code § 261(a), or Education Code § 44010, the Chief of Investigations or his/her designee is mandated to immediately notify by telephone the superintendent of the school district employing the non-teacher and to immediately give written notice of the arrest to the governing board of the school district employing the person (Health and Safety Code § 11591; Penal Code § 291).

328.3.3 ARREST OF PRIVATE SCHOOL TEACHER

In the event a private school teacher is arrested for any controlled substance offense enumerated in Health and Safety Code § 11591 or Health and Safety Code § 11364, in so far as that section relates to Health and Safety Code § 11054(d)(12), or for any of the offenses enumerated in Penal Code § 290 or Education Code § 44010, the Chief of Investigations or his/her designee is mandated to immediately notify by telephone the private school authority employing the teacher

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and to immediately give written notice of the arrest to the private school authority employing the teacher (Health and Safety Code § 11591; Penal Code § 291.1).

328.3.4 ARREST OF COMMUNITY COLLEGE INSTRUCTOR
In the event a teacher or instructor employed in a community college district school is arrested for any controlled substance offense enumerated in Health and Safety Code § 11591.5 or Health and Safety § 11364, in so far as that section relates to Health and Safety Code § 11054(d)(9), or for any of the offenses enumerated in Penal Code § 290 or in Penal Code § 261(a)(1), the Chief of Investigations or the authorized designee is mandated to immediately notify by telephone the superintendent of the community college district employing the person, and shall immediately give written notice of the arrest to the California Community Colleges Chancellor’s Office (Health and Safety Code § 11591.5; Penal Code § 291.5).

328.4 ARREST OF PERSONS EMPLOYED IN COMMUNITY CARE FACILITIES

In the event an employee of a community treatment facility, a day treatment facility, a group home, a short-term residential therapeutic program or a foster family agency is arrested for child abuse (as defined in Penal Code § 11165.6) and the employee is free to return to work where children are present, the investigating member shall notify the licensee of the charge of abuse (Health and Safety Code § 1522.2).

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Child and Dependent Adult Safety

329.1 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 members of this office (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 and Adult Abuse policies.

329.2 POLICY

It is the policy of this office to mitigate, to the extent reasonably possible, the stressful experience individuals may have when their parent or caregiver is arrested. The Contra Costa County District Attorney's Office 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, including call-out availability and follow-up responsibilities.

329.3 PROCEDURES DURING AN ARREST

When encountering an arrest or prolonged detention situation, sworn members 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, sworn members 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. Sworn members 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, sworn members 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, sworn members 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 sworn member 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.

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329.3.1 AFTER AN ARREST

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

Sworn members 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 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. Sworn members should consider allowing the person to use his/her cell phone to facilitate arrangements through access to contact phone numbers, and to lessen the likelihood of call screening by the recipients due to calls from unknown sources.

(b) Unless there is evidence to the contrary (e.g., signs of abuse, drug use, unsafe environment), sworn members 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.

  1. Except when a court order exists limiting contact, the sworn member should attempt to locate and place children or dependent adults with the non-arrested parent, guardian or caregiver.

(c) Provide for the immediate supervision of children or dependent adults until an appropriate caregiver arrives.

(d) Notify Child Protective Services or Adult Services, if appropriate.

If children or dependent adults are at school or another known location outside the household at the time of arrest, the arresting sworn member 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.

329.3.2 DURING THE BOOKING PROCESS

During the booking process the arrestee shall be allowed to make additional telephone calls to relatives or other responsible individuals as is reasonably necessary to arrange for the care of any child or dependent adult. These telephone calls should be given as soon as practicable and are in addition to any other telephone calls allowed by law (Penal Code § 851.5(c)).

If an arrestee is unable to resolve the care of any child or dependent adult through this process, a supervisor should be contacted to determine the appropriate steps to arrange for care. These steps may include additional telephone calls or contacting a local, county or state services agency.

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329.3.3 REPORTING

(a) For all arrests where children are present or living in the household, the reporting member will document the following information:

1. Name
2. Sex
3. Age
4. Special needs (e.g., medical, mental health)
5. How, where and with whom or which agency the child was placed
6. Identities and contact information for other potential caregivers
7. Notifications made to other adults (e.g., schools, relatives)

(b) For all arrests where dependent adults are present or living in the household, the reporting member 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

329.3.4 SUPPORT AND COUNSELING REFERRAL

If, in the judgment of the handling sworn members, the child or dependent adult would benefit from additional assistance, such as counseling services, contact with a victim advocate should be made.

329.4 DEPENDENT WELFARE SERVICES

Whenever an arrestee is unwilling or incapable of arranging for the appropriate care of any child or dependent adult, the handling sworn member should contact the appropriate welfare service or other Office-approved social service to determine whether protective custody is appropriate (Welfare and Institutions Code § 305).

Only when other reasonable options are exhausted should a child or dependent adult be transported to the county facility or taken into formal protective custody.

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

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Service Animals

330.1 PURPOSE AND SCOPE

The purpose of this policy is to provide the guidelines necessary to ensure the rights of individuals who use service animals to assist with disabilities are protected in accordance with Title II of the Americans with Disabilities Act of 1990 (ADA).

330.1.1 DEFINITIONS

Definitions related to this policy include:

Service animal - A dog that is 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 individual's disability (28 CFR 35.104; Health and Safety Code § 113903).

Service animal also includes a miniature horse if the horse is trained to do work or perform tasks for people with disabilities, provided the horse is housebroken, is under the handler’s control, the facility can accommodate the horse’s type, size and weight, and the horse’s presence will not compromise legitimate safety requirements necessary for safe operation of the facility (28 CFR 35.136(i)).

330.2 POLICY

It is the policy of the Contra Costa County District Attorney's Office to provide services and access to persons with service animals in the same manner as those without service animals. Office members shall protect the rights of persons assisted by service animals in accordance with state and federal law.

330.3 IDENTIFICATION AND USE OF SERVICE ANIMALS

Some service animals may be readily identifiable. However, many do not have a distinctive symbol, harness or collar.

Service animals may be used in a number of ways to provide assistance, including:

- 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.

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- 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.

330.4 MEMBER RESPONSIBILITIES

Service animals that are assisting individuals with disabilities are permitted in all public facilities and areas where the general public is allowed. Office members are expected to treat individuals with service animals with the same courtesy and respect that the Contra Costa County District Attorney's Office affords to all members of the public (28 CFR 35.136).

330.4.1 INQUIRY

If it is apparent or if a member is aware that an animal is a service animal, the individual generally 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 member should ask the individual only the following questions (28 CFR 35.136(f)):

- 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 individual should not be questioned about his/her disability nor should the person be asked to provide any license, certification or identification card for the service animal.

330.4.2 CONTACT

Service animals are not pets. Office 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.

330.4.3 REMOVAL

If a service animal is not housebroken or exhibits vicious behavior, poses a direct threat to the health of others, or unreasonably disrupts or interferes with normal business operations, a member may direct the handler 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 service animal (28 CFR 35.136(b)).

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 Office are expected to provide all services as are reasonably available to an individual with a disability, with or without a service animal.

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330.4.4 COMPLAINTS

When handling calls of a complaint regarding a service animal, members of this Office should remain neutral and should be prepared to explain the ADA requirements concerning service animals to the concerned parties. Businesses are required to allow service animals to accompany their handlers into the same areas that other customers or members of the public are allowed (28 CFR 36.302).

Absent a violation of law independent of the ADA, members should take no enforcement action beyond keeping the peace. Individuals who believe they have been discriminated against as a result of a disability should be referred to the Civil Rights Division of the U.S. Department of Justice (DOJ).

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Off-Duty Law Enforcement Actions

331.1 PURPOSE AND SCOPE

The decision to become involved in a law enforcement action when off-duty can place a sworn member as well as others at great risk and must be done with careful consideration. This policy is intended to provide guidelines for sworn members of the Contra Costa County District Attorney's Office with respect to taking law enforcement action while off-duty.

331.2 POLICY

Initiating law enforcement action while off-duty is generally discouraged. Sworn members should not attempt to initiate enforcement action when witnessing minor crimes, such as suspected intoxicated drivers, reckless driving or minor property crimes. Such incidents should be promptly reported to the appropriate law enforcement agency.

Sworn members are not expected to place themselves in unreasonable peril. However, any sworn member of this Office who becomes aware of an incident or circumstance that he/ she reasonably believes poses an imminent threat of serious bodily injury or death, or significant property damage may take reasonable action to minimize the threat.

When public safety or the prevention of major property damage requires immediate action, sworn members should first consider reporting and monitoring the activity and only take direct action as a last resort.

331.3 FIREARMS

Sworn members of this Office may carry firearms while off-duty in accordance with federal regulations and Office policy. All firearms and ammunition must meet guidelines as described in the Office Firearms Policy. When carrying firearms while off-duty sworn members shall also carry their Office -issued identification.

Sworn members should refrain from carrying firearms when the consumption of alcohol is likely or when the need to carry a firearm is outweighed by safety considerations. Firearms shall not be carried by any sworn member who has consumed an amount of an alcoholic beverage or taken any drugs or medications or any combination thereof that would tend to adversely affect the sworn member’s senses or judgment.

331.4 DECISION TO INTERVENE

There is no legal requirement for off-duty sworn members to take law enforcement action. However, should sworn members decide to intervene, they must evaluate whether the action is necessary or desirable, and should take into consideration the following:

(a) The tactical disadvantage of being alone and the fact there may be multiple or hidden suspects.

(b) The inability to communicate with responding units.

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(c) The lack of equipment, such as handcuffs, OC or baton.

(d) The lack of cover.

(e) The potential for increased risk to bystanders if the off-duty sworn member were to intervene.

(f) Unfamiliarity with the surroundings.

(g) The potential for the off-duty sworn member to be misidentified by other peace officers or members of the public.

Sworn members should consider waiting for on-duty uniformed law enforcement personnel to arrive, and gather as much accurate intelligence as possible instead of immediately intervening.

331.4.1 INTERVENTION PROCEDURE

If involvement is reasonably necessary the sworn member should attempt to call or have someone else call 9-1-1 to request immediate assistance. The dispatcher should be informed that an off-duty sworn member is on-scene and should be provided a description of the sworn member if possible.

Whenever practicable, the sworn member should loudly and repeatedly identify him/herself as a peace officer until acknowledged. Official identification should also be displayed if safely possible.

331.4.2 INCIDENTS OF PERSONAL INTEREST

Sworn members should refrain from handling incidents of personal interest, (e.g., family or neighbor disputes) and should remain neutral. In such circumstances sworn members should call the responsible agency to handle the matter.

331.4.3 NON-SWORN MEMBER RESPONSIBILITIES

Non-sworn personnel should not become involved in any law enforcement actions while off-duty except to notify the local law enforcement authority and remain at the scene, if safe and practicable.

331.5 REPORTING

Any off-duty sworn member who engages in any law enforcement activity, regardless of jurisdiction, shall notify their supervisor as soon as practicable. The supervisor shall determine whether a report should be filed by the employee.

Sworn members should cooperate fully with the agency having jurisdiction in providing statements or reports as requested or as appropriate.

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Courthouse Dog Program

332.1 PURPOSE AND SCOPE

This policy establishes guidelines for the use and management of specially trained canines to augment public safety services to the community by providing emotional support to the victims and witnesses of crimes.

332.1.1 DEFINITIONS

ADI: Assistance Dogs International.

CCI: Canine Companions for Independence. An internationally recognized organization that trains dogs for disabled individuals, hearing impaired individuals, and facility dogs. CCI is accredited through ADI.

CCI Vest: The CCI vest is worn by the CDP Dog at all times while on duty and training. The blue and yellow vest identifies the dog as a Facility Dog performing official duties, as opposed to a K-9 or pet dog. A CCI scarf may be worn in lieu of the vest for the same purposes.

CDP: Courthouse Dog Program.

CDP Dog: A dog received from CCI or other similarly accredited agency through ADI. The dog may also be called a Facility Dog. CCI maintains ownership of the CDP Dog throughout the dog's lifetime, although the recipient Primary Handler has the opportunity to officially adopt their dog once the dog has reached the age of retirement, which varies by dog.

CDP Facilitator: Member responsible for maintaining records of activities, staff and dogs in the CDP program.

CDP Primary Handler: Member who is selected by the District Attorney and trained and certified by CCI or similarly accredited agency through ADI. The Primary Handler will maintain training and certification standards as determined by CCI and/or ADI organizations for the entirety of the dog's participation in the CDP program. The Primary Handler shall remain under the direct supervision of the CDP Facilitator. The CDP Primary Handler will remain present of nearby whenever the CDP Dog is working. The CDP Dog will live with its handler as a pet by night and as a working member of the Contra Costa County District Attorney's Office by day.

CDP Secondary Handler: A member employed at least twenty hours per week by the Contra Costa County District Attorney's Office. The Secondary Handler will possess the same training and certification as the Primary Handler. The Secondary Handler will act as the back-up for the Primary Handler.

CDP Support Staff: Office members who have been trained by the Primary Handler and approved by the CDP Facilitator regarding basic commands and guidelines in relation to the CDP Dog. When preferable / practical to have only the interviewer and interview subject present, CDP Support Staff will be allowed to have the CDP Dog in the interview room without the Primary Handler if the Primary Handler is located on the premises and nearby.

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CIC: Children's Interview Center.

OFFICE Downtime Area: The designated area in the Primary Handler's workspace where the CDP Dog will spend its work day when not actively involved in an assignment.

OUTSIDE Organizations: Any agency or organization that works in conjunction with the Contra Costa County District Attorney's Office during the process of a criminal investigation or prosecution.

RESIDENTIAL Handlers: Person(s) over the age of 18 who live with the Primary Handler and the CDP Dog.

332.2 POLICY

It is the policy of the Contra Costa County District Attorney's Office to seek justice for community members through the use of specially trained canines, capable of providing unique emotional support to the witnesses and victims of criminal acts.

332.3 CDP DOG FUNCTION

The primary function of the CDP Dog is to assist in investigations of criminal acts or other traumatic events involving persons, sometimes with developmental delays or disabilities, by being present during various stages of the investigative process. These stages may include, but are not limited to, hospital or doctor visits in relation to a crime, forensic interviews, meetings or interviews with investigators or attorneys, court proceedings, follow-up visits with law enforcement, and any other interactions between those in the legal system and the victim as appropriate.

The presence or inclusion of a CDP Dog at a victim's home or at a crime scene will not be allowed except in extenuating circumstances and then only with the approval of the Facilitator and the Primary Handler.

In instances where both child and adult victims are involved, priority will be given to the child victim for services of the CDP Dog. Once a CDP Dog has been assigned a particular victim/witness, that assignment will continue until all investigative / prosecution proceedings have been completed or the victim/witness no longer desires the CDP Dog support.

332.4 CDP FORMS

The following forms are mandatory when utilizing the CDP Dog.

332.4.1 COURTHOUSE DOG ACTIVITY REPORT

This form is completed by the Primary Handler for the purpose of tracking the CDP Dog activity.

332.4.2 REQUEST FOR COURTHOUSE DOG SERVICES

This form is to be completed by the requesting attorney, senior inspector, law enforcement officer or victim/witness advocate. This form is to be submitted to the Facilitator or Primary Handler.

332.4.3 CONSENT TO PARTICIPATE (MINOR)

This form is to be completed by the parent or guardian of any minor victim/witness.

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332.4.4 CONSENT TO PARTICIPATRE (ADULT)
This form to be completed by victim/witness.

332.4.5 FEEDBACK FORM
To be completed by the requesting party once the CDP Dog service has been completed. Victims/ witnesses are also asked to complete the form.

332.5 UTILIZATION

The initial request for the service of the CDP Dog will be accomplished by submitting a CDP Dog Request Form, except in emergencies/exigent circumstances as deemed so by the Facilitator and/or Primary Handler.

In each case where a decision is made to utilize the CDP Dog, the requestor will receive a Feedback Form that is to be completed and submitted within 5 days of the conclusion of the CDP Dog's participation in the case.

A CDP Activity Report will be completed by the Primary Handler for each work related activity completed by the CDP Dog.

The Primary Handler will be responsible for the transportation of the CDP Dog and will remain on-scene for the duration of the required assistance. The Primary Handler is not required to be in the interview room when a trained Support Staff Handler is assigned.

The CDP Dog may be transported in the back seat area of any County vehicle or the personal vehicle of the Primary Handler or Residential Handler. The utilized vehicle will have one of two approved safety measures:

(a) A seatbelt system that straps to the harness fitted to the CDP Dog, or

(b) A dog crate within the vehicle that will be utilized.

The CDP Dog will nolt be utilized without the physical presence and direction of the Primary Handler or Facilitator. Support Staff members will not be allowed to transport the CDP Dog and will not be responsible for the CDP Dog's work activity, maintenance or well-being.

The CDP Dog will be routinely utilized for service during the regularly assigned duty hours of the Primary Handler. Approval for emergency utilization or use after normal hours shall be requested through the CDP Facilitator.

332.6 CDP DOG OFFICE ACCOMODATIONS

The CDP Dog Facilitator and Primary Handler will make certain that Office personnel are aware of the difference between the CDP Dog's "work mode" and "social mode".

(a) "Work Mode" will be indicated by the presence of the CCI vest worn by the CDP Dog. While in the mode, personnel are encouraged to refrain from interacting with the dog to allow the dog to focus on the task at hand.

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(b) “Social Mode” will be indicated by the absence of the CCI Vest. Social mode will occur at the Primary Handler’s discretion. The Primary Handler will ensure that the CDP Dog has ample social time and rest time throughout the day.

332.7 VICTIM / WITNESS ACCOMODATIONS

Prior to the introduction of the CDP Dog to a victim/witness, the Primary Handler and the individual having contact with the victim/witness will inform the victim/witness of the availability of the dog and explain the dog’s capabilities and function. If the victim/witness is a child, the parent or guardian will be informed of the availability and function of the CDP Dog.

Time will be provided for the victim/witness and the CDP Dog to meet and become familiar and comfortable with one another. If at any time the CDP Dog exhibits behavior that alerts the Primary Handler that the dog is uncomftable with the situation, the dog will be removed immediately.

332.8 PUBLIC/VISITOR ACCOMODATIONS

Signs are located at the entrance to the Contra Costa County District Attorney’s Office identifying the presence of the CDP Dog. The Primary Handler has been trained to recognize the signs of distress or discomfort that civilians may exhibit when there is a concern regarding the dog’s presence. The Primary Handler will take appropriate measures to minimize contact with those individuals expressing discomfort with the dog’s presence. In the event that an individual entering the Office expresses allergy related issues with the dog, the Primary Handler will make certain that the door to the office where the CDP Dog is housed will be closed as long as necessary.

332.9 COURT PROCEEDINGS

The CDP Dog will only be allowed in a courtroom when granted permission by the presiding Superior Court Judge assigned to that particular proceeding. The Primary Handler will adhere to all rules and procedures set forth by the presiding judge.

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Evidence Detection Dog

333.1 PURPOSE AND SCOPE

This policy establishes guidelines for the use of a specially trained canine, capable of augmenting public safety investigations by locating evidence and contraband though scent detection.

333.2 POLICY

It is the policy of the Contra Costa County District Attorney’s Office to employ the services of a specially trained and certified canine handler/canine to augment law enforcement investigations by utilizing the canine’s inherent scent detection capabilities to identify the location of specific evidence and contraband.

333.3 EVIDENCE DETECTION DOG PROGRAM COORDINATOR

The Evidence Detection Dog program coordinator shall be a Lieutenant appointed by the Chief of Investigations. The coordinator shall have the following responsibilities:

(a) Review and maintenance of all program records.

(b) Procurement of all program equipment and services.

(c) Facilitation of all program training needs/requirements.

(d) Review of all requests for program services and operational plans.

333.4 EVIDENCE DETECTION DOG HANDLER

The Evidence Detection Dog handler shall be a sworn member appointed by the Chief of Investigations. The handler shall ultimately be responsible for the health and welfare of the dog and shall ensure that the dog receives proper nutrition, grooming, training, medical care, affection and suitable living conditions.

The handler shall maintain all mandatory training certifications while assigned as the Evidence Detection Dog handler. The handler will also be responsible for the following:

(a) The handler shall not expose the dog to any foreseeable or unreasonable risk of harm.

(b) The handler will maintain all issued equipment in a clean and serviceable condition.

(c) The handler will report any changes in the living status of the handler that may affect the lodging or environment of the dog.

(d) The handler will document all program related training, whether mandatory or not and provide such documentation to the program coordinator.

(e) The handler will maintain documentation relating to any and all program related expenses and provide such documentation to the program coordinator.

(f) Whether on-duty or off-duty, the handler will receive approval in advance by the program coordinator for deployment on a law enforcement detail. During the absence of the program coordinator, approval shall be obtained from a supervisor.

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333.4.1 AVAILABILITY
The Evidence Detection Dog handler shall be available for call-out during non-scheduled hours under conditions as specified by the program coordinator.

333.4.2 HANDLER COMPENSATION
The Evidence Detection Dog handler shall be compensated for time spent in the care, feeding, grooming and associated needs of the dog in accordance with the Fair Labor Standards Act (FLSA).

333.5 GUIDELINES FOR USE

The Evidence Detection Program dog is trained solely to locate evidence and contraband such as firearms and narcotics. The dog is not trained to identify or locate explosives and is not trained to locate people, or assist in the search/apprehension of suspects.

Requests for use of the Evidence Detection dog shall be approved by the program coordinator. The operational plan and actual deployment activity shall be the responsibility of the handler. The handler will have complete control over the area(s) being searched and shall have the discretion to alter or discontinue a search based upon emerging circumstances.

333.5.1 EVIDENCE DETECTION DOG USE DOCUMENTATION
Every deployment of the Evidence Detection Dog shall result in a report written by the handler. Reports shall be maintained by the coordinator.

333.6 TRAINING

Prior to assignment in the field, the Evidence Detection dog / handler shall meet all required POST certification guidelines.

333.6.1 CONTINUED TRAINING
The Evidence Detection dog/handler shall thereafter be recertified to current POST guidelines on an annual basis.

(a) Additional on-going training is encouraged and shall be approved by the coordinator.

(b) All training shall be conducted while on-duty unless otherwise approved by the coordinator.

All Evidence Detection Dog training will be documented by the handler and training documentation records will be maintained by the coordinator.

333.6.2 FAILURE TO SUCCESSFULLY COMPLETE POST CERTIFICATION TRAINING
Failure to successfully complete required training will result in removal from the field until such certification is achieved.

333.7 CONTROLLED SUBSTANCE TRAINING AIDS

Controlled substance training aids are required to effectively train and maintain the Evidence Detection dog. Health & Safety Code § 11367.5 provides that any Sheriff, Chief of Police, Chief of the Division of Law Enforcement, or the Commissioner of the California Highway Patrol, or a

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designee thereof may, in his/her discretion, provide controlled substances in his/her possession for training purposes:

(a) To any duly authorized peace officer or civilian drug detection canine trainer working under the direction of a law enforcement agency

(b) Provided the controlled substances are no longer needed as criminal evidence

(c) Provided the person receiving the controlled substances, if required by the Drug Enforcement Administration, possesses a current and valid Drug Enforcement Administration registration that specifically authorizes the recipient to possess controlled substances while providing substance abuse training to law enforcement or the community, or while providing canine drug detection training

333.7.1 CONTROLLED SUBSTANCE TRAINING AIDS PROCEDURES

Due to the responsibilities and liabilities involved with possessing readily usable amounts of controlled substances and the ever-present danger of accidental ingestion of these controlled substances by the canine, the following procedures shall be strictly adhered to:

(a) All controlled substance training samples shall be acquired from the Contra Costa County District Attorney’s Office evidence room assigned member or from allied agencies authorized by Health & Safety Code § 11367.5 to provide controlled substance training samples. All samples shall be weighed and tested prior to dispensing to the Evidence Detection dog handler.

(b) The weight and test results shall be recorded and maintained by the Office

(c) Any person receiving controlled substance training samples pursuant to Health & Safety Code § 11367.5 shall maintain custody and control of the controlled substances and shall keep records regarding any loss of , or damage to, those controlled substances

(d) All samples will be inspected, weighed and tested bi-annually. The results of the testing shall be recorded and maintained by the coordinator with a copy forwarded to the dispensing agency

(e) All samples will be stored in a locked safe at all times, except during training or transportation to/from training. The locked safe shall be maintained in a secure building operated by the Contra Costa County District Attorney’s Office.

(f) The coordinator shall periodically inspect each sample for damage or tampering

(g) Any unusable training sample shall be returned to the dispensing agency upon the conclusion of the training or upon demand by the dispensing agency

333.7.2 RETURN OF CONTROLLED SUBSTANCE TO EVIDENCE

Controlled substance training samples shall be returned to evidence annually and/or verified when:

(a) The narcotic deteriorates and is no longer a productive training aid

(b) A rotation occurs in the position of the evidence room assigned member or the Evidence Dog handler

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333.8 INJURY AND MEDICAL CARE

In the event that the Evidence Detection Dog is injured or in need of medical care, the coordinator shall be notified as soon as practical and the event shall be appropriately documented by the handler. Documentation shall be maintained by the coordinator.

All medical attention shall be rendered by the designated veterinarian, except during emergency circumstances, where treatment shall be obtained from the nearest available veterinarian.

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Conducted Energy Device

334.1 PURPOSE AND SCOPE

This policy provides guidelines for the issuance and use of TASER devices.

334.2 POLICY

The TASER device is intended to control a violent or potentially violent individual, while minimizing the risk of serious injury. The appropriate use of such a device is intended to result in fewer serious injuries to sworn personnel and suspects.

334.3 ISSUANCE AND CARRYING OF A CONDUCTED ENERGY DEVICE

Only members who have successfully completed office approved training may be issued and carry the TASER device.

Sworn members shall only use the TASER device and cartridges that have been issued by the office.

The TASER device should not be carried for routine investigative activity. Sworn members should utilize the TASER device as a less lethal option when participating in approved and/or pre-planned enforcement activity.

Sworn members who choose to carry a TASER device shall wear the device in an approved holster on their person. The TASER device should not be carried while wearing civilian attire. Sworn members carrying the TASER device should perform a spark test on the unit prior to deploying the device to the field. Sworn members shall carry the TASER device in a holster on the side opposite the duty weapon or secured to a tactical vest.

(a) All TASER devices shall be clearly and distinctly marked to differentiate them from the duty weapon and / or any other device.

(b) Whenever practicable, sworn members should carry two or more cartridges on their person when carrying the TASER device.

(c) Sworn members shall be responsible for insuring that their issued TASER device is properly maintained and in good working order before field deployment.

(d) Sworn members should not hold both a firearm and the TASER device at the same time. The use of dual force, to include deadly force, is strongly discouraged as confusion and / or sympathetic motor reflexes can lead to a negligent use of force.

334.4 VERBAL AND VISUAL WARNINGS

A verbal warning of the intended use of the TASER device should precede its application, unless it would otherwise endanger the safety of sworn members, or when it is not practicable due to the circumstances. The purpose of the warning is to:

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(a) Provide the individual with a reasonable opportunity to voluntarily comply.

(b) Provide other sworn members and individuals with a warning that the TASER device may be deployed.

If after a verbal warning, an individual is unwilling to voluntarily comply with a sworn members lawful orders, and it appears both reasonable and feasible under the circumstances, the sworn member may, but is not required to display the electrical arc (provided that a cartridge has been loaded into the device), or the laser, in a further attempt to gain compliance prior to the application of the TASER device. The aiming laser should never be intentionally directed into the eyes of another, as it may permanently impair his / her vision. The fact that a verbal or other warning was given, or the reasons it was not given, shall be documented by the sworn member deploying the TASER device in the related report.

334.5 USE OF THE CONDUCTED ENERGY DEVICE

The TASER device has limitations and restrictions requiring consideration before its use. The TASER device should only be used when its operator can safely approach the subject within the operational range of the device. Although the TASER device is generally effective in controlling most individuals, sworn members should be aware that the device may not achieve the intended results, and be prepared with other options.

334.6 APPLICATION OF THE CONDUCTED ENERGY DEVICE

The TASER device may be used in any of the following circumstances, when the circumstances perceived by the sworn member at the time indicate that such application is reasonably necessary to control a person:

(a) The subject is violent or is physically resisting.

(b) The subject has demonstrated, by words or action, an intention to be violent or to physically resist, and reasonably appears to present the potential to harm sworn members, him / herself, or others. Mere flight from a pursuing sworn member, without other know circumstances or factors, is not good cause for the use of the TASER device to apprehend an individual.

334.7 SPECIAL DEPLOYMENT CONSIDERATIONS

The use of the TASER device on certain individuals should generally be avoided unless the totality of the circumstances indicates that other available options reasonably appear ineffective or would present a greater danger to the sworn member, the subject or others, and the sworn member reasonably believes that the need to control the individual outweighs the risk of using the device. These include:

(a) Individuals who are known to be pregnant.

(b) Elderly individuals or obvious juveniles.

(c) Individuals with obviously low body mass.

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(d) Individuals who are handcuffed or otherwise restrained.

(e) Individuals who have been recently sprayed with a flammable chemical agent, or who are otherwise in close proximity to any known combustible vapor or flammable material, including alcohol-based oleoresin capsicum (OC) spray.

(f) Individuals whose position or activity may result in collateral injury (e.g., falls from height, operating vehicles).

Because the application of the TASER device in the drive-stun mode (i.e., direct contact with probes) relies primarily on pain compliance, the use of the drive-stun mode generally should be limited to supplementing the probe-mode to complete the circuit, or as a distraction technique to gain separation between sworn members and the subject, thereby giving sworn members time and distance to consider other force options or actions.

The TASER device shall not be used to psychologically torment, elicit statements, or to punish any individual.

334.8 TARGETING CONSIDERATIONS

Reasonable efforts should be made to target lower center mass and avoid the head, neck, chest and groin. If the dynamics of the situation or sworn member safety do not permit the sworn member to limit the application of the TASER device probes to a precise target area, sworn members should monitor the condition of the subject if one or more probes strikes the head, neck, chest or groin, until the subject is examined by paramedics or other medical personnel.

334.9 MULTIPLE APPLICATIONS OF THE CONDUCTED ENERGY DEVICE

Sworn members should apply the TASER device for only one standard cycle and then evaluate the situation before applying any subsequent cycles. Multiple applications against a single individual are generally not recommended, and should be avoided unless the sworn member reasonably believes that the need to control the individual outweighs the potentially increased risk posed by multiple applications. If the first application of the TASER device appears to be ineffective in gaining control of an individual, the sworn member should consider certain factors before additional applications of the TASER device, including:

(a) Whether the probes are making proper contact.

(b) Whether the individual has the ability and has been given a reasonable opportunity to comply.

(c) Whether verbal commands or other options and tactics may be more effective.

Sworn members should generally not intentionally apply more than one TASER device at a time against a single individual.

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334.10 ACTIONS FOLLOWING DEPLOYMENT

Sworn members shall notify a supervisor of all TASER device discharges. Confetti tags should be collected and the expended cartridge, along with the probes and wire should be submitted into evidence. The cartridge serial number should be noted and documented on the evidence paperwork. The evidence packaging should be marked "Biohazard" if the probes penetrated the subject's skin.

334.11 DANGEROUS ANIMALS

The TASER device may be deployed against an animal as part of a plan to deal with a potentially dangerous animal, such as a dog, if the animal reasonably appears to pose an imminent threat to human safety and alternative methods are not reasonably available or would likely be ineffective.

334.12 OFF-DUTY CONSIDERATIONS

Sworn members are not authorized to carry office issued TASER devices while off-duty. Sworn members shall ensure that TASER devices are secured while in their homes, vehicles or any other area under their control, in a manner that will keep the device inaccessible to others.

334.13 DOCUMENTATION

Sworn members shall document all TASER device discharges in the related arrest / crime report. Notification shall also be made to a supervisor in compliance with the Use of Force policy. Unintentional discharges, pointing the device at a person, laser activation and arcing the device will also be documented in the report. Items that shall be included in report documentation include:

(a) The type and brand of both TASER device and cartridge, including serial numbers.

(b) Date, time and location of the incident.

(c) Whether any display, laser or arc deterred a subject and gained compliance.

(d) The number of TASER device activations, the duration of each cycle, the durations of each cycle, the duration between activations, and as best as can be determined, the duration that the subject received applications.

(e) The range at which the TASER device was used.

(f) The type of mode used (probe or drive-stun).

(g) Location of any probe impact.

(h) Location of contact in drive-stun mode.

(i) Description of where missed probes went.

(j) Whether medical care was provided to the subject.

(k) Whether the subject sustained any injuries.

(l) Whether any sworn members sustained any injuries.

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TASER program coordinators should periodically analyze report forms to identify trends, including deterrence and effectiveness. The TASER program coordinator should also conduct audits of data downloads and reconcile TASER device reports with recorded activations. TASER device information and statistics, with identifying information removed, should periodically be made available to the public.

334.14 MEDICAL TREATMENT

Consistent with local medical personnel protocols and absent extenuating circumstances, only appropriate medical personnel should remove TASER device probes from a person's body. Used TASER device probes shall be treated as sharps biohazard, similar to a used hypodermic needle, and handled appropriately. Universal precautions should be taken. All persons who have been struck by TASER device probes, or who have been subjected to the electric discharge of the device shall be medically assessed prior to booking. Additionally, any such individual who falls under any of the following categories should, as soon as practicable, be examined by paramedics or other qualified medical personnel:

(a) The person is suspected of being under the influence of controlled substances and / or alcohol.

(b) The person may be pregnant.

(c) The person reasonably appears to be in need of medical attention.

(d) The TASER device probes are lodged in a sensitive area (e.g., groin, female breast, head, face or neck).

(e) The person requests medical treatment.

Any individual exhibiting signs of distress, or who is exposed to multiple or prolonged applications (i.e., more than 15 seconds) shall be transported to a medical facility for examination or medically evaluated prior to booking. If any individual refuses medical attention, such a refusal should be witnessed by another sworn member and / or medical personnel, and shall be fully documented in related reports. If any audio recording is made of the contact or an interview with an individual, any refusal should be included if possible.

The transporting sworn member shall inform any person providing medical care or receiving custody that the individual has been subjected to the application of the TASER device.

Photos should be taken to document the condition of the subject, as well as the area of the body where the probes or TASER device made contact with the skin after the subject receives medical attention.

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334.15 SUPERVISOR RESPONSIBILITIES

When possible, a supervisor should respond to incidents where the TASER device was activated. A supervisor should review each incident where a person has been exposed to an activation of the TASER device. The device's onboard memory should be downloaded through the data port by a TASER program coordinator and saved with the related report.

334.16 TRAINING

Personnel who are authorized to carry the TASER device shall be permitted to do so only after successfully completing the initial office approved training. Any personnel who have not carried the TASER device as part of their assignment for a period of six months or more shall be recertified by an office approved TASER device instructor prior to carrying or using the device. Proficiency training for personnel who have been issued TASER devices should occur each year. A reassessment of a sworn member's knowledge and / or practical skill may be required at any time if deemed appropriate by the TASER program coordinator or supervisor. All training and proficiency for TASER devices will be documented and maintained in the sworn member's training file.

The TASER program coordinator is responsible for insuring that all members who carry TASER devices have received initial and annual proficiency training. Periodic audits should be used for verification.

Application of TASER devices during training could result in injury to personnel and should not be mandatory for certification. The TASER program coordinator should insure that all training includes:

(a) A review of the Conducted Energy Device policy.

(b) A review of the Use of Force policy.

(c) Performing weak-hand draws and / or cross-draws to reduce the possibility of unintentionally drawing and firing a firearm.

(d) Target area considerations, to include techniques or options to reduce the unintentional application of probes near the head, neck, chest and groin.

(e) Handcuffing a subject during the application of the TASER device and transitioning to other force options.

(f) De-escalation techniques.

(g) Restraint techniques that do not impair respiration following the application of the TASER device.

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334.17 MAINTENANCE AND CARE / DATAPORT TRACKING

The primary responsibility for maintaining and caring for the TASER shall rest with officer TASER program coordinator or designee. The office TASER program coordinator or designee shall:

(a) Log and track all TASER devices and munitions.

(b) Upon notification of a TASER discharge, download the discharge memory for that TASER for record keeping and prepare a supplemental report documenting the discharge memory.

(c) If there is a significant difference between the download data and the reported time the device was applied, the office TASER program coordinator or designee shall review the actual report of the discharge and advise the sworn member's supervisor of any discrepancies.

(d) The TASER program coordinator or designee, in conjunction with his / her duties, shall perform random audit downloads of off TASER devices; the audit will also consist of the functioning of the device, as well as testing and checking for abuse of the TASER devices.

(e) Order and maintain adequate munitions and maintenance supplies.

(f) Conduct inspections of TASER devices at office approved ranges.

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Chapter 4 - Field Operations

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Bias-Based Policing

400.1 PURPOSE AND SCOPE

This policy provides guidance to office members that affirms the Contra Costa County District Attorney's Office's commitment to policing that is fair and objective.

Nothing in this policy prohibits the use of specified characteristics in law enforcement activities designed to strengthen the office's relationship with its diverse communities (e.g., cultural and ethnicity awareness training, youth programs, community group outreach, partnerships).

400.1.1 DEFINITIONS

Definitions related to this policy include:

Bias-based policing - An inappropriate reliance on actual or perceived characteristics such as race, ethnicity, national origin, religion, sex, sexual orientation, gender identity or expression, economic status, age, cultural group, disability, or affiliation with any non-criminal group (protected characteristics) as the basis for providing differing law enforcement service or enforcement (Penal Code § 13519.4).

400.2 POLICY

The Contra Costa County District Attorney's Office is committed to providing law enforcement services to the community with due regard for the racial, cultural or other differences of those served. It is the policy of this office to provide law enforcement services and to enforce the law equally, fairly, objectively and without discrimination toward any individual or group.

400.3 BIAS-BASED POLICING PROHIBITED

Bias-based policing is strictly prohibited.

However, nothing in this policy is intended to prohibit a sworn member from considering protected characteristics in combination with credible, timely and distinct information connecting a person or people of a specific characteristic to a specific unlawful incident, or to specific unlawful incidents, specific criminal patterns or specific schemes.

400.3.1 CALIFORNIA RELIGIOUS FREEDOM ACT

Members shall not collect information from a person based on religious belief, practice, affiliation, national origin or ethnicity unless permitted under state or federal law (Government Code § 8310.3).

Members shall not assist federal government authorities (Government Code § 8310.3):

(a) In compiling personal information about a person’s religious belief, practice, affiliation, national origin or ethnicity.

(b) By investigating, enforcing or assisting with the investigation or enforcement of any requirement that a person register with the federal government based on religious belief, practice, or affiliation, or national origin or ethnicity.

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400.4 MEMBER RESPONSIBILITIES

Every member of this office shall perform his/her duties in a fair and objective manner and is responsible for promptly reporting any suspected or known instances of bias-based policing to a supervisor. Members should, when reasonable to do so, intervene to prevent any biased-based actions by another member.

400.4.1 REASON FOR CONTACT

Sworn members contacting a person shall be prepared to articulate sufficient reason for the contact, independent of the protected characteristics of the individual.

To the extent that written documentation would otherwise be completed (e.g., arrest report, field interview (FI) card), the involved sworn member should include those facts giving rise to the contact, as applicable.

Except for required data-collection forms or methods, nothing in this policy shall require any sworn member to document a contact that would not otherwise require reporting.

400.4.2 REPORTING OF STOPS

Unless an exception applies under 11 CCR 999.227, a sworn member conducting a stop of a person shall collect the data elements required by 11 CCR 999.226 for every person stopped and prepare a stop data report. When multiple sworn members conduct a stop, the sworn member with the highest level of engagement with the person shall collect the data elements and prepare the report (11 CCR 999.227).

If multiple agencies are involved in a stop and the Contra Costa County District Attorney's Office is the primary agency, the Contra Costa County District Attorney's Office sworn member shall collect the data elements and prepare the stop data report (11 CCR 999.227).

The stop data report should be completed by the end of the sworn member’s shift or as soon as practicable (11 CCR 999.227).

400.5 SUPERVISOR RESPONSIBILITIES

Supervisors should monitor those individuals under their command for compliance with this policy and shall handle any alleged or observed violations in accordance with the Personnel Complaints Policy.

(a) Supervisors should discuss any issues with the involved sworn member and his/her supervisor in a timely manner.

    1. Supervisors should document these discussions, in the prescribed manner.

(b) Supervisors should periodically review any audio/video recordings and any other available resource used to document contact between sworn members and the public to ensure compliance with the policy.

    (a) Supervisors should document these periodic reviews.

    (b) Recordings or data that capture a potential instance of bias-based policing should be appropriately retained for administrative investigation purposes.

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(c) Supervisors shall initiate investigations of any actual or alleged violations of this policy.

(d) Supervisors should take prompt and reasonable steps to address any retaliatory action taken against any member of this office who discloses information concerning bias-based policing.

400.6 REPORTING TO CALIFORNIA DEPARTMENT OF JUSTICE

The Chief of Investigations shall ensure that all data required by the California Department of Justice (DOJ) regarding complaints of racial bias against sworn members is collected and provided as required for reporting to the DOJ (Penal Code § 13012; Penal Code § 13020).

Supervisors should ensure that data stop reports are provided as required for annual reporting to the DOJ (Government Code § 12525.5) (See Records Bureau Policy).

400.7 TRAINING

Training on fair and objective policing and review of this policy should be conducted as directed by the Training Unit.

(a) All sworn members of this office will be scheduled to attend Peace Officer Standards and Training (POST)-approved training on the subject of bias-based policing.

(b) Pending participation in such POST-approved training and at all times, all members of this office are encouraged to familiarize themselves with and consider racial and cultural differences among members of this community.

(c) Each sworn member of this office who received initial bias-based policing training will thereafter be required to complete an approved refresher course every five years, or sooner if deemed necessary, in order to keep current with changing racial, identity and cultural trends (Penal Code § 13519.4(i)).

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Hostage and Barricade Incidents

401.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidelines for situations where sworn members have legal cause to contact, detain or arrest a person, and the person refuses to submit to the lawful requests of the sworn members by remaining in a structure or vehicle and/or by taking a hostage.

The scope of this policy is not intended to address all variables that sworn members encounter during their initial response or when a hostage or barricade situation has developed. This policy does not require or purport to recommend specific strategies or tactics for resolution as each incident is a dynamic and rapidly evolving event.

401.1.1 DEFINITIONS

Definitions related to this policy include:

Barricade situation - An incident where a person maintains a position of cover or concealment and ignores or resists law enforcement personnel, and it is reasonable to believe the subject is armed with a dangerous or deadly weapon.

Hostage situation - An incident where it is reasonable to believe a person is:

(a) Unlawfully held by a hostage-taker as security so that specified terms or conditions will be met.

(b) Unlawfully held against his/her will under threat or actual use of force.

401.2 POLICY

It is the policy of the Contra Costa County District Attorney's Office to address hostage and barricade situations with due regard for the preservation of life and balancing the risk of injury, while obtaining the safe release of hostages, apprehending offenders and securing available evidence.

401.3 COMMUNICATION

When circumstances permit, initial responding sworn members should try to establish and maintain lines of communication with a barricaded person or hostage-taker. Sworn members should attempt to identify any additional subjects, inquire about victims and injuries, seek the release of hostages, gather intelligence information, identify time-sensitive demands or conditions and obtain the suspect’s surrender.

When available, authorized negotiators should respond to the scene as soon as practicable and assume communication responsibilities. Negotiators are permitted to exercise flexibility in each situation based upon their training, the circumstances presented, suspect actions or demands and the available resources.

401.3.1 EMERGENCY COMMUNICATIONS

Only a sworn member who has been designated by the District Attorney or Attorney General may use or authorize the use of an electronic amplifying or recording device to eavesdrop on or record,

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or both, oral communication in response to an emergency situation involving a hostage or the barricading of a location, and only when (Penal Code § 633.8(b)):

(a) The sworn member reasonably determines an emergency situation exists that involves the immediate danger of death or serious physical injury to any person within the meaning of 18 USC § 2518(7)(a)(i),

(b) The sworn member reasonably determines that the emergency situation requires that eavesdropping on oral communication occur immediately, and

(c) There are grounds upon which an order could be obtained pursuant to 18 USC § 2516(2).

(d) An application for an order approving the eavesdropping and complying with the requirements of Penal Code § 629.50 is made within 48 hours of the beginning of the eavesdropping.

(e) The contents of any oral communications overheard are recorded on tape or other comparable device.

401.4 SWORN MEMBER INITIAL CONSIDERATIONS

Although normally not a first responder, sworn members should be aware of the following considerations in the event they find themselves as the initial law enforcement personnel present in a potential hostage or barricade situation. Sworn members should promptly and carefully evaluate all available information to determine whether an incident involves, or may later develop into, a hostage or barricade situation.

The sworn member should immediately request a local jurisdiction response as soon as it is determined that a hostage or barricade situation exists. The sworn member shall assume the duties of a supervisor until relieved by a supervisor from the local law enforcement jurisdiction. The sworn member shall continually evaluate the situation, including the level of risk to law enforceement personnel, to the persons involved and to bystanders, and the resources currently available.

The sworn member should brief the arriving local jurisdiction supervisor of the incident, including information about suspects and victims, the extent of any injuries, additional resources or equipment that may be needed, and current perimeters and evacuation areas.

401.4.1 BARRICADE SITUATION

Unless circumstances require otherwise, sworn members handling a barricade situation should attempt to avoid a forceful confrontation in favor of stabilizing the incident by establishing and maintaining lines of communication while awaiting the arrival of specialized personnel and trained negotiators. During the interim the following options, while not all-inclusive or in any particular order, should be considered:

(a) Ensure injured persons are evacuated from the immediate threat area if it is reasonably safe to do so. Request medical assistance.

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(b) Assign personnel to a contact team to control the subject should he/she attempt to exit the building, structure or vehicle, and attack, use deadly force, attempt to escape or surrender prior to additional resources arriving.

(c) Request additional personnel, resources and equipment as needed (e.g., canine team, air support).

(d) Provide responding emergency personnel with a safe arrival route to the location.

(e) Evacuate uninjured persons in the immediate threat area if it is reasonably safe to do so.

(f) Attempt or obtain a line of communication and gather as much information on the subject as possible, including weapons, other involved parties, additional hazards or injuries.

(g) Establish an inner and outer perimeter as circumstances require and resources permit to prevent unauthorized access.

(h) Evacuate bystanders, residents and businesses within the inner and then outer perimeter as appropriate. Check for injuries, the presence of other involved subjects, witnesses, evidence or additional information.

(i) Determine the need for and notify the appropriate persons within and outside the Office, such as command officers and the Public Information Officer (PIO).

(j) If necessary and available, establish a tactical or exclusive radio frequency for the incident.

(k) Establish a command post.

401.4.2 HOSTAGE SITUATION

Sworn members presented with a hostage situation should attempt to avoid a forceful confrontation in favor of controlling the incident in anticipation of the arrival of specialized personnel and trained hostage negotiators. However, it is understood that hostage situations are dynamic and can require that sworn members react quickly to developing or changing threats. The following options, while not all-inclusive or in any particular order, should be considered:

(a) Ensure injured persons are evacuated from the immediate threat area if it is reasonably safe to do so. Request medical assistance.

(b) Assign personnel to a contact team to control the subject should he/she attempt to exit the building, structure or vehicle, and attack, use deadly force, attempt to escape or surrender prior to additional resources arriving.

(c) Establish a rapid response team in the event it becomes necessary to rapidly enter a building, structure or vehicle, such as when the suspect is using deadly force against any hostages (see the Rapid Response and Deployment Policy).

(d) Assist hostages or potential hostages to escape if it is reasonably safe to do so. Hostages should be kept separated if practicable pending further interview.

(e) Request additional personnel, resources and equipment as needed (e.g., canine team, air support).

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(f) Provide responding emergency personnel with a safe arrival route to the location.

(g) Evacuate uninjured persons in the immediate threat area if it is reasonably safe to do so.

(h) Coordinate pursuit or surveillance vehicles and control of travel routes.

(i) Attempt to obtain a line of communication and gather as much information about the suspect as possible, including any weapons, victims and their injuries, additional hazards, other involved parties and any other relevant intelligence information.

(j) Establish an inner and outer perimeter as resources and circumstances permit to prevent unauthorized access.

(k) Evacuate bystanders, residents and businesses within the inner and then outer perimeter as appropriate. Check for injuries, the presence of other involved subjects, witnesses, evidence or additional information.

(l) Determine the need for and notify the appropriate persons within and outside the Office, such as command officers and the PIO.

(m) If necessary and available, establish a tactical or exclusive radio frequency for the incident.

401.5 SUPERVISOR RESPONSIBILITIES

Upon being notified that a hostage or barricade situation exists, the supervisor should immediately respond to the scene, assess the risk level of the situation, establish a proper chain of command and assume the role of Incident Commander until properly relieved. This includes requesting a local jurisdictionresponse if appropriate and apprising the N/A Commander of the circumstances. In addition, the following options should be considered:

(a) Ensure injured persons are evacuated and treated by medical personnel.

(b) Ensure the completion of necessary first responder responsibilities or assignments.

(c) Request crisis negotiators, specialized units, additional personnel, resources or equipment as appropriate.

(d) Establish a command post location as resources and circumstances permit.

(e) Designate assistants who can help with intelligence information and documentation of the incident.

(f) If it is practicable to do so, arrange for video documentation of the operation.

(g) Consider contacting utility and communication providers to restrict such services (e.g., restricting electric power, gas, telephone service).

1. When considering restricting communication services, a supervisor should make the determination that there is reason to believe an emergency situation exists involving immediate danger of death or great bodily harm and that an interruption to communication services is necessary to protect public safety (Penal Code § 11471). The supervisor must ensure the Office obtains a court order, in accordance with Penal Code § 11472, prior to requesting the interruption. In the case of an extreme emergency when there is insufficient time to obtain an order

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prior to the request, application for the order must be submitted within six hours after initiating the interruption. If six hours is not possible, then the application for the court order shall be made at the first reasonably available opportunity, but no later than 24 hours in accordance with Penal Code § 11475.

(h) Ensure adequate law enforcement coverage for the remainder of the County during the incident. The supervisor should direct non-essential personnel away from the scene unless they have been summoned by the on scene supervisor.

(i) Identify a media staging area outside the outer perimeter and have the office Public Information Officer or a designated temporary media representative provide media access in accordance with the Media Relations Policy.

(j) Identify the need for mutual aid and the transition or relief of personnel for incidents of extended duration.

(k) Debrief personnel and review documentation as appropriate.

401.6 REPORTING

Unless otherwise relieved by a supervisor or Incident Commander, the initial sworn member at the scene is responsible for completion and/or coordination of incident reports.

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Mental Illness Commitments

402.1 PURPOSE AND SCOPE

This policy provides guidelines for when sworn members may take a person into custody for psychiatric evaluation and treatment (5150 commitment) (Welfare and Institutions Code § 5150).

402.2 POLICY

It is the policy of the Contra Costa County District Attorney's Office to protect the public and individuals through legal and appropriate use of the 72-hour treatment and evaluation commitment (5150 commitment) process.

402.3 AUTHORITY

A sworn member having probable cause may take a person into custody and place the person in an approved mental health facility for 72-hour treatment and evaluation when the sworn member believes that, as a result of a mental disorder, the person is a danger to him/herself or others or the person is gravely disabled (Welfare and Institutions Code § 5150; Welfare and Institutions Code § 5585.50).

When determining whether to take a person into custody, sworn members are not limited to determining the person is an imminent danger and shall consider reasonably available information about the historical course of the person's mental disorder, which may include evidence presented from any of the following (Welfare and Institutions Code § 5150; Welfare and Institutions Code § 5150.05):

(a) An individual who is providing or has provided mental health treatment or related support services to the person

(b) A family member

(c) The person subject to the determination or anyone designated by the person

402.3.1 VOLUNTARY EVALUATION

If a sworn member encounters an individual who may qualify for a 5150 commitment, he/she may inquire as to whether the person desires to voluntarily be evaluated at an appropriate facility. If the person so desires, the sworn members should:

(a) Transport the person to an appropriate facility that is able to conduct the evaluation and admit the person pursuant to a 5150 commitment.

(b) If at any point the person changes his/her mind regarding voluntary evaluation, sworn members should proceed with the 5150 commitment, if appropriate.

(c) Document the circumstances surrounding the individual's desire to pursue voluntary evaluation and/or admission.

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402.4 CONSIDERATIONS AND RESPONSIBILITIES

Any sworn member handling a matter involving an individual who may qualify for a 5150 commitment should consider, as time and circumstances reasonably permit:

(a) Available information that might assist in determining the cause and nature of the person's action or stated intentions.

(b) Community or neighborhood mediation services.

(c) Conflict resolution and de-escalation techniques.

(d) Community or other resources available to assist in dealing with mental health issues.

While these steps are encouraged, nothing in this section is intended to dissuade sworn members from taking reasonable action to ensure the safety of the sworn members and others.

Sworn members should consider a 5150 commitment over arrest when mental health issues appear to be a mitigating factor for people who are suspected of committing minor crimes or creating other public safety issues.

402.4.1 SECURING OF PROPERTY

When a person is taken into custody for evaluation, or within a reasonable time thereafter, and unless a responsible relative, guardian or conservator is in possession of the person's personal property, the sworn member shall take reasonable precautions to safeguard the individual's personal property in his/her possession or on the premises occupied by the person (Welfare and Institutions Code § 5150).

The sworn member taking the person into custody shall provide a report to the court that describes the person's property and its disposition in the format provided in Welfare and Institutions Code § 5211, unless a responsible person took possession of the property, in which case the sworn member shall only include the name of the responsible person and the location of the property (Welfare and Institutions Code § 5150).

402.5 TRANSPORTATION

When securing transportation of any individual for a 5150 commitment, the handling sworn member should notify the receiving facility of the estimated time of arrival, the level of cooperation of the individual and whether any special medical care is needed.

Sworn members shall not transport individuals in their investigations division vehicle. Sworn members should request the assistance of the local law enforcement jurisdiction for transportation with a caged unit and shall secure the individual in accordance with the Handcuffing and Restraints Policy. Violent patients, or those that are medically unstable, may be restrained and transported by ambulance personnel.

402.6 TRANSFER TO APPROPRIATE FACILITY

Upon arrival at the facility, the sworn member will escort the individual into a treatment area designated by a facility staff member. If the individual is not seeking treatment voluntarily, the

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sworn member should provide the staff member with the written application for a 5150 commitment and remain present to provide clarification of the grounds for detention, upon request.

Absent exigent circumstances, the transporting sworn member should not assist facility staff with the admission process, including restraint of the individual. However, if the individual is transported and delivered while restrained, the sworn member may assist with transferring the individual to facility restraints and will be available to assist during the admission process, if requested. Under normal circumstances, sworn members will not apply facility-ordered restraints.

402.7 DOCUMENTATION

The sworn member shall complete an application for a 72-Hour detention for evaluation and treatment, provide it to the facility staff member assigned to that patient and retain a copy of the application for inclusion in the case report.

The application shall include the circumstances for sworn member involvement; the probable cause to believe the person is, as a result of a mental health disorder, a danger to others or him/herself or gravely disabled; and all information used for the determination of probable cause (Welfare and Institutions Code § 5150; Welfare and Institutions Code § 5150.05).

The sworn member should also provide a verbal summary to any evaluating staff member regarding the circumstances leading to the involuntary detention.

402.7.1 ADVISEMENT

The sworn member taking a person into custody for evaluation shall advise the person of:

(a) The sworn member's name and agency.

(b) The fact that the person is not under criminal arrest but is being taken for examination by mental health professionals and the mental health staff will advise him/her of their rights.

(c) The name of the facility to which the person is being taken.

(d) If the person is being taken into custody at his/her residence, he/she should also be advised that he/she may take a few personal items, which the sworn member must approve, and may make a telephone call or leave a note indicating where he/she is being taken. The sworn member should also ask if the person needs assistance turning off any appliance or water.

The advisement shall be given in a language the person understands. If the person cannot understand an oral advisement, the information shall be provided in writing (Welfare and Institutions Code § 5150).

402.8 CRIMINAL OFFENSES

Sworn members investigating an individual who is suspected of committing a minor criminal offense and who is being taken on a 5150 commitment should resolve the criminal matter by issuing a warning or a Notice to Appear as appropriate.

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When an individual who may qualify for a 5150 commitment has committed a serious criminal offense that would normally result in an arrest and transfer to a jail facility, the sworn member should:

(a) Arrest the individual when there is probable cause to do so.

(b) Notify the appropriate supervisor of the facts supporting the arrest and the facts that would support the 5150 commitment.

(c) Facilitate the individual's transfer to jail.

(d) Thoroughly document in the related reports the circumstances that indicate the individual may qualify for a 5150 commitment.

In the supervisor's judgment, the individual may instead be arrested or booked and transported to the appropriate mental health facility. The supervisor should consider the seriousness of the offense, the treatment options available, the ability of this office to regain custody of the individual, office resources (e.g., posting a guard) and other relevant factors in making this decision.

402.9 FIREARMS AND OTHER WEAPONS

Whenever a person is taken into custody for a 5150 commitment, the handling sworn members should seek to determine if the person owns or has access to any firearm or other deadly weapon defined in Welfare and Institutions Code § 8100. Sworn members should consider whether it is appropriate and consistent with current search and seizure law under the circumstances to seize any such firearms or other dangerous weapons (e.g., safekeeping, evidence, consent).

Sworn members are cautioned that a search warrant may be needed before entering a residence or other place to search, unless lawful, warrantless entry has already been made (e.g., exigent circumstances, consent). A search warrant may also be needed before searching for or seizing weapons

The handling sworn members shall issue a receipt describing the deadly weapon or any firearm seized, and list any serial number or other identification that is on the firearm. Sworn members shall advise the person of the procedure for the return of any firearm or other weapon that has been taken into custody (Welfare and Institutions Code § 8102 (b)) (see Property and Evidence Policy).

402.9.1 PETITION FOR RETURN OF FIREARMS AND OTHER WEAPONS

Whenever the handling sworn member has cause to believe that the future return of any confiscated weapon might endanger the person or others, the sworn member shall detail those facts and circumstances in a report. The report shall be forwarded to the Investigations Division, which shall be responsible for initiating a petition to the Superior Court for a hearing in accordance with Welfare and Institutions Code § 8102(c), to determine whether the weapon will be returned.

The petition to the Superior Court shall be initiated within 30 days of the release of the individual from whom such weapon has been confiscated, unless the Office makes an ex parte application to the court to extend the time to file such a petition, up to a maximum of 60 days. At the time any such

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petition is initiated, the Office shall send written notice to the individual informing him/her of the right to a hearing on the issue, that he/she has 30 days to confirm with the court clerk any desire for a hearing and that the failure to do so will result in the forfeiture of any confiscated weapon.

402.10 TRAINING

This office will endeavor to provide Peace Officer Standards and Training (POST)-approved advanced officer training on interaction with persons with mental disabilities, 5150 commitments and crisis intervention.

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Foreign Diplomatic and Consular Representatives

403.1 PURPOSE AND SCOPE

This policy provides guidelines to ensure that members of the Contra Costa County District Attorney's Office Investigations Division extend appropriate privileges and immunities to foreign diplomatic and consular representatives in accordance with international law.

403.2 POLICY

The Contra Costa County District Attorney's Office respects international laws related to the special privileges and immunities afforded foreign diplomatic and consular representatives assigned to the United States.

403.3 CLAIMS OF IMMUNITY

If a member comes into contact with a person where law enforcement action may be warranted and the person claims diplomatic or consular privileges and immunities, the member should, without delay:

(a) Notify a supervisor.

(b) Advise the person that his/her claim will be investigated and he/she may be released in accordance with the law upon confirmation of the person's status.

(c) Request the person's identification card, either issued by the U.S. Department of State (DOS), Office of the Chief of Protocol, or in the case of persons accredited to the United Nations, by the U.S. Mission to the United Nations. These are the only reliable documents for purposes of determining privileges and immunities.

(d) Contact the DOS Diplomatic Security Command Center at 571-345-3146 or toll free at 866-217-2089, or at another current telephone number and inform the center of the circumstances.

(e) Verify the immunity status with DOS and follow any instructions regarding further detention, arrest, prosecution and/or release, as indicated by the DOS representative. This may require immediate release, even if a crime has been committed.

Identity or immunity status should not be presumed from the type of license plates displayed on a vehicle. If there is a question as to the status or the legitimate possession of a Diplomat or Consul license plate, a query should be run via the National Law Enforcement Telecommunications System (NLETS), designating "US" as the state.

403.4 ENFORCEMENT

If the DOS is not immediately available for consultation regarding law enforcement action, members shall be aware of the following:

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(a) Generally, all persons with diplomatic and consular privileges and immunities may be issued a citation or notice to appear. However, the person may not be compelled to sign the citation.

(b) All persons, even those with a valid privilege or immunity, may be reasonably restrained in exigent circumstances for purposes of self-defense, public safety or the prevention of serious criminal acts.

(c) An impaired foreign diplomatic or consular representative may be prevented from driving a vehicle, even if the person may not be arrested due to privileges and immunities.

1. Investigations, including the request for field sobriety tests, chemical tests and any other tests regarding impaired driving may proceed but they shall not be compelled.

(d) The following persons may not be detained or arrested, and any property or vehicle owned by these persons may not be searched or seized:

1. Diplomatic-level staff of missions to international organizations and recognized family members
2. Diplomatic agents and recognized family members
3. Members of administrative and technical staff of a diplomatic mission and recognized family members
4. Career consular officers, unless the person is the subject of a felony warrant

(e) The following persons may generally be detained and arrested:

1. International organization staff; however, some senior officers are entitled to the same treatment as diplomatic agents.
2. Support staff of missions to international organizations
3. Diplomatic service staff and consular employees; however, special bilateral agreements may exclude employees of certain foreign countries.
4. Honorary consular officers
5. Whenever a sworn member arrests and incarcerates, or detains for investigation for over two hours, a person with diplomatic and consular privileges and immunities, the sworn member shall promptly advise the person that he/she is entitled to have his/her government notified of the arrest or detention (Penal Code § 834c). If the individual wants his/her government notified, the sworn member shall begin the notification process.

403.5 DOCUMENTATION

All contacts with persons who have claimed privileges and immunities afforded foreign diplomatic and consular representatives should be thoroughly documented and the related reports forwarded to DOS.

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403.6 DIPLOMATIC IMMUNITY TABLE

Reference table on diplomatic immunity:

Category	Arrested or Detained	Enter Residence Subject to Ordinary Procedures	Issued Traffic Citation	Subpoenaed as Witness	Prosecuted	Recognized Family Members
Diplomatic Agent	No (note (b))	No	Yes	No	No	Same as sponsor (full immunity & inviolability)
Member of Admin and Tech Staff	No (note (b))	No	Yes	No	No	Same as sponsor (full immunity & inviolability)
Service Staff	Yes (note (a))	Yes	Yes	Yes	No for official acts. Yes otherwise (note (a))	No immunity or inviolability (note (a))
Career Consul Officer	Yes if for a felony and pursuant to a warrant (note (a))	Yes (note (d))	Yes	No for official acts Testimony may not be compelled in any case	No for official acts. Yes otherwise (note (a))	No immunity or inviolability
Honorable Consul Officer	Yes	Yes	Yes	No for official acts Yes otherwise.	No for official acts Yes otherwise	No immunity or inviolability
Consulate Employees	Yes (note (a))	Yes	Yes	No for official acts Yes otherwise.	No for official acts. Yes otherwise (note (a))	No immunity or inviolability (note (a))
Int'l Org Staff (note (b))	Yes (note (c))	Yes (note (c))	Yes	Yes (note (c))	No for official acts. Yes otherwise (note (c))	No immunity or inviolability
Diplomatic-Level Staff of Missions to Int'l Org	No (note (b))	No	Yes	No	No	Same as sponsor (full immunity & inviolability)

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Support Staff of Missions to Int'l Orgs	Yes	Yes	Yes	Yes	No for official acts Yes otherwise	No immunity or inviolability

Notes for diplomatic immunity table:

(a) This table presents general rules. The employees of certain foreign countries may enjoy higher levels of privileges and immunities on the basis of special bilateral agreements.

(b) Reasonable constraints, however, may be applied in emergency circumstances involving self-defense, public safety, or in the prevention of serious criminal acts.

(c) A small number of senior officers are entitled to be treated identically to diplomatic agents.

(d) Note that consul residences are sometimes located within the official consular premises. In such cases, only the official office space is protected from police entry.

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Immigration Violations

404.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidelines to members of the Contra Costa County District Attorney's Office relating to immigration and interacting with federal immigration officials.

404.1.1 DEFINITIONS

The following definitions apply to this policy (Government Code § 7284.4):

Criminal immigration violation - Any federal criminal immigration violation that penalizes a person’s presence in, entry, or reentry to, or employment in, the United States. This does not include any offense where a judicial warrant already has been issued.

Immigration enforcement - Any and all efforts to investigate, enforce, or assist in the investigation or enforcement of any federal civil immigration law, including any and all efforts to investigate, enforce, or assist in the investigation or enforcement of any federal criminal immigration law that penalizes a person's presence in, entry or reentry to, or employment in the United States.

Judicial warrant - An arrest warrant for a violation of federal criminal immigration law and issued by a federal judge or a federal magistrate judge.

404.2 POLICY

It is the policy of the Contra Costa County District Attorney's Office that all members make personal and professional commitments to equal enforcement of the law and equal service to the public. Confidence in this commitment will increase the effectiveness of this office in protecting and serving the entire community and recognizing the dignity of all persons, regardless of their national origin or immigration status.

404.3 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 law enforcement will not automatically lead to immigration inquiry and/or deportation. While it may be necessary to determine the identity of a victim or witness, members shall treat all individuals equally and not in any way that would violate the United States or California constitutions.

404.4 IMMIGRATION INQUIRIES PROHIBITED

Sworn members shall not inquire into an individual’s immigration status for immigration enforcement purposes (Government Code § 7284.6).

404.4.1 CALIFORNIA LAW ENFORCEMENT TELECOMMUNICATIONS SYSTEM (CLETS)

Members shall not use information transmitted through CLETS for immigration enforcement purposes except for criminal history information and only when consistent with the California Values Act (Government Code § 15160).

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Members shall not use the system to investigate immigration violations of 8 USC § 1325 (improper entry) if that violation is the only criminal history in an individual's record (Government Code § 15160).

404.5 DETENTIONS AND ARRESTS

A sworn member shall not detain any individual, for any length of time, for a civil violation of federal immigration laws or a related civil warrant (Government Code § 7284.6).

A sworn member who has a reasonable suspicion that an individual already lawfully contacted or detained has committed a criminal violation of 8 USC § 1326(a) (unlawful reentry) that may be subject to an enhancement due to a previous conviction of an aggravated felony under 8 USC § 1326(b)(2), may detain the person for a reasonable period of time to contact federal immigration officials to verify whether the United States Attorney General has granted the individual permission for reentry and whether the violation is subject to enhancement (Government Code § 7284.6). No individual who is otherwise ready to be released should continue to be detained only because questions about the individual's status are unresolved.

If the sworn member has facts that establish probable cause to believe that a person already lawfully detained has violated 8 USC § 1326(a) and the penalty may be subject to enhancement due to prior conviction for specified aggravated felonies, he/she may arrest the individual for that offense (Government Code § 7284.6).

A sworn member shall not detain any individual, for any length of time, for any other criminal immigration violation of federal immigration laws (Government Code § 7284.6).

A sworn member should notify a supervisor as soon as practicable whenever an individual is arrested for violation of 8 USC § 1326(a).

404.5.1 SUPERVISOR RESPONSIBILITIES

When notified that a sworn member has arrested an individual for violation of 8 USC § 1326(a) or under the authority of a judicial warrant, the supervisor should determine whether it is appropriate to:

(a) Transfer the person to federal authorities.

(b) Transfer the person to jail.

404.6 FEDERAL REQUESTS FOR ASSISTANCE

Absent an urgent issue of officer safety or other emergency circumstances, requests by federal immigration officials for assistance from this office should be directed to a supervisor. The supervisor is responsible for determining whether the requested assistance would be permitted under the California Values Act (Government Code § 7284.2 et seq.).

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404.7 INFORMATION SHARING

No member of this office will prohibit, or in any way restrict, any other member from doing any of the following regarding the citizenship or immigration status, lawful or unlawful, of any individual (8 USC § 1373; Government Code § 7284.6):

(a) Sending information to, or requesting or receiving such information from federal immigration officials

(b) Maintaining such information in office records

(c) Exchanging such information with any other federal, state, or local government entity

Nothing in this policy restricts sharing information that is permissible under the California Values Act.

404.7.1 IMMIGRATION DETAINERS

No individual should be held based solely on a federal immigration detainer under 8 CFR 287.7 (Government Code § 7284.6).

Notification to a federal authority may be made prior to release of an individual who is the subject of a notification request only if the individual meets one of the following conditions (Government Code § 7282.5; Government Code § 7284.6):

(a) The individual has been arrested and had a judicial probable cause determination for a serious or violent felony identified in Penal Code § 667.5(c) or Penal Code § 1192.7(c).

(b) The individual has been arrested and had a judicial probable cause determination for a felony punishable by time in a state prison.

(c) The individual has been convicted of an offense as identified in Government Code § 7282.5(a).

(d) The individual is a current registrant on the California Sex and Arson Registry.

(e) The individual is identified by the U.S. Department of Homeland Security’s Immigration and Customs Enforcement as the subject of an outstanding federal felony arrest warrant.

404.7.2 NOTICE TO INDIVIDUALS

Individuals in custody shall be given a copy of documentation received from U.S. Immigration and Customs Enforcement (ICE) regarding a hold, notification, or transfer request along with information as to whether the Contra Costa County District Attorney's Office intends to comply with the request (Government Code § 7283.1).

If the Contra Costa County District Attorney's Office provides ICE with notification that an individual is being, or will be, released on a certain date, the same notification shall be provided in writing to the individual and to his/her attorney or to one additional person who the individual may designate (Government Code § 7283.1).

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404.7.3 ICE INTERVIEWS

Before any interview regarding civil immigration violations takes place between ICE personnel and an individual in custody, the Contra Costa County District Attorney's Office 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. The consent form must be available in the languages specified in Government Code § 7283.1.

404.7.4 TRANSFERS TO IMMIGRATION AUTHORITIES

Members shall not transfer an individual to immigration authorities unless one of the following circumstances exist (Government Code § 7282.5; Government Code § 7284.6):

(a) Transfer is authorized by a judicial warrant or judicial probable cause determination.

(b) The individual has been convicted of an offense as identified in Government Code § 7282.5(a).

(c) The individual is a current registrant on the California Sex and Arson Registry.

(d) The individual is identified by the U.S. Department of Homeland Security's Immigration and Customs Enforcement as the subject of an outstanding federal felony arrest warrant.

404.7.5 REPORTING TO CALIFORNIA DEPARTMENT OF JUSTICE

The Investigations Division supervisor shall ensure that data regarding the number of transfers of an individual to immigration authorities, as permitted by Government Code § 7284.6(a)(4), and the offense that allowed for the transfer is collected and provided to the Office Manager for required reporting to the DOJ (Government Code § 7284.6(c)(2)(see the Records Section Policy).

404.8 U VISA AND T VISA NONIMMIGRANT STATUS

Under certain circumstances, federal law allows temporary immigration benefits, known as a U visa, to victims and witnesses of certain qualifying crimes (8 USC § 1101(a)(15)(U)).

Similar immigration protection, known as a T visa, is available for certain qualifying victims of human trafficking (8 USC § 1101(a)(15)(T)).

Any request for assistance in applying for U visa or T visa status should be forwarded in a timely manner to the Investigations Division supervisor assigned to oversee the handling of any related case. The Investigations Division supervisor should:

(a) Consult with the assigned investigator to determine the current status of any related case and whether further documentation is warranted.

(b) Contact the appropriate prosecutor assigned to the case, if applicable, to ensure the certification or declaration has not already been completed and whether a certification or declaration is warranted.

(c) Address the request and complete the certification or declaration, if appropriate, in a timely manner.

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1. The instructions for completing certification and declaration forms can be found on the U.S. Department of Homeland Security (DHS) website.
2. Form I-918 Supplement B certification shall be completed if the victim qualifies under Penal Code § 679.10 (multiple serious offenses). Form I-914 Supplement B certification shall be completed if the victim qualifies under Penal Code § 236.5 or Penal Code § 679.11 (human trafficking).

(d) Ensure that any decision to complete, or not complete, a certification or declaration form is documented in the case file and forwarded to the appropriate prosecutor. Include a copy of any completed form in the case file.

(e) Inform the victim liaison of any requests and their status.

404.8.1 TIME FRAMES FOR COMPLETION

Sworn members and their supervisors who are assigned to investigate a case of human trafficking as defined by Penal Code § 236.1 shall complete the above process and the documents needed for indicating the individual is a victim for the T visa application within 15 business days of the first encounter with the victim, regardless of whether it is requested by the victim (Penal Code § 236.5).

Sworn members and their supervisors shall complete the above process and the documents needed certifying victim cooperation for a U visa or T visa application pursuant to Penal Code § 679.10 and Penal Code § 679.11 within 30 days of a request from the victim, victim's family, or authorized representative (as defined in Penal Code § 679.10 and Penal Code § 679.11) related to one of their assigned cases. If the victim is in removal proceedings, the certification shall be processed within seven days of the first business day following the day the request was received.

404.8.2 REPORTING TO LEGISLATURE

The Investigations Division supervisor or the authorized designee should ensure that certification requests are reported to the Legislature in January of each year and include the number of certifications signed and the number denied. The report shall comply with Government Code § 9795 (Penal Code § 679.10; Penal Code § 679.11).

404.8.3 POLICE REPORTS

Upon request, a sworn member or supervisor should provide a victim or authorized representative with a copy of the report filed by the victim within seven days of the request (Penal Code § 679.10).

404.9 TRAINING

The Sworn member shall ensure that all appropriate members receive immigration training.

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Contacts and Temporary Detentions

405.1 PURPOSE AND SCOPE

The purpose of this policy is to establish guidelines for temporarily detaining but not arresting persons in the field, conducting field interviews (FI) and pat-down searches, and the taking and disposition of photographs.

405.1.1 DEFINITIONS

Definitions related to this policy include:

Consensual encounter - When a sworn member contacts an individual but does not create a detention through words, actions, or other means. In other words, a reasonable individual would believe that his/her contact with the sworn member is voluntary.

Field interview - The brief detainment of an individual, whether on foot or in a vehicle, based on reasonable suspicion for the purpose of determining the individual's identity and resolving the sworn member's suspicions.

Field photographs - Posed photographs taken of a person during a contact, temporary detention, or arrest in the field. Undercover surveillance photographs of an individual and recordings captured by the normal operation of a Mobile Audio Video (MAV) system, body-worn camera, or public safety camera when persons are not posed for the purpose of photographing are not considered field photographs.

Pat-down search - A type of search used by sworn members in the field to check an individual for dangerous weapons. It involves a thorough patting-down of clothing to locate any weapons or dangerous items that could pose a danger to the sworn member, the detainee, or others.

Reasonable suspicion - When, under the totality of the circumstances, a sworn member has articulable facts that criminal activity may be afoot and a particular person is connected with that possible criminal activity.

Temporary detention - When a sworn member intentionally, through words, actions, or physical force, causes an individual to reasonably believe he/she is required to restrict his/her movement without an actual arrest. Temporary detentions also occur when a sworn member actually restrains a person’s freedom of movement.

405.2 POLICY

The Contra Costa County District Attorney's Office respects the right of the public to be free from unreasonable searches or seizures. Due to an unlimited variety of situations confronting the sworn member, the decision to temporarily detain a person and complete a field interview (FI), pat-down search, or field photograph shall be left to the sworn member based on the totality of the circumstances, officer safety considerations, and constitutional safeguards.

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405.3 FIELD INTERVIEWS

Based on observance of suspicious circumstances or upon information from investigation, a sworn member may initiate the stop of a person, and conduct an FI, when there is articulable, reasonable suspicion to do so. A person, however, shall not be detained longer than is reasonably necessary to resolve the sworn member's suspicion.

Nothing in this policy is intended to discourage consensual contacts. Frequent casual contact with consenting individuals is encouraged by the Contra Costa County District Attorney's Office to strengthen community involvement, community awareness, and problem identification.

405.3.1 INITIATING A FIELD INTERVIEW

When initiating the stop, the sworn member should be able to point to specific facts which, when considered with the totality of the circumstances, reasonably warrant the stop. Such facts include but are not limited to an individual's:

(a) Appearance or demeanor suggesting that he/she is part of a criminal enterprise or is engaged in a criminal act

(b) Actions suggesting that he/she is engaged in a criminal activity

(c) Presence in an area at an inappropriate hour of the day or night

(d) Presence in a particular area is suspicious

(e) Carrying of suspicious objects or items

(f) Excessive clothes for the climate or clothes bulging in a manner that suggest he/she is carrying a dangerous weapon

(g) Location in proximate time and place to an alleged crime

(h) Physical description or clothing worn that matches a suspect in a recent crime

(i) Prior criminal record or involvement in criminal activity as known by the sworn member

405.4 PAT-DOWN SEARCHES

Once a valid stop has been made, and consistent with the sworn member's training and experience, a sworn member may pat a suspect's outer clothing for weapons if the sworn member has a reasonable, articulable suspicion the suspect may pose a safety risk. The purpose of this limited search is not to discover evidence of a crime, but to allow the sworn member to pursue the investigation without fear of violence. Circumstances that may establish justification for performing a pat-down search include but are not limited to:

(a) The type of crime suspected, particularly in crimes of violence where the use or threat of deadly weapons is involved.

(b) Where more than one suspect must be handled by a single sworn member.

(c) The hour of the day and the location or neighborhood where the stop takes place.

(d) Prior knowledge of the suspect's use of force and/or propensity to carry weapons.

(e) The actions and demeanor of the suspect.

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(f) Visual indications which suggest that the suspect is carrying a firearm or other weapon.

Whenever practicable, a pat-down search should not be conducted by a lone sworn member. A cover sworn membershould be positioned to ensure safety and should not be involved in the search.

405.5 FIELD PHOTOGRAPHS

All available databases should be searched before photographing any field detainee. If a photograph is not located, or if an existing photograph no longer resembles the detainee, the sworn member shall carefully consider, among other things, the factors listed below.

405.5.1 FIELD PHOTOGRAPHS TAKEN WITH CONSENT

Field photographs may be taken when the subject being photographed knowingly and voluntarily gives consent. When taking a consensual photograph, the sworn member should have the individual read and sign the appropriate form accompanying the photograph.

405.5.2 FIELD PHOTOGRAPHS TAKEN WITHOUT CONSENT

Field photographs may be taken without consent only if they are taken during a detention that is based upon reasonable suspicion of criminal activity, and the photograph serves a legitimate law enforcement purpose related to the detention. The sworn member must be able to articulate facts that reasonably indicate that the subject was involved in or was about to become involved in criminal conduct. The subject should not be ordered to remove or lift any clothing for the purpose of taking a photograph.

If, prior to taking a photograph, the sworn member’s reasonable suspicion of criminal activity has been dispelled, the detention must cease and the photograph should not be taken.

All field photographs and related reports shall be submitted to a supervisor and retained in compliance with this policy.

405.5.3 DISPOSITION OF PHOTOGRAPHS

All detainee photographs must be adequately labeled and submitted to the N/A with either an associated FI card or other documentation explaining the nature of the contact. If an individual is photographed as a suspect in a particular crime, the photograph should be submitted as an evidence item in the related case, following standard evidence procedures.

If a photograph is not associated with an investigation where a case number has been issued, the N/A should review and forward the photograph to one of the following locations:

(a) If the photograph and associated FI or documentation is relevant to criminal organization/enterprise enforcement, the N/A will forward the photograph and documents to the designated criminal intelligence system supervisor. The supervisor will ensure the photograph and supporting documents are retained as prescribed in the Criminal Organizations Policy.

(b) Photographs that do not qualify for retention in a criminal intelligence system or temporary information file shall be forwarded to the Records Section.

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When a photograph is taken in association with a particular case, the investigator may use such photograph in a photo lineup. Thereafter, the individual photograph should be retained as a part of the case file. All other photographs shall be retained in accordance with the established records retention schedule.

405.5.4 SUPERVISOR RESPONSIBILITIES
While it is recognized that field photographs often become valuable investigative tools, supervisors should monitor such practices in view of the above listed considerations. This is not to imply that supervisor approval is required before each photograph is taken.

Access to, and use of, field photographs shall be strictly limited to law enforcement purposes.

405.6 WITNESS IDENTIFICATION AND INTERVIEWS

Because potential witnesses to an incident may become unavailable or the integrity of their statements compromised with the passage of time, sworn members should, when warranted by the seriousness of the case, take reasonable steps to promptly coordinate with an on-scene supervisor and/or criminal investigator to utilize available members for the following:

(a) Identifying all persons present at the scene and in the immediate area.

1. When feasible, a recorded statement should be obtained from those who claim not to have witnessed the incident but who were present at the time it occurred.

2. Any potential witness who is unwilling or unable to remain available for a formal interview should not be detained absent reasonable suspicion to detain or probable cause to arrest. Without detaining the individual for the sole purpose of identification, sworn members should attempt to identify the witness prior to his/her departure.

(b) Witnesses who are willing to provide a formal interview should be asked to meet at a suitable location where criminal investigators may obtain a recorded statement. Such witnesses, if willing, may be transported by Contra Costa County District Attorney's Office members.

1. A written, verbal, or recorded statement of consent should be obtained prior to transporting a witness. When the witness is a minor, consent should be obtained from the parent or guardian, if available, prior to transport.

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Portable Audio/Video Recorders

406.1 PURPOSE AND SCOPE

This policy provides guidelines for the use of portable audio/video recording devices by members of this office while in the performance of their duties. Portable audio/video recording devices include all recording systems whether body-worn, hand held or integrated into portable equipment.

This policy does not apply to mobile audio/video recordings, interviews or interrogations conducted at any Contra Costa County District Attorney's Office facility, authorized undercover operations, wiretaps or eavesdropping (concealed listening devices).

406.2 POLICY

The Contra Costa County District Attorney's Office may provide members with access to portable recorders, either audio or video or both, for use during the performance of their duties. The use of recorders is intended to enhance the mission of the Office by accurately capturing contacts between members of the Office and the public.

406.3 MEMBER PRIVACY EXPECTATION

All recordings made by members on any office-issued device at any time, and any recording made while acting in an official capacity for this office, regardless of ownership of the device it was made on, shall remain the property of the Office. Members shall have no expectation of privacy or ownership interest in the content of these recordings.

406.4 MEMBER RESPONSIBILITIES

All sworn members may carry an approved portable recorder at any time the member believes that such a device may be useful. Unless conducting a lawful recording in an authorized undercover capacity, members should notify persons that they are being recorded, whenever reasonably practicable.

When using a portable recorder, the member shall record his/her name, and the current date and time at the beginning and the end of the recording.

Members should document the existence of a recording in any report or other official record of the contact, including any instance where the recorder malfunctioned or the member deactivated the recording. Members should include the reason for deactivation.

406.5 ACTIVATION OF THE PORTABLE RECORDER

This policy is not intended to describe every possible situation in which the portable recorder should be used, although there are many situations where its use is appropriate. Members should activate the recorder any time the member believes it would be appropriate or valuable to record an incident.

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Members should remain sensitive to the dignity of all individuals being recorded and exercise sound discretion to respect privacy by discontinuing recording whenever it reasonably appears to the member that such privacy may outweigh any legitimate law enforcement interest in recording. Requests by members of the public to stop recording should be considered using this same criterion. Recording should resume when privacy is no longer at issue unless the circumstances no longer fit the criteria for recording.

At no time is a member expected to jeopardize his/her safety in order to activate a portable recorder or change the recording media.

406.5.1 CESSATION OF RECORDING

Once activated, the portable recorder should remain on continuously until the member reasonably believes that his/her direct participation in the incident is complete or the situation no longer fits the criteria for activation. Recording may be stopped during significant periods of inactivity such as report writing or other breaks from direct participation in the incident.

Members shall cease audio recording whenever necessary to ensure conversations are not recorded between a person in custody and the person’s attorney, religious advisor or physician, unless there is explicit consent from all parties to the conversation (Penal Code § 636).

406.5.2 SURREPTITIOUS USE OF THE PORTABLE RECORDER

Members of the Office may surreptitiously record any conversation during the course of a criminal investigation in which the member reasonably believes that such a recording will be lawful and beneficial to the investigation (Penal Code § 633).

Members shall not surreptitiously record another office member without a court order unless lawfully authorized by the Chief of Investigations or the authorized designee.

406.6 PROHIBITED USE OF PORTABLE RECORDERS

Members are prohibited from using office-issued portable recorders and recording media for personal use and are prohibited from making personal copies of recordings created while on-duty or while acting in their official capacity.

Members are also prohibited from retaining recordings of activities or information obtained while on-duty, whether the recording was created with office-issued or personally owned recorders. Members shall not duplicate or distribute such recordings, except for authorized legitimate office business purposes. All such recordings shall be retained at the Office.

Members are prohibited from using personally owned recording devices while on-duty without the express consent of the N/A. Any member who uses a personally owned recorder for office-related activities shall comply with the provisions of this policy, including retention and release requirements, and should notify the on-duty supervisor of such use as soon as reasonably practicable.

Recordings shall not be used by any member for the purpose of embarrassment, harassment or ridicule.

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406.6.1 PROHIBITED USE OF BIOMETRIC SURVEILLANCE SYSTEM
The installation, activation, or use of biometric surveillance systems, including facial recognition, in connection with portable recorders is prohibited (Penal Code § 832.19).

406.7 IDENTIFICATION AND PRESERVATION OF RECORDINGS

To assist with identifying and preserving data and recordings, members should download, tag or mark these in accordance with procedure and document the existence of the recording in any related case report.

A member should transfer, tag or mark recordings when the member reasonably believes:

(a) The recording contains evidence relevant to potential criminal, civil or administrative matters.

(b) A complainant, victim or witness has requested non-disclosure.

(c) A complainant, victim or witness has not requested non-disclosure but the disclosure of the recording may endanger the person.

(d) Disclosure may be an unreasonable violation of someone’s privacy.

(e) Medical or mental health information is contained.

(f) Disclosure may compromise an undercover officer or confidential informant.

Any time a member reasonably believes a recorded contact may be beneficial in a non-criminal matter (e.g., a hostile contact), the member should promptly notify a supervisor of the existence of the recording.

406.7.1 RETENTION REQUIREMENTS
All recordings shall be retained for a period consistent with the requirements of the organization’s records retention schedule but in no event for a period less than 180 days.

406.8 REVIEW OF RECORDED MEDIA FILES

When preparing written reports, members should review their recordings as a resource (see the Officer-Involved Shootings and Deaths Policy for guidance in those cases). However, members shall not retain personal copies of recordings. Members should not use the fact that a recording was made as a reason to write a less detailed report.

Supervisors are authorized to review relevant recordings any time they are investigating alleged misconduct or reports of meritorious conduct or whenever such recordings would be beneficial in reviewing the member’s performance.

Recorded files may also be reviewed:

(a) Upon approval by a supervisor, by any member of the Office who is participating in an official investigation, such as a personnel complaint, administrative investigation or criminal investigation.

(b) Pursuant to lawful process or by court personnel who are otherwise authorized to review evidence in a related case.

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(c) By media personnel with permission of the Chief of Investigations or the authorized designee.

(d) In compliance with a public records request, if permitted, and in accordance with the Records Maintenance and Release Policy.

All recordings should be reviewed by the Custodian of Records prior to public release (see the Records Maintenance and Release Policy). Recordings that unreasonably violate a person's privacy or sense of dignity should not be publicly released unless disclosure is required by law or order of the court.

406.9 RETENTION OF RECORDINGS

Recordings of the following should be retained for a minimum of two years (Penal Code § 832.18):

(a) Incidents involving use of force by a sworn member

(b) Officer-involved shootings

(c) Incidents that lead to the detention or arrest of an individual

(d) Recordings relevant to a formal or informal complaint against a sworn member or the Contra Costa County District Attorney's Office

Recordings containing evidence that may be relevant to a criminal prosecution should be retained for any additional period required by law for other evidence relevant to a criminal prosecution (Penal Code § 832.18).

All other recordings should be retained for a period consistent with the requirements of the organization's records retention schedule but in no event for a period less than 180 days.

Records or logs of access and deletion of recordings should be retained permanently (Penal Code § 832.18).

406.9.1 RELEASE OF AUDIO/VIDEO RECORDINGS

Requests for the release of audio/video recordings shall be processed through the Chief of Investigations.

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Foot Pursuits

407.1 PURPOSE AND SCOPE

This policy provides guidelines to assist sworn members in making the decision to initiate or continue the pursuit of a suspect on foot. Foot pursuits are inherently dangerous and require common sense, sound tactics and heightened safety awareness. A request for assistance from local law enforcement jurisdiction uniformed personnel should be a priority when initiating a foot pursuit.

407.2 POLICY

It is the policy of this Office that sworn members, when deciding to initiate or continue a foot pursuit, continuously balance the objective of apprehending the suspect with the risk and potential for injury to law enforcementpersonnel, the public or the suspect.

Sworn members are expected to act reasonably, based on the totality of the circumstances.

407.3 DECISION TO PURSUE

The safety of law enforcement members and the public should be the primary consideration when determining whether a foot pursuit should be initiated or continued. Sworn members must be mindful that immediate apprehension of a suspect is rarely more important than the safety of the public and law enforcement personnel..

Sworn members may be justified in initiating a foot pursuit of any individual the sworn member reasonably believes is about to engage in, is engaging in or has engaged in criminal activity. The decision to initiate or continue such a foot pursuit, however, must be continuously re-evaluated in light of the circumstances presented at the time.

Mere flight by a person who is not suspected of criminal activity shall not serve as justification for engaging in an extended foot pursuit without the development of reasonable suspicion regarding the individual’s involvement in criminal activity or being wanted by law enforcement.

Deciding to initiate or continue a foot pursuit is a decision that a sworn member must make quickly and under unpredictable and dynamic circumstances. It is recognized that foot pursuits may place law enforcement personnel and the public at significant risk. Therefore, no sworn member or supervisor shall be criticized or disciplined for deciding not to engage in a foot pursuit because of the perceived risk involved.

If circumstances permit, surveillance and containment are generally the safest tactics for apprehending fleeing persons. In deciding whether to initiate or continue a foot pursuit, a sworn member should continuously consider reasonable alternatives to a foot pursuit based upon the circumstances and resources available, such as:

(a) Containment of the area.

(b) Saturation of the area with law enforcement personnel, including assistance from other agencies.

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(c) A canine search

(d) Air support.

(e) Apprehension at another time when the identity of the suspect is known or there is information available that would likely allow for later apprehension, and the need to immediately apprehend the suspect does not reasonably appear to outweigh the risk of continuing the foot pursuit

407.4 GENERAL FOOT PURSUIT GUIDELINES

When reasonably practicable, sworn members should consider alternatives to engaging in or continuing a foot pursuit when:

(a) Directed by a supervisor to terminate the foot pursuit; such an order shall be considered mandatory

(b) The sworn member is acting alone.

(c) Two or more sworn members become separated, lose visual contact with one another, or obstacles separate them to the degree that they cannot immediately assist each other should a confrontation take place. In such circumstances, it is generally recommended that a single sworn member keep the suspect in sight from a safe distance and coordinate the containment effort.

(d) The sworn member is unsure of his/her location and direction of travel.

(e) The sworn member is pursuing multiple suspects and it is not reasonable to believe that the sworn member would be able to control the suspect should a confrontation occur.

(f) The physical condition of the sworn member renders him/her incapable of controlling the suspect if apprehended.

(g) The sworn member loses radio contact with the dispatcher or assisting personnel.

(h) The suspect enters a building, structure, confined space, isolated area or dense or difficult terrain, and there are insufficient law enforcement personnel to provide backup and containment. The primary sworn member should consider discontinuing the foot pursuit and coordinating containment pending the arrival of sufficient resources.

(i) The sworn member becomes aware of unanticipated or unforeseen circumstances that unreasonably increase the risk to law enforcement personnel or the public.

(j) The sworn member reasonably believes that the danger to pursuing law enforcement personnel or public outweighs the objective of immediate apprehension.

(k) The sworn member loses possession of his/her firearm or other essential equipment.

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(l) The sworn member or a third party is injured during the pursuit, requiring immediate assistance, and there are no other emergency personnel available to render assistance.

(m) The suspect's location is no longer definitely known.

(n) The identity of the suspect is established or other information exists that will allow for the suspect's apprehension at a later time, and it reasonably appears that there is no immediate threat to law enforcement personnel or the public if the suspect is not immediately apprehended.

(o) The sworn member's ability to safely continue the pursuit is impaired by inclement weather, darkness or other environmental conditions.

407.5 RESPONSIBILITIES IN FOOT PURSUITS

407.5.1 INITIATING SWORN MEMBER RESPONSIBILITIES

Unless relieved by another sworn member or a supervisor, the initiating sworn member shall be responsible for coordinating the progress of the pursuit. When acting alone and when practicable, the initiating sworn member should not attempt to overtake and confront the suspect but should attempt to keep the suspect in sight until sufficient law enforcement personnel are present to safely apprehend the suspect.

Early communication of available information from the involved sworn member is essential so that adequate resources can be coordinated and deployed to bring a foot pursuit to a safe conclusion. Sworn members should request immediate assistance from local law enforcement uniformed personnel. Sworn members initiating a foot pursuit should, at a minimum, broadcast the following information as soon as it becomes practicable and available:

(a) Location and direction of travel

(b) Call sign identifier

(c) Reason for the foot pursuit, such as the crime classification

(d) Number of suspects and description, to include name if known

(e) Whether the suspect is known or believed to be armed with a dangerous weapon

Sworn members should be mindful that radio transmissions made while running may be difficult to understand and may need to be repeated.

Absent extenuating circumstances, any sworn member unable to promptly and effectively broadcast this information should terminate the foot pursuit. If the foot pursuit is discontinued for any reason, immediate efforts for containment should be established and alternatives considered based upon the circumstances and available resources.

When a foot pursuit terminates, the sworn member will notify dispatch of his/her location and the status of the pursuit termination (e.g., suspect in custody, lost sight of suspect), and will direct

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further actions as reasonably appear necessary, to include requesting medical aid as needed for law enforcement personnel, suspects or members of the public.

407.5.2 ASSISTING SWORN MEMBER RESPONSIBILITIES
Whenever any sworn member announces that he/she is engaged in a foot pursuit, all other sworn members should minimize non-essential radio traffic to permit the involved sworn members maximum access to the radio frequency.

407.5.3 SUPERVISOR RESPONSIBILITIES
Upon becoming aware of a foot pursuit, a supervisor should respond to the area whenever possible; the supervisor does not, however, need not be physically present to exercise control over the foot pursuit. The supervisor shall continuously assess the situation in order to ensure the foot pursuit is conducted within established Office guidelines.

The supervisor shall terminate the foot pursuit when the danger to pursuing sworn members or the public appears to unreasonably outweigh the objective of immediate apprehension of the suspect.

407.6 REPORTING REQUIREMENTS

The initiating sworn member shall complete appropriate crime/arrest reports documenting, at minimum:

(a) Date and time of the foot pursuit.

(b) Initial reason and circumstances surrounding the foot pursuit.

(c) Course and approximate distance of the foot pursuit.

(d) Alleged offenses.

(e) Involved vehicles and sworn members.

(f) Whether a suspect was apprehended as well as the means and methods used.

1. Any use of force shall be reported and documented in compliance with the Use of Force Policy.

(g) Arrestee information, if applicable.

(h) Any injuries and/or medical treatment.

(i) Any property or equipment damage.

(j) Name of the supervisor and local law enforcement personnelat the scene or who handled the incident.

Assisting sworn members taking an active role in the apprehension of the suspect shall complete supplemental reports as necessary or as directed.

The supervisor reviewing the report will make a preliminary determination that the pursuit appears to be in compliance with this policy or that additional review and/or follow-up is warranted.

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Foot Pursuits

In any case in which a suspect is not apprehended and there is insufficient information to support further investigation, a supervisor may authorize that the initiating sworn member need not complete a formal report.

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Medical Aid and Response

408.1 PURPOSE AND SCOPE

This policy recognizes that members often encounter persons in need of medical aid and establishes a law enforcement response to such situations.

408.2 POLICY

It is the policy of the Contra Costa County District Attorney's Office that all sworn members and other designated members be trained to provide emergency medical aid and to facilitate an emergency medical response.

408.3 FIRST RESPONDING MEMBER RESPONSIBILITIES

Whenever practicable, members should take appropriate steps to provide initial medical aid (e.g., first aid, CPR, use of an automated external defibrillator (AED)) in accordance with their training and current certification levels. This should be done for those in need of immediate care and only when the member can safely do so.

Prior to initiating medical aid, the member should contact N/A and request response by Emergency Medical Services (EMS) as the member deems appropriate.

Members should follow universal precautions when providing medical aid, such as wearing gloves and avoiding contact with bodily fluids, consistent with the Communicable Diseases Policy. Members should use a barrier or bag device to perform rescue breathing.

When requesting EMS, the member should provide N/A with information for relay to EMS personnel in order to enable an appropriate response, including:

(a) The location where EMS is needed.

(b) The nature of the incident.

(c) Any known scene hazards.

(d) Information on the person in need of EMS, such as:

1. Signs and symptoms as observed by the member.
2. Changes in apparent condition.
3. Number of patients, sex, and age, if known.
4. Whether the person is conscious, breathing, and alert, or is believed to have consumed drugs or alcohol.
5. Whether the person is showing signs or symptoms of excited delirium or other agitated chaotic behavior.

Members should stabilize the scene whenever practicable while awaiting the arrival of EMS.

Members should not direct EMS personnel whether to transport the person for treatment.

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408.4 TRANSPORTING ILL AND INJURED PERSONS

Except in extraordinary cases where alternatives are not reasonably available, members should not transport persons who are unconscious, who have serious injuries or who may be seriously ill. EMS personnel should be called to handle patient transportation.

Sworn members should search any person who is in custody before releasing that person to EMS for transport.

A sworn member should accompany any person in custody during transport in an ambulance when requested by EMS personnel, when it reasonably appears necessary to provide security, when it is necessary for investigative purposes or when so directed by a supervisor.

Members should not provide emergency escort for medical transport or civilian vehicles.

408.5 PERSONS REFUSING EMS CARE

If a person who is not in custody refuses EMS care or refuses to be transported to a medical facility, a sworn member shall not force that person to receive care or be transported. However, members may assist EMS personnel when EMS personnel determine the person lacks mental capacity to understand the consequences of refusing medical care or to make an informed decision and the lack of immediate medical attention may result in serious bodily injury or the death of the person.

In cases where mental illness may be a factor, the sworn member should consider proceeding with a 72-hour treatment and evaluation commitment (5150 commitment) process in accordance with the Mental Illness Commitments Policy.

If a sworn member believes that a person who is in custody requires EMS care and the person refuses, he/she should encourage the person to receive medical treatment. The sworn member may also consider contacting a family member to help persuade the person to agree to treatment or who may be able to authorize treatment for the person.

If the person who is in custody still refuses, the sworn member will require the person to be transported to the nearest medical facility. In such cases, the sworn member should consult with a supervisor prior to the transport.

Members shall not sign refusal-for-treatment forms or forms accepting financial responsibility for treatment.

408.6 MEDICAL ATTENTION RELATED TO USE OF FORCE

Specific guidelines for medical attention for injuries sustained from a use of force may be found in the Use of Force, Handcuffing and Restraints, and Control Devices and Techniques.

408.7 AIR AMBULANCE

Generally, when on-scene, EMS personnel will be responsible for determining whether an air ambulance response should be requested. An air ambulance may be appropriate when there are victims with life-threatening injuries or who require specialized treatment (e.g., gunshot wounds, burns, obstetrical cases), and distance or other known delays will affect the EMS response.

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408.8 AUTOMATED EXTERNAL DEFIBRILLATOR (AED) USE

A member may use an AED only after receiving appropriate training from an approved public safety first aid and CPR course (22 CCR 100014; 22 CCR 100017; 22 CCR 100018).

408.8.1 AED USER RESPONSIBILITY

Following use of an AED, the device shall be cleaned and/or decontaminated as required. The electrodes and/or pads will be replaced as recommended by the AED manufacturer.

Any member who uses an AED should contact county dispatch as soon as possible and request response by EMS.

408.8.2 AED REPORTING

Any member using an AED will complete an incident report detailing its use.

408.8.3 AED TRAINING AND MAINTENANCE

The Office's Safety Coordinator should ensure appropriate training and refresher training is provided to members authorized to use an AED. A list of authorized members and training records shall be made available for inspection by the local EMS agency (LEMSA) or EMS authority upon request (22 CCR 100021; 22 CCR 100022; 22 CCR 100029).

The Office's Safety Coordinator is responsible for ensuring AED devices are appropriately maintained and will retain records of all maintenance in accordance with the established records retention schedule (22 CCR 100021).

408.9 SICK OR INJURED ARRESTEE

If an arrestee appears ill or injured, or claims illness or injury, he/she should be medically cleared prior to booking. If the sworn member has reason to believe the arrestee is feigning injury or illness, the sworn member should contact a supervisor, who will determine whether medical clearance will be obtained prior to booking.

If the jail or detention facility refuses to accept custody of an arrestee based on medical screening, the sworn member should note the name of the facility person refusing to accept custody and the reason for refusal, and should notify a supervisor to determine the appropriate action.

Arrestees who appear to have a serious medical issue should be transported by ambulance. Sworn members shall not transport an arrestee to a hospital without a supervisor’s approval.

Nothing in this section should delay a sworn member from requesting EMS when an arrestee reasonably appears to be exhibiting symptoms that appear to be life threatening, including breathing problems or an altered level of consciousness, or is claiming an illness or injury that reasonably warrants an EMS response in accordance with the sworn member’s training.

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408.10 FIRST AID TRAINING

The Sworn member should ensure sworn members receive initial first aid training within one year of employment and refresher training every two years thereafter (22 CCR 100016; 22 CCR 100022).

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Chapter 6 - Investigation Operations

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Investigation and Prosecution

600.1 PURPOSE AND SCOPE

The purpose of this policy is to set guidelines and requirements pertaining to the handling and disposition of criminal investigations.

600.2 POLICY

It is the policy of the Contra Costa County District Attorney's Office to investigate crimes thoroughly and with due diligence, and to evaluate and prepare criminal cases for appropriate clearance or submission to a prosecutor.

600.3 CRIMINAL INVESTIGATIONS

When assigned to a case for initial or follow-up investigation, sworn members shall proceed with due diligence in evaluating and preparing the case for appropriate clearance or presentation to a prosecutor for the filing of criminal charges, and/or facilitating discovery.

Sworn members should not rely solely on a follow-up investigation request from a prosecutor to initiate their investigation, but also utilize their skills and experience to consider other investigative options.

Sworn members should communicate regularly with the prosecutor on the case to share ideas and information. Sworn members can provide constructive input about investigation and prosecution strategy, but the prosecutor makes the final decision. If the sworn member is concerned the request is not cost efficient or is in violation of law or policy, the sworn member shall consult with a supervisor.

Sworn members are also responsible for working cooperatively with the arresting officer or lead investigator from the submittal agency and should keep them informed of any problems or significant developments.

Sworn members either through collaboration with the Victim Witness Unit or as part of their trial preparation, should maintain contact and rapport with their victims and witnesses.

600.4 CUSTODIAL INTERROGATION REQUIREMENTS

Suspects who are in custody and subjected to an interrogation shall be given the *Miranda* warning, unless an exception applies. Interview or interrogation of a juvenile shall be in accordance with the Temporary Custody of Juveniles Policy.

600.4.1 AUDIO/VIDEO RECORDINGS

Any custodial interrogation of an individual who is suspected of having committed any violent felony offense should be recorded (audio or video with audio as available) in its entirety. Regardless of where the interrogation occurs, every reasonable effort should be made to secure functional recording equipment to accomplish such recordings.

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Consideration should also be given to recording a custodial interrogation, or any investigative interview, for any other offense when it is reasonable to believe it would be appropriate and beneficial to the investigation and is otherwise allowed by law.

No recording of a custodial interrogation should be destroyed or altered without written authorization from the prosecuting attorney and the Chief of Investigations. Copies of recorded interrogations or interviews may be made in the same or a different format as the original recording, provided the copies are true, accurate and complete and are made only for authorized and legitimate law enforcement purposes.

Recordings should not take the place of a thorough report and investigative interviews. Written statements from suspects should continue to be obtained when applicable.

600.4.2 MANDATORY RECORDING OF ADULTS

Any custodial interrogation of an adult who is suspected of having committed any murder shall be recorded in its entirety. The recording should be video with audio if reasonably feasible (Penal Code § 859.5).

This recording is not mandatory when (Penal Code § 859.5):

(a) Recording is not feasible because of exigent circumstances that are later documented in a report.

(b) The suspect refuses to have the interrogation recorded, including a refusal any time during the interrogation, and the refusal is documented in a report. If feasible, the refusal shall be electronically recorded.

(c) The custodial interrogation occurred in another state by law enforcement officers of that state, unless the interrogation was conducted with the intent to avoid the requirements of Penal Code § 859.5.

(d) The interrogation occurs when no member conducting the interrogation has a reason to believe that the individual may have committed murder. Continued custodial interrogation concerning that offense shall be electronically recorded if the interrogating member develops a reason to believe the individual committed murder.

(e) The interrogation would disclose the identity of a confidential informant or would jeopardize the safety of a sworn member, the individual being interrogated or another individual. Such circumstances shall be documented in a report.

(f) A recording device fails despite reasonable maintenance and the timely repair or replacement is not feasible.

(g) The questions are part of a routine processing or booking, and are not an interrogation.

(h) The suspect is in custody for murder and the interrogation is unrelated to a murder. However, if any information concerning a murder is mentioned during the interrogation, the remainder of the interrogation shall be recorded.

The Office shall maintain an original or an exact copy of the recording until a conviction relating to the interrogation is final and all appeals are exhausted or prosecution is barred by law (Penal Code § 859.5).

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Sexual Assault Investigations

601.1 PURPOSE AND SCOPE

The purpose of this policy is to establish guidelines for the investigation of sexual assaults. These guidelines will address some of the unique aspects of such cases and the effects that these crimes have on the victims.

Mandatory notifications requirements are addressed in the Child Abuse and Adult Abuse policies.

601.2 POLICY

It is the policy of the Contra Costa County District Attorney's Office Investigations Division that its members, when assigned to a sexual assault investigation, will strive to minimize the trauma experienced by the victims, and will aggressively investigate the assault, pursue expeditious apprehension and conviction of perpetrators, and protect the safety of the victims and the community while affording victims all of their rights as afforded by law.

601.3 INVESTIGATION CONSIDERATIONS

601.3.1 VICTIM CONFIDENTIALITY

Sworn members investigating or receiving a report of an alleged sex offense shall inform the victim, or the victim’s parent or guardian if the victim is a minor, that his/her name will become a matter of public record unless the victim requests that his/her name not be made public. The reporting sworn member shall document in his/her report that the victim was properly informed and shall include any related response made by the victim, or if a minor, any response made by the victim’s parent or guardian (Penal Code § 293 (a) and (b)).

Except as authorized by law, members of this Office shall not publicly disclose the name of any victim of a sex crime who has exercised his/her right to confidentiality (Penal Code § 293 (c) and (d)).

601.3.2 SWORN MEMBER RESPONSIBILITY

Although sworn members are not considered first responders a situation could arise in which they are involved in a sexual assault investigation. In providing support to a local law enforcement jurisdiction, sworn members should, whenever there is an alleged violation of Penal Code § 243 (e), § 261, § 261.5, § 262, § 273.5, § 286, § 288a or § 289, assist the assigned officer/investigator in accomplishing the following:

(a) If a victim is transported to a hospital for any medical evidentiary or physical examination the officer/investigator shall immediately cause the local rape victim counseling center to be notified (Penal Code § 264.2(b) (1)).

1. Prior to any such examination the assigned investigator shall ensure that the victim has been properly informed of their right to have a sexual assault victim counselor and at least one other person present (Penal Code § 264.2 (b)(2)).

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2. A support person may be excluded from the examination by the investigator or the medical provider if their presence would be detrimental to the purpose of the examination Penal Code § 264.2(b)(4)).

601.3.3 TESTING OF BIOLOGICAL SEXUAL ASSAULT EVIDENCE

Subject to available resources and other law enforcement considerations which may affect the ability to process and analyze rape kits, other sexual assault victim evidence and other crime scene evidence, any member of this Office assigned to investigate a sexual assault offense should take every reasonable step to ensure that DNA testing of such evidence is performed in a timely manner and within the time periods prescribed by Penal Code § 803(g). Generally, rape kits should be submitted to the crime lab within 20 days after being booked into evidence (Penal Code § 680).

In order to maximize the effectiveness of such testing and identify the perpetrator of any sexual assault, the assigned sworn member should further ensure that the results of any such test have been timely entered into and checked against both the Department of Justice Cal-DNA database and the Combined DNA Index System (CODIS).

If, for any reason, DNA evidence in a sexual assault case in which the identity of the perpetrator is in issue and is not going to be analyzed within 18 months of the crime, the assigned sworn member shall notify the victim of such fact in writing no less than 60 days prior to the expiration of the 18 month period (Penal Code § 680(d)).

601.3.4 DNA TEST RESULTS

A SART member should be consulted regarding the best way to deliver biological testing results to a victim so as to minimize victim trauma, especially in cases where there has been a significant delay in getting biological testing results (e.g., delays in testing the evidence or delayed DNA databank hits). Members should make reasonable efforts to assist the victim by providing available information on local assistance programs and organizations as provided in the Victim and Witness Assistance policy.

601.3.5 VICTIM NOTIFICATION OF DNA STATUS

(a) Upon receipt of a written request from a sexual assault victim or the victim’s authorized designee, the assigned sworn member may inform the victim of the status of the DNA testing of any evidence from the victim’s case (Penal Code § 680).

1. Although such information may be communicated orally, the assigned sworn member should thereafter follow-up with and retain a copy of confirmation by either written or electronic mail.

2. Absent a written request, no member of this Office is required to, but may, communicate with the victim or the victim’s authorized designee regarding the status of any DNA testing.

(b) Subject to the commitment of sufficient resources to respond to requests for information, sexual assault victims shall further have the following rights (Penal Code § 680):

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1. To be informed if a DNA profile of the assailant was obtained from the testing of the rape kit or other crime scene evidence from their case.
2. To be informed if there is a match between the DNA profile of the assailant developed from the evidence and a DNA profile contained in the Department of Justice Convicted Offender DNA Database, providing that disclosure would not impede or compromise an ongoing investigation.
3. To be informed if the DNA profile of the assailant developed from the evidence has been entered into the Department of Justice Databank of case evidence.

(c) Provided that the sexual assault victim or the victim's authorized designee has kept the assigned sworn member informed with regard to current address, telephone number and email address (if available), any victim or the victim's authorized designee shall, upon request, be advised of any known significant changes regarding the victim's case (Penal Code § 680).

1. Although such information may be communicated orally, the assigned sworn member should thereafter follow-up with and retain a copy of confirmation by either written or electronic mail.
2. No sworn member shall be required or expected to release any information which might impede or compromise any ongoing investigation.

601.3.6 DESTRUCTION OF EVIDENCE

Any destruction of evidence related to a sexual assault shall occur only after victim notification is made as required pursuant to Penal Code § 680. and only in compliance with current Property and Evidence procedures.

601.4 CASE REVIEW

The designated supervisor should ensure case dispositions are reviewed on a periodic basis, at least annually, using an identified group that is independent of the investigation process. The reviews should include an analysis of:

- Case dispositions.
- Decisions to collect biological evidence.
- Submissions of biological evidence for lab testing.

The SART and/or victim advocates should be considered for involvement in this audit. Summary reports on these reviews should be forwarded through the chain of command to the Chief of Investigations.

601.5 COLLECTION AND TESTING OF BIOLOGICAL EVIDENCE

Whenever possible, a SART member should be involved in the collection of forensic evidence from the victim.

When the facts of the case indicate that collection of biological evidence is warranted, it should be collected regardless of how much time has elapsed since the reported assault.

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If a drug-facilitated sexual assault is suspected, urine and blood samples should be collected from the victim as soon as practicable.

Subject to requirements set forth in this policy, biological evidence from all sexual assault cases, including cases where the suspect is known by the victim, should be submitted for testing.

Victims who choose not to assist with an investigation, do not desire that the matter be investigated, or wish to remain anonymous may still consent to the collection of evidence under their control. In these circumstances, the evidence should be collected and stored appropriately.

601.5.1 DNA TEST RESULTS

A SART member should be consulted regarding the best way to deliver biological testing results to a victim so as to minimize victim trauma, especially in cases where there has been a significant delay in getting biological testing results (e.g., delays in testing the evidence or delayed DNA databank hits). Members should make reasonable efforts to assist the victim by providing available information on local assistance programs and organizations as provided in the Victim and Witness Assistance Policy.

(a) Upon receipt of a written request from a sexual assault victim or the victim's authorized designee, members investigating sexual assault cases shall inform the victim of the status of the DNA testing of any evidence from the victim's case (Penal Code § 680).

1. Although such information may be communicated orally, the assigned sworn member should thereafter follow-up with and retain a copy of confirmation by either written or electronic mail.

2. Absent a written request, no member of this office is required to, but may, communicate with the victim or the victim's authorized designee regarding the status of any DNA testing.

(b) Subject to the commitment of sufficient resources to respond to requests for information, sexual assault victims shall further have the following rights (Penal Code § 680):

1. To be informed if a DNA profile of the assailant was obtained from the testing of the SAFE kit or other crime scene evidence from their case.

2. To be informed if there is a match between the DNA profile of the assailant developed from the evidence and a DNA profile contained in the DOJ Convicted Offender DNA Database, providing that disclosure would not impede or compromise an ongoing investigation.

3. To be informed if the DNA profile of the assailant developed from the evidence has been entered into the DOJ Databank of case evidence.

(c) Provided that the sexual assault victim or the victim's authorized designee has kept the assigned sworn member informed with regard to current address, telephone number, and email address (if available), any victim or the victim's authorized designee shall, upon request, be advised of any known significant changes regarding the victim's case (Penal Code § 680).

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1. Although such information may be communicated orally, the assigned sworn member should thereafter follow-up with and retain a copy of confirmation by either written or electronic mail.
2. No sworn member shall be required or expected to release any information which might impede or compromise any ongoing investigation.

601.5.2 STANDARDIZED SEXUAL ASSAULT FORENSIC MEDICAL EVIDENCE KIT

The Property and Evidence Section supervisor should make California standardized sexual assault forensic medical evidence (SAFE) kits available to members who may investigate sexual assault cases. Members investigating a sexual assault should use these SAFE kits when appropriate and follow related usage guidelines issued by the California Clinical Forensic Medical Training Center (Penal Code § 13823.14).

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Informants

602.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidelines for the use of informants.

602.1.1 DEFINITIONS

Definitions related to this policy include:

Informant - A person who covertly interacts with other individuals or suspects at the direction of, request of, or by agreement with, the Contra Costa County District Attorney's Office for law enforcement purposes. This also includes a person agreeing to supply information to the Contra Costa County District Attorney's Office for a benefit (e.g., a quid pro quo in the form of a reduced criminal penalty, money).

602.2 POLICY

The Contra Costa County District Attorney's Office recognizes the value of informants to law enforcement efforts and will strive to protect the integrity of the informant process. It is the policy of this office that all funds related to informant payments will be routinely audited and that payments to informants will be made according to the criteria outlined in this policy.

602.3 USE OF INFORMANTS

602.3.1 INITIAL APPROVAL

Before using an individual as an informant, a sworn member must receive approval from his/her supervisor. The sworn member shall compile sufficient information through a background investigation and experience with the informant in order to determine the suitability of the individual, including age, maturity and risk of physical harm, as well as any indicators of his/her reliability and credibility.

Members of this office should not guarantee absolute safety or confidentiality to an informant.

602.3.2 JUVENILE INFORMANTS

The use of informants under the age of 13 is prohibited.

Except for the enforcement of laws related to the commercial sale of alcohol, marijuana or tobacco products, a juvenile 13 years of age or older may only be used as an informant with the written consent of each of the following:

(a) The juvenile’s parents or legal guardians

(b) The juvenile’s attorney, if any

(c) The court in which the juvenile’s case is being handled, if applicable (Penal Code § 701.5)

(d) The Chief of Investigations or the authorized designee

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602.3.3 INFORMANT AGREEMENTS

All informants are required to sign and abide by the provisions of the designated office informant agreement. The sworn member using the informant shall discuss each of the provisions of the agreement with the informant.

Details of the agreement are to be approved in writing by a supervisor before being finalized with the informant.

602.4 INFORMANT INTEGRITY

To maintain the integrity of the informant process, the following must be adhered to:

(a) The identity of an informant acting in a confidential capacity shall not be withheld from the Chief of Investigations, Lieutenant, supervisor or their authorized designees.

1. Identities of informants acting in a confidential capacity shall otherwise be kept confidential.

(b) Criminal activity by informants shall not be condoned.

(c) Informants shall be told they are not acting as sworn members, employees or agents of the Contra Costa County District Attorney's Office, and that they shall not represent themselves as such.

(d) The relationship between office members and informants shall always be ethical and professional.

(a) Members shall not become intimately involved with an informant.

(b) Social contact shall be avoided unless it is necessary to conduct an official investigation, and only with prior approval of a supervisor.

(c) Members shall neither solicit nor accept gratuities or engage in any private business transaction with an informant.

(e) Sworn members shall not meet with informants in a private place unless accompanied by at least one additional sworn member or with prior approval of a supervisor.

1. Sworn members may meet informants alone in an occupied public place, such as a restaurant.

(f) When contacting informants for the purpose of making payments, sworn members shall arrange for the presence of another sworn member.

(g) In all instances when office funds are paid to informants, a voucher shall be completed in advance, itemizing the expenses.

(h) Since the decision rests with the appropriate prosecutor, sworn members shall not promise that the informant will receive any form of leniency or immunity from criminal prosecution.

602.4.1 UNSUITABLE INFORMANTS

The suitability of any informant should be considered before engaging him/her in any way in a covert or other investigative process. Members who become aware that an informant may be unsuitable will notify the supervisor, who will initiate a review to determine suitability. Until a

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determination has been made by a supervisor, the informant should not be used by any member. The supervisor shall determine whether the informant should be used by the Office and, if so, what conditions will be placed on his/her participation or any information the informant provides. The supervisor shall document the decision and conditions in file notes and mark the file “unsuitable” when appropriate.

Considerations for determining whether an informant is unsuitable include, but are not limited to, the following:

(a) The informant has provided untruthful or unreliable information in the past.

(b) The informant behaves in a way that may endanger the safety of a sworn member.

(c) The informant reveals to suspects the identity of a sworn member or the existence of an investigation.

(d) The informant appears to be using his/her affiliation with this office to further criminal objectives.

(e) The informant creates officer-safety issues by providing information to multiple law enforcement agencies simultaneously, without prior notification and approval of each agency.

(f) The informant engages in any other behavior that could jeopardize the safety of sworn members or the integrity of a criminal investigation.

(g) The informant commits criminal acts subsequent to entering into an informant agreement.

602.5 INFORMANT FILES

Informant files shall be utilized as a source of background information about the informant, to enable review and evaluation of information provided by the informant, and to minimize incidents that could be used to question the integrity of office members or the reliability of the informant.

Informant files shall be maintained in a secure area within the designated supervisor's office. The supervisor or the authorized designee shall be responsible for maintaining informant files. Access to the informant files shall be restricted to the Chief of Investigations, Lieutenant, supervisor or their authorized designees.

The Chief of Investigations should arrange for an audit using a representative sample of randomly selected informant files on a periodic basis, but no less than one time per year. If the supervisor is replaced, the files will be audited before the new supervisor takes over management of the files. The purpose of the audit is to ensure compliance with file content and updating provisions of this policy. The audit should be conducted by a supervisor who does not have normal access to the informant files.

602.5.1 FILE SYSTEM PROCEDURE

A separate Informant Personal History Form (INSP 101) shall be maintained on each informant and shall be coded with an assigned informant control number.

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Form (INSP 101) contains 35 detailed categories which shall be completed by the handling sworn member and reviewed by a supervisor. This Informant Personal History Form shall be retained in the informant’s file. When a deactivated informant is reactivated and the period of deactivation is 90 days or longer, a new (INSP 101) shall be constructed and reviewed by a supervisor.

602.6 INFORMANT PAYMENTS

No informant will be told in advance or given an exact amount or percentage for his/her service. The amount of funds to be paid to any informant will be evaluated against the following criteria:

- The extent of the informant's personal involvement in the case
- The significance, value or effect on crime
- The value of assets seized
- The quantity of the drugs or other contraband seized
- The informant’s previous criminal activity
- The level of risk taken by the informant

The sworn member will discuss the above factors with the designated Lieutenant and recommend the type and level of payment subject to approval by the Chief of Investigations.

602.6.1 PAYMENT PROCESS

Approved payments to an informant should be in cash using the following process:

(a) Payments of $500 and under may be paid in cash from a buy/expense fund.

  (a) The supervisor shall sign the voucher for cash payouts from the buy/expense fund.

(b) Payments exceeding $500 shall be made by issuance of a check, payable to the sworn member who will be delivering the payment.

  1. The check shall list the case numbers related to and supporting the payment.
  2. A written statement of the informant's involvement in the case shall be placed in the informant's file.
  3. The statement shall be signed by the informant verifying the statement as a true summary of his/her actions in the case.
  4. Authorization signatures from the Chief of Investigations and the County Administrator are required for disbursement of the funds.

(c) To complete the payment process for any amount, the sworn member delivering the payment shall complete a cash transfer form.

  1. The cash transfer form shall include the following:

    (a) Date

    (b) Payment amount

    (c) Contra Costa County District Attorney's Office case number

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(d) A statement that the informant is receiving funds in payment for information voluntarily rendered.

2. The cash transfer form shall be signed by the informant.

3. The cash transfer form will be kept in the informant's file.

602.6.2 REPORTING OF PAYMENTS

Each informant receiving a cash payment shall be advised of his/her responsibility to report the cash to the Internal Revenue Service (IRS) as income. If funds distributed exceed $600 in any reporting year, the informant should be provided IRS Form 1099 (26 CFR 1.6041-1). If such documentation or reporting may reveal the identity of the informant and by doing so jeopardize any investigation, the safety of members or the safety ofthe informant (26 CFR 1.6041-3), then IRS Form 1099 should not be issued.

In such cases, the informant shall be provided a letter identifying the amount he/she must report on a tax return as “other income” and shall be required to provide a signed acknowledgement of receipt of the letter. The completed acknowledgement form and a copy of the letter shall be retained in the informant’s file.

602.6.3 AUDIT OF PAYMENTS

The Chief of Investigations or the authorized designee shall be responsible for compliance with any audit requirements associated with grant provisions and applicable state and federal law.

At least once every six months, the Chief of Investigations or the authorized designee should conduct an audit of all informant funds for the purpose of accountability and security of the funds. The funds and related documents (e.g., buy/expense fund records, cash transfer forms, invoices, receipts and logs) will assist with the audit process.

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Eyewitness Identification

603.1 PURPOSE AND SCOPE

This policy sets forth guidelines to be used when members of this office employ eyewitness identification techniques (Penal Code § 859.7).

603.1.1 DEFINITIONS

Definitions related to the policy include:

Blind administration - The administrator of an eyewitness identification procedure does not know the identity of the suspect.

Blinded administration - The administrator of an eyewitness identification procedure may know who the suspect is, but does not know where the suspect, or his or her photo, as applicable, has been placed or positioned in the identification procedure through the use of any of the following:

1. An automated computer program that prevents the administrator from seeing which photos the eyewitness is viewing until after the identification procedure is completed.
2. The folder shuffle method, which refers to a system for conducting a photo lineup by placing photographs in folders, randomly numbering the folders, shuffling the folders, and then presenting the folders sequentially so that the administrator cannot see or track which photograph is being presented to the eyewitness until after the procedure is completed.
3. Any other procedure that achieves neutral administration and prevents the lineup administrator from knowing where the suspect or his or her photo, as applicable, has been placed or positioned in the identification procedure.

Eyewitness - means a person whose identification of another person may be relevant in a criminal investigation.

Eyewitness identification process - Any field identification, live lineup or photographic identification.

Field identification - A live presentation of a single individual to a witness following the commission of a criminal offense for the purpose of identifying or eliminating the person as the suspect.

Filler - means either a person or a photograph of a person who is not suspected of an offense and is included in an identification procedure.

Live lineup - A live presentation of individuals to a witness for the purpose of identifying or eliminating an individual as the suspect.

Photographic lineup - Presentation of photographs to a witness for the purpose of identifying or eliminating an individual as the suspect.

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603.2 POLICY

The Contra Costa County District Attorney's Office Investigations Division will strive to use eyewitness identification techniques, when appropriate, to enhance the investigative process and will emphasize identifying persons responsible for crime and exonerating the innocent.

603.3 INTERPRETIVE SERVICES

Sworn members should make a reasonable effort to arrange for an interpreter before proceeding with eyewitness identification if communication with a witness is impeded due to language or hearing barriers.

Before the interpreter is permitted to discuss any matter with the witness, the sworn member should explain the identification process to the interpreter. Once it is determined that the interpreter comprehends the process and can explain it to the witness, the eyewitness identification may proceed as provided for within this policy.

603.4 EYEWITNESS IDENTIFICATION PROCESS AND FORM

The Investigations Division supervisor shall be responsible for the development and maintenance of an eyewitness identification process for use by members when they are conducting eyewitness identifications.

The process should include appropriate forms or reports that provide (Penal Code § 859.7):

(a) The date, time and location of the eyewitness identification procedure.

(b) The name and identifying information of the witness.

(c) The name of the person administering the identification procedure.

(d) If applicable, the names of all of the individuals present during the identification procedure.

(e) An instruction to the witness that it is as important to exclude innocent persons as it is to identify a perpetrator.

(f) An instruction to the witness that the perpetrator may or may not be among those presented and that the witness is not obligated to make an identification.

(g) If the identification process is a photographic or live lineup, an instruction to the witness that the perpetrator may not appear exactly as he/she did on the date of the incident.

(h) An instruction to the witness that the investigation will continue regardless of whether an identification is made by the witness.

(i) A signature line where the witness acknowledges that he/she understands the identification procedures and instructions.

(j) A statement from the witness in the witness's own words describing how certain he/she is of the identification or non-identification. This statement should be taken at the time of the identification procedure.

(k) Any other direction to meet the requirements of Penal Code § 859.7, including direction regarding blind or blinded administrations and filler selection.

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The process and related forms should be reviewed at least annually and modified when necessary.

603.5 EYEWITNESS IDENTIFICATION

Members are cautioned not to, in any way, influence a witness as to whether any subject or photo presented in a lineup is in any way connected to the case.

Members should avoid mentioning that:

- The individual was apprehended near the crime scene.
- The evidence points to the individual as the suspect.
- Other witnesses have identified or failed to identify the individual as the suspect.

In order to avoid undue influence, witnesses should view suspects or a lineup individually and outside the presence of other witnesses. Witnesses should be instructed to avoid discussing details of the incident or of the identification process with other witnesses.

Whenever feasible, the eyewitness identification procedure should be audio and video recorded and the recording should be retained according to current evidence procedures (Penal Code § 859.7).

603.6 DOCUMENTATION

A thorough description of the eyewitness process and the result of any eyewitness identification should be documented in the case report.

If a photographic lineup is utilized, a copy of the photographic lineup presented to the witness should be included in the case report. In addition, the order in which the photographs were presented to the witness should be documented in the case report.

603.6.1 <B>DOCUMENTATION RELATED TO RECORDINGS</B>

The handling member shall document the reason that a video recording or any other recording of an identification was not obtained (Penal Code § 859.7).

603.6.2 <B>DOCUMENTATION RELATED TO BLIND ADMINISTRATION</B>

If a presentation of a lineup is not conducted using blind administration, the handling member shall document the reason (Penal Code § 859.7).

603.7 PHOTOGRAPHIC LINEUP AND LIVE LINEUP CONSIDERATIONS

When practicable, the member presenting the lineup should not be involved in the investigation of the case or know the identity of the suspect. In no case should the member presenting a lineup to a witness know which photograph or person in the lineup is being viewed by the witness (Penal Code § 859.7). Techniques to achieve this include randomly numbering photographs, shuffling folders, or using a computer program to order the persons in the lineup.

Individuals in the lineup should reasonably match the description of the perpetrator provided by the witness and should bear similar characteristics to avoid causing any person to unreasonably stand

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out. In cases involving multiple suspects, a separate lineup should be conducted for each suspect. The suspects should be placed in a different order within each lineup (Penal Code § 859.7).

The member presenting the lineup should do so sequentially (i.e., show the witness one person at a time) and not simultaneously. The witness should view all persons in the lineup.

A live lineup should only be used before criminal proceedings have been initiated against the suspect. If there is any question as to whether any criminal proceedings have begun, the investigating member should contact the appropriate prosecuting attorney before proceeding.

603.7.1 OTHER SAFEGUARDS

Witnesses should be asked for suspect descriptions as close in time to the incident as possible and before conducting an eyewitness identification. No information concerning a suspect should be given prior to obtaining a statement from the witness describing how certain he/she is of the identification or non-identification. Members should not say anything to a witness that that may validate or invalidate an eyewitness' identification. In photographic lineups, writings or information concerning any previous arrest of a suspect shall not be visible to the witness (Penal Code § 859.7).

603.8 FIELD IDENTIFICATION CONSIDERATIONS

Field identifications, also known as field elimination show-ups or one-on-one identifications, may be helpful in certain cases, where exigent circumstances make it impracticable to conduct a photo or live lineup identifications. A field elimination show-up or one-on-one identification should not be used when independent probable cause exists to arrest a suspect. In such cases a live or photo lineup is the preferred course of action if eyewitness identification is contemplated.

When initiating a field identification, the member should observe the following guidelines:

(a) Obtain a complete description of the suspect from the witness.

(b) Assess whether a witness should be included in a field identification process by considering:

1. The length of time the witness observed the suspect.
2. The distance between the witness and the suspect.
3. Whether the witness could view the suspect's face.
4. The quality of the lighting when the suspect was observed by the witness.
5. Whether there were distracting noises or activity during the observation.
6. Any other circumstances affecting the witness's opportunity to observe the suspect.
7. The length of time that has elapsed since the witness observed the suspect.

(c) If safe and practicable, the person who is the subject of the show-up should not be handcuffed or in a patrol vehicle.

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(d) When feasible, members should bring the witness to the location of the subject of the show-up, rather than bring the subject of the show-up to the witness.

(e) The person who is the subject of the show-up should not be shown to the same witness more than once.

(f) In cases involving multiple suspects, witnesses should only be permitted to view the subjects of the show-up one at a time.

(g) The person who is the subject of the show-up should not be required to put on clothing worn by the suspect, to speak words uttered by the suspect or to perform other actions mimicking those of the suspect.

(h) If a witness positively identifies a subject of the show-up as the suspect, members should not conduct any further field identifications with other witnesses for that suspect. In such instances members should document the contact information for any additional witnesses for follow up, if necessary.

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Brady Material Disclosure

604.1 PURPOSE AND SCOPE

This policy establishes guidelines for identifying and releasing potentially exculpatory or impeachment information (so-called "*Brady* information") to a prosecuting attorney. This policy may also apply to exculpatory information under California discovery law.

604.1.1 DEFINITIONS

Definitions related to this policy include:

***Brady* information** - Information known or possessed by the Contra Costa County District Attorney's Office that is both favorable and material to the current prosecution or defense of a criminal defendant.

Penal Code § 1054.1(e) - Statutory discovery requirement to provide any exculpatory information without regard to materiality.

604.2 POLICY

The Contra Costa County District Attorney's Office Investigations Division will conduct fair and impartial criminal investigations and will provide the prosecution with both incriminating and exculpatory evidence, as well as information that may adversely affect the credibility of a witness. In addition to reporting all evidence of guilt, the Contra Costa County District Attorney's Office Investigations Division will assist the prosecution by complying with its obligation to disclose information that is both favorable and material to the defense. The Office will identify and disclose to the prosecution potentially exculpatory information, as provided in this policy.

604.3 DISCLOSURE OF INVESTIGATIVE INFORMATION

Sworn members must include in their investigative reports adequate investigative information and reference to all material evidence and facts that are reasonably believed to be either incriminating or exculpatory to any individual in the case. If a member learns of potentially incriminating or exculpatory information any time after submission of a case, the member must prepare and submit a supplemental report documenting such information as soon as practicable. Supplemental reports shall be promptly processed and transmitted to the prosecutor's office.

If information is believed to be privileged or confidential (e.g., confidential informant or protected personnel files), the member should discuss the matter with a supervisor and/or prosecutor to determine the appropriate manner in which to proceed.

604.4 DISCLOSURE OF PERSONNEL INFORMATION

Whenever it is determined that *Brady and/or Penal Code § 1054.1(a)* information is located in the personnel file of a member of this Office who is a material witness in a criminal case, the following procedure shall apply:

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(a) In the event that a *Pitchess* motion has not already been filed by the criminal defendant or other party pursuant to Evidence Code § 1043, the prosecuting attorney shall be notified of the potential presence of *Brady* information in the member's personnel file.

(b) The prosecuting attorney should then be requested to file a *Pitchess* motion in order to initiate an in camera review by the court.

(c) Any member who is the subject of such a motion shall be notified in writing that a motion has been filed.

(d) The Custodian of Records shall accompany all relevant files during any in camera inspection and address any issues or questions raised by the court in determining whether any information contained in the files is both material and favorable to the criminal defendant.

(e) If the court determines that there is relevant *Brady and/or Penal Code § 1054.1(e)* information contained in the files, only that information ordered released will be copied and released to the parties filing the motion.

1. Prior to the release of any information pursuant to this process, the Custodian of Records should request a protective order from the court limiting the use of such information to the involved case and requiring the return of all copies upon completion of the case.

604.5 INVESTIGATING BRADY ISSUES

If the Office receives information from any source that a member may have issues of credibility, dishonesty or has been engaged in an act of moral turpitude or criminal conduct, the information shall be investigated and processed in accordance with the Personnel Complaints Policy.

604.6 TRAINING

Office members should receive periodic training on the requirements of this policy.

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Unmanned Aerial System (UAS) Operations

605.1 PURPOSE AND SCOPE

The purpose of this policy is to establish guidelines for the use of an unmanned aerial system (UAS) and for the storage, retrieval and dissemination of images and data captured by the UAS.

605.1.1 DEFINITIONS

Definitions related to this policy include:

Unmanned Aerial System (UAS) - An unmanned aircraft of any type that is capable of sustaining directed flight, whether preprogrammed or remotely controlled (commonly referred to as an unmanned aerial vehicle (UAV)), and all of the supporting or attached systems designed for gathering information through imaging, recording or any other means.

605.2 POLICY

Unmanned aerial systems may be utilized to enhance the office's mission of protecting lives and property when other means and resources are not available or are less effective. Any use of a UAS will be in strict accordance with constitutional and privacy rights and Federal Aviation Administration (FAA) regulations.

605.3 PRIVACY

The use of the UAS potentially involves privacy considerations. Absent a warrant or exigent circumstances, operators and observers shall adhere to FAA altitude regulations and shall not intentionally record or transmit images of any location where a person would have a reasonable expectation of privacy (e.g., residence, yard, enclosure). Operators and observers shall take reasonable precautions to avoid inadvertently recording or transmitting images of areas where there is a reasonable expectation of privacy. Reasonable precautions can include, for example, deactivating or turning imaging devices away from such areas or persons during UAS operations.

605.4 PROGRAM COORDINATOR

The Chief of Investigations will appoint a program coordinator who will be responsible for the management of the UAS program. The program coordinator will ensure that policies and procedures conform to current laws, regulations and best practices and will have the following additional responsibilities:

- Coordinating the FAA Certificate of Waiver or Authorization (COA) application process and ensuring that the COA is current.
- Ensuring that all authorized operators and required observers have completed all required FAA and office-approved training in the operation, applicable laws, policies and procedures regarding use of the UAS.
- Developing uniform protocol for submission and evaluation of requests to deploy a UAS, including urgent requests made during ongoing or emerging incidents.

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Deployment of a UAS shall require written authorization of the Chief of Investigations or the authorized designee, depending on the type of mission.

- Developing protocol for conducting criminal investigations involving a UAS, including documentation of time spent monitoring a subject.
- Implementing a system for public notification of UAS deployment.
- Developing an operational protocol governing the deployment and operation of a UAS including, but not limited to, safety oversight, use of visual observers, establishment of lost link procedures and secure communication with air traffic control facilities.
- Developing a protocol for fully documenting all missions.
- Developing a UAS inspection, maintenance and record-keeping protocol to ensure continuing airworthiness of a UAS, up to and including its overhaul or life limits.
- Developing protocols to ensure that all data intended to be used as evidence are accessed, maintained, stored and retrieved in a manner that ensures its integrity as evidence, including strict adherence to chain of custody requirements. Electronic trails, including encryption, authenticity certificates and date and time stamping, shall be used as appropriate to preserve individual rights and to ensure the authenticity and maintenance of a secure evidentiary chain of custody.
- Developing protocols that ensure retention and purge periods are maintained in accordance with established records retention schedules.
- Facilitating law enforcement access to images and data captured by the UAS.
- Recommending program enhancements, particularly regarding safety and information security.
- Ensuring that established protocols are followed by monitoring and providing periodic reports on the program to the Chief of Investigations.

605.5 USE OF UAS

Only authorized operators who have completed the required training shall be permitted to operate the UAS.

Use of vision enhancement technology (e.g., thermal and other imaging equipment not generally available to the public) is permissible in viewing areas only where there is no protectable privacy interest or when in compliance with a search warrant or court order. In all other instances, legal counsel should be consulted.

UAS operations should not be flown over populated areas without FAA approval.

605.6 PROHIBITED USE

The UAS video surveillance equipment shall not be used:

- To conduct random surveillance activities.

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- To target a person based solely on actual or perceived characteristics, such as race, ethnicity, national origin, religion, sex, sexual orientation, gender identity or expression, economic status, age, cultural group, or disability.
- To harass, intimidate, or discriminate against any individual or group.
- To conduct personal business of any type.

The UAS shall not be weaponized.

605.7 RETENTION OF UAS DATA

Data collected by the UAS shall be retained as provided in the established records retention schedule.

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Warrant Service

606.1 PURPOSE AND SCOPE

This policy establishes guidelines for the planning and serving of arrest and search warrants by members of this Office. It is understood that this policy cannot address every variable or circumstance that can arise in the service of a search or arrest warrant, as these tasks can involve rapidly evolving and unique circumstances.

This policy is intended to be used in conjunction with the Operations Planning and Deconfliction Policy, which has additional guidance on planning and serving high-risk warrants.

This policy is not intended to address the service of search warrants on locations or property already secured or routine field warrant arrests.

606.2 POLICY

It is the policy of the Contra Costa County District Attorney's Office to balance the safety needs of the public, the safety of Office members, privacy interests and other relevant factors when making decisions related to the service of search and arrest warrants.

606.3 SUPERVISOR RESPONSIBILITY

Supervisors shall review all search warrants constructed by sworn members to determine the risk level of the warrant service.

Supervisors will also have the responsibility of coordinating service of those warrants that are categorized as high risk. Deconfliction, risk assessment, operational planning, briefing and debriefing should follow guidelinesin the Operations Planning and Deconfliction Policy.

606.4 SEARCH WARRANTS

Sworn members should receive authorization from a supervisor before preparing a search warrant application. Once authorization is received, the sworn member will prepare the affidavit and search warrant, consulting with an applicable prosecuting attorney as needed.

606.5 ARREST WARRANTS

If a sworn member reasonably believes that serving an arrest warrant may pose a higher risk than commonly faced, he/she should discuss the details with the appropriate supervisor.

If the warrant is determined to be high risk, service will be coordinated by the supervisor. If the warrant is not classified as high risk, the supervisor should weigh the risk of entry into a residence to make an arrest against other alternatives, such as arresting the person outside the residence where circumstances may pose a lower risk.

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606.6 WARRANT PREPARATION

A sworn member who prepares a warrant should ensure the documentation in support of the warrant contains as applicable:

(a) Probable cause to support the search or arrest, including relevant dates and times to demonstrate timeliness and facts to support any request for nighttime warrant execution.

(b) A clear explanation of the affiant's training, experience and relevant education.

(c) Adequately supported opinions, when relevant, that are not left to unsubstantiated conclusions.

(d) A nexus between the place to be searched and the persons or items central to the investigation. The facts supporting this nexus should be clear and current. For example, the affidavit shall explain why there is probable cause to believe that a particular person is currently residing at a particular location or that the items sought are present at a particular location.

(e) Full disclosure of known or suspected residents at the involved location and any indication of separate living spaces at the involved location. For example, it should be disclosed that several people may be renting bedrooms at a single location, even if the exact location of the rooms is not known.

(f) A specific description of the location to be searched, including photographs of the location, if reasonably available.

(g) A sufficient description of the items to be seized.

(h) Full disclosure of any known exculpatory information relevant to the warrant application (refer to the Brady Material Disclosure Policy).

606.7 HIGH-RISK WARRANT SERVICE

A supervisor shall coordinate the service of warrants that are categorized as high risk and shall have sole authority in determining the manner in which the warrant will be served, including the number of members deployed.

The member responsible for directing the service should ensure the following as applicable:

(a) When practicable and when doing so does not create unreasonable risk, video or photographic documentation is made of the condition of the location prior to execution of a search warrant. The images should include the surrounding area.

(b) The warrant service is audio- and video-recorded when practicable and reasonable to do so.

(c) Evidence is handled and collected only by those members who are designated to do so. All other members involved in the service of the warrant should alert one of the designated members to the presence of potential evidence and not touch or disturb the items.

(d) Reasonable efforts are made during the search to maintain or restore the condition of the location.

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(e) Persons who are detained as part of the warrant service are handled appropriately under the circumstances.

(f) Reasonable care provisions are made for children and dependent adults (see the Child and Dependent Adult Safety Policy).

(g) A list is made of all items seized and a copy provided to the person in charge of the premises if present or otherwise left in a conspicuous place.

(h) A copy of the search warrant is left at the location.

(i) The condition of the property is documented with video recording or photographs after the search.

606.8 DETENTIONS DURING WARRANT SERVICE

Members must be sensitive to the safety risks of all persons involved with the service of a warrant. Depending on circumstances and facts present, it may be appropriate to control movements of any or all persons present at a warrant service, including those who may not be the subject of a warrant or suspected in the case. However, members must be mindful that only reasonable force may be used and weapons should be displayed no longer than the member reasonably believes is necessary (see the Use of Force Policy).

As soon as it can be determined that an individual is not subject to the scope of a warrant and that no further reasonable suspicion or safety concerns exist to justify further detention, the person should be promptly released.

Members should, when and to the extent reasonable, accommodate the privacy and personal needs of people who have been detained.

606.9 ACTIONS AFTER WARRANT SERVICE

Members shall ensure that all affidavits, warrants, receipts and returns, regardless of any associated cases, are filed with the issuing judge or magistrate as soon as reasonably possible, but in any event no later than any date specified on the warrant.

606.10 OUTSIDE AGENCIES AND CROSS-JURISDICTIONAL WARRANTS

Supervisors will ensure that cooperative efforts with other agencies in the service of warrants conform to existing mutual aid agreements or other memorandums of understanding and will work cooperatively to mitigate risks including, but not limited to, the following:

- Identity of team members
- Roles and responsibilities
- Familiarity with equipment
- Rules of engagement
- Asset forfeiture procedures

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Any outside agency requesting assistance in the service of a warrant within this jurisdiction should be referred to a supervisor. The supervisor should review and confirm the warrant, including the warrant location, and should discuss the service with the appropriate supervisor from the other agency. The supervisor should ensure that members of the Contra Costa County District Attorney's Office are utilized appropriately. Any concerns regarding the requested use of Contra Costa County District Attorney's Office members should be brought to the attention of the Chief of Investigations or the authorized designee. The actual service of the warrant will remain the responsibility of the agency requesting assistance.

If a sworn member intends to serve a warrant outside Contra Costa County District Attorney's Office jurisdiction, a supervisor shall be notified and insure that the member provide reasonable advance notice to the applicable agency, request assistance as needed and work cooperatively on operational planning and the mitigation of risks detailed in this policy.

Members will remain subject to the policies of the Contra Costa County District Attorney's Office when assisting outside agencies or serving a warrant outside Contra Costa County District Attorney's Office jurisdiction.

606.11 MEDIA ACCESS

No advance information regarding warrant service operations shall be released without the approval of the Chief of Investigations. Any media inquiries or press release after the fact shall be handled in accordance with the News Media Relations Policy.

606.12 TRAINING

Members shall receive periodic training on this policy and associated topics, such as legal issues, warrant preparation, warrant service and reporting requirements.

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Operations Planning and Deconfliction

607.1 PURPOSE AND SCOPE

This policy provides guidelines for planning, deconfliction and execution of high-risk operations.

Additional guidance on planning and serving high-risk warrants is provided in the Warrant Service Policy.

607.1.1 DEFINITIONS

Definitions related to this policy include:

High-risk operations - Operations, including service of search and arrest warrants and enforcement operations, that are likely to present higher risks than are commonly faced by sworn members on a daily basis, including suspected fortified locations, reasonable risk of violence or confrontation with multiple persons, or reason to suspect that persons anticipate the operation.

607.2 POLICY

It is the policy of the Contra Costa County District Attorney's Office to properly plan and carry out high-risk operations, including participation in regional deconfliction systems, in order to provide coordination, enhance the safety of members and the public, decrease the risk of compromising investigations and prevent duplicating efforts.

607.3 SUPERVISOR RESPONSIBILITY

Supervisors will develop and maintain a risk assessment form to assess, plan and coordinate operations. This form should provide a process to identify high-risk operations.

The supervisor will review risk assessment forms with involved sworn members to determine whether a particular incident qualifies as a high-risk operation. The supervisor will also have the responsibility for coordinating operations that are categorized as high risk.

607.4 RISK ASSESSMENT

607.4.1 RISK ASSESSMENT FORM PREPARATION

Sworn members assigned as operational leads for any operation that may qualify as a high-risk operation shall work directly with a supervisor to complete a risk assessment form.

When preparing the form, the sworn member should query all relevant and reasonably available intelligence resources for information about the subject of investigation, others who may be present and the involved location. These sources may include regional intelligence and criminal justice databases, target deconfliction systems, firearm records, commercial databases and property records. Where appropriate, the sworn member should also submit information to these resources.

The sworn member should gather available information that includes, but is not limited to:

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(a) Photographs, including aerial photographs, if available, of the involved location, neighboring yards and obstacles.

(b) Maps of the location.

(c) Diagrams of any property and the interior of any buildings that are involved.

(d) Historical information about the subject of investigation (e.g., history of weapon possession or use, known mental illness, known drug use, threats against police, gang affiliation, criminal history).

(e) Historical information about others who may be present at the location (e.g., other criminals, innocent third parties, dependent adults, children, animals).

(f) Obstacles associated with the location (e.g., fortification, booby traps, reinforced doors/windows, surveillance measures, number and type of buildings, geographic and perimeter barriers, the number and types of weapons likely to be present, information that suggests the presence of explosives, chemicals or other hazardous materials, the potential for multiple dwellings or living spaces, availability of keys/door combinations).

(g) Other environmental factors (e.g., nearby venues such as schools and day care centers, proximity of adjacent homes or other occupied buildings, anticipated pedestrian and vehicle traffic at the time of service).

(h) Other available options that may minimize the risk to members and others (e.g., making an off-site arrest or detention of the subject of investigation).

607.4.2 RISK ASSESSMENT REVIEW

The supervisor and the operation's lead sworn member shall confer and determine the level of risk. Supervisors should take reasonable actions if there is a change in circumstances that elevates the risks associated with the operation.

607.4.3 HIGH-RISK OPERATIONS

If the supervisor, after consultation with the involved sworn member, determines that the operation is high risk, the supervisor should:

(a) Determine what resources will be needed at the location, and contact and/or place on standby any of the following appropriate and available resources:

1. Additional personnel
2. Outside agency assistance
3. Special equipment
4. Medical personnel
5. Persons trained in negotiation
6. Additional surveillance
7. Canines
8. Property and Evidence Section or analytical personnel to assist with cataloguing seizures

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9. Forensic specialists
10. Specialized mapping for larger or complex locations

(b) Contact appropriate members or other agencies as warranted to begin preparation.

(c) Ensure that all legal documents such as search warrants are complete and have any modifications reasonably necessary to support the operation.

(d) Coordinate the actual operation.

607.5 DECONFLICTION

Deconfliction systems are designed to identify persons and locations associated with investigations or law enforcement operations and alert participating agencies when others are planning or conducting operations in close proximity or time or are investigating the same individuals, groups or locations.

The sworn member who is the operations lead shall ensure the subject of investigation and operations information have been entered into applicable deconfliction systems to determine if there is reported conflicting activity. This should occur as early in the process as practicable. The sworn member should also enter relevant updated information when it is received.

If any conflict is discovered, a supervisor will contact the involved jurisdiction and resolve the potential conflict before proceeding.

607.6 OPERATIONS PLAN

The supervisor should ensure that a written operations plan is developed for all high-risk operations. Plans should also be considered for other operations that would benefit from having a formal plan.

The plan should address such issues as:

(a) Operation goals, objectives and strategies.

(b) Operation location and people:

1. The subject of investigation (e.g., history of weapon possession/use, known mental illness issues, known drug use, threats against law enforcement, gang affiliation, criminal history)
2. The location (e.g., fortification, booby traps, reinforced doors/windows, surveillance cameras and/or lookouts, number/type of buildings, geographic and perimeter barriers, the number and types of weapons likely to be present, information that suggests the presence of explosives, chemicals or other hazardous materials, the potential for multiple dwellings or living spaces, availability of keys/door combinations), including aerial photos, if available, and maps of neighboring yards and obstacles, diagrams and other visual aids
3. Other environmental factors (e.g., nearby venues such as schools and day care centers, proximity of adjacent homes or other occupied buildings, anticipated pedestrian and vehicle traffic at the time of service)

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4. Identification of other people who may be present in or around the operation, such as other criminal suspects, innocent third parties and children

(c) Information from the risk assessment form by attaching a completed copy in the operational plan.

1. The volume or complexity of the information may indicate that the plan includes a synopsis of the information contained on the risk assessment form to ensure clarity and highlighting of critical information.

(d) Participants and their roles.

1. An adequate number of sworn members should be included in the operation team to provide reasonable notice of a legitimate law enforcement operation.

2. How all participants will be identified as law enforcement.

(e) Whether deconfliction submissions are current and all involved individuals, groups and locations have been deconflicted to the extent reasonably practicable.

(f) Identification of all communications channels and call-signs.

(g) Use of force issues.

(h) Contingencies for handling medical emergencies (e.g., services available at the location, closest hospital, closest trauma center).

(i) Plans for detaining people who are not under arrest.

(j) Contingencies for handling children, dependent adults, animals and other people who might be at the location in accordance with the Child Abuse, Adult Abuse, Child and Dependent Adult Safety and Animal Control policies.

(k) Communications plan

(l) Responsibilities for writing, collecting, reviewing and approving reports.

607.6.1 OPERATIONS PLAN RETENTION

Since the operations plan contains intelligence information and descriptions of law enforcement tactics, it shall not be filed with the report. The operations plan shall be stored separately and retained in accordance with the established records retention schedule.

607.7 OPERATIONS BRIEFING

A briefing should be held prior to the commencement of any high-risk operation to allow all participants to understand the operation, see and identify each other, identify roles and responsibilities and ask questions or seek clarification as needed. Anyone who is not present at the briefing should not respond to the operation location without specific supervisory approval.

(a) The briefing should include a verbal review of plan elements, using visual aids, to enhance the participants' understanding of the operations plan.

(b) All participants should be provided a copy of the operations plan and search warrant, if applicable. Participating personnel should be directed to read the search warrant and

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initial a copy that is retained with the operation plan. Any items to be seized should be identified at the briefing.

(c) The supervisor shall ensure that all participants are visually identifiable as law enforcement officers.

1. Exceptions may be made by the supervisor for sworn members who are conducting surveillance or working under cover. However, those members exempt from visual identification should be able to transition to a visible law enforcement indicator at the time of enforcement actions, such as entries or arrests, if necessary.

(d) The briefing should include details of the communications plan.

1. It is the responsibility of the supervisor to ensure that the communications center supervisor is notified of the time and location of the operation, and to provide a copy of the operation plan prior to members arriving at the location.
2. If the radio channel needs to be monitored by the communications center, the dispatcher assigned to monitor the operation should attend the briefing, if practicable, but at a minimum should receive a copy of the operation plan.
3. The briefing should include a communications check to ensure that all participants are able to communicate with the available equipment on the designated radio channel.

607.8 MEDIA ACCESS

No advance information regarding planned operations shall be released without the approval of the Chief of Investigations. Any media inquiries or press release after the fact shall be handled in accordance with the News Media Relations Policy.

607.9 OPERATIONS DEBRIEFING

High-risk operations should be debriefed as soon as reasonably practicable. The debriefing should include as many participants as possible.

607.10 TRAINING

Members who participate in operations subject to this policy should receive periodic training including, but not limited to, topics such as legal issues, deconfliction practices, operations planning concepts and reporting requirements.

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Chapter 7 - Equipment

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Department Owned and Personal Property

700.1 PURPOSE AND SCOPE

Office employees are expected to properly care for Office property assigned or entrusted to them. Since members may suffer occasional loss or damage to personal or Office property while performing their assigned duty, certain procedures are required depending on the loss and ownership of the item.

700.2 CARE OF OFFICE PROPERTY

Members shall be responsible for the safekeeping, serviceable condition, proper care, use and replacement of Office property assigned or entrusted to them. A member's intentional or negligent abuse or misuse of Office 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 Office issued property or equipment assigned for their use.

(b) The use of damaged or unserviceable Office property should be discontinued as soon as practical and replaced with comparable Office property as soon as available and following notice to a supervisor.

(c) Except when otherwise directed by competent authority or required by exigent circumstances, Office 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) Office property shall not be thrown away, sold, traded, donated, destroyed, or otherwise disposed of without proper authority.

(e) In the event that any Office property becomes damaged or unserviceable, no employee shall attempt to repair the property without prior approval of a supervisor.

700.3 FILING CLAIMS FOR PERSONAL PROPERTY

Claims for reimbursement for damage or loss of personal property are covered in current Memorandums of Understanding and must be submitted in memorandum format to the employee's immediate supervisor. The memorandum shall include complete details regarding the cause for the damage.

The supervisor shall direct a memo to the Chief of Investigations, 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 and a finding that no misconduct or negligence was involved, repair or replacement may be recommended by the Chief of Investigations who will then forward the claim for processing in accordance with the County Administration Bulletin on "Compensation for Loss or Damage to Personal Property".

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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.

700.4 LOSS OR DAMAGE OF PROPERTY OF ANOTHER

Sworn members 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 appropriate Lieutenant.

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Personal Communication Devices

701.1 PURPOSE AND SCOPE

The purpose of this policy is to establish guidelines for the use of mobile telephones and communication devices, whether issued or funded by the Office 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 (PCDs) but is intended to include all mobile telephones, personal digital assistants (PDAs), wireless capable tablets 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.

701.2 POLICY

The Contra Costa County District Attorney's Office allows members to utilize Office-issued or funded 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 Office, 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 member safety. Additionally, members 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 member and the member’s PCD records to civil or criminal discovery or disclosure under applicable public records laws.

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

701.3 PRIVACY EXPECTATION

Members forfeit any expectation of privacy with regard to any communication accessed, transmitted, received or reviewed on any PCD issued or funded by the Office and shall have no expectation of privacy in their location should the device be equipped with location detection capabilities (see the County Administration Bulletin #140: Information Security - Information Technology Policy for additional guidance).

701.3.1 CALIFORNIA ELECTRONIC COMMUNICATIONS PRIVACY ACT (CALECPA)

No member is authorized to be the sole possessor of a Office-issued PCD. Office-issued PCDs can be retrieved, reassigned, accessed or used by any member as directed by a supervisor without notice. Member use of an Office-issued PCD and use of a personal PCD at work or for work-related business constitutes specific consent for access for Office purposes. Prior to conducting an administrative search of a PCD, supervisors should consult legal counsel to ensure access is consistent with CalECPA (Penal Code § 1546; Penal Code § 1546.1).

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701.4 OFFICE-ISSUED PCD

Depending on a member's assignment and the needs of the position, the Office may, at its discretion, issue or fund a PCD. Office-issued or funded 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 Office and shall be subject to inspection or monitoring (including all related records and content) at any time without notice and without cause.

701.5 PERSONALLY OWNED PCD

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

(a) Permission to carry a personally owned PCD may be revoked if it is used contrary to provisions of this policy.

(b) The Office accepts no responsibility for loss of or damage to a personally owned PCD.

(c) The PCD and any associated services shall be purchased, used and maintained solely at the member's expense.

(d) Members 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 Office business-related communication.

(e) Use of a personally owned PCD for work-related business constitutes consent for the Office to access the PCD to inspect and copy data to meet the needs of the Office, which may include litigation, public records retention and release obligations and internal investigations. If the PCD is carried on-duty, members will provide the Office with the telephone number of the device.

701.6 USE OF PCD

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

(a) 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). Members shall endeavor to limit their use of PCDs to authorized break times, unless an emergency exists.

(b) Members may use a PCD to communicate with other personnel in situations where the use of radio communications is either impracticable or not feasible.

(c) Members are prohibited from taking pictures, audio or video recordings or making copies of any such picture or recording media unless it is directly related to official Office business. Disclosure of any such information to any third party through any means, without the express authorization of the Chief of Investigations or the authorized designee, may result in discipline.

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(d) Members will not access social networking sites for any purpose that is not official Office business.

(e) Using PCDs to harass, threaten, coerce or otherwise engage in inappropriate conduct with any third party is prohibited. Any member having knowledge of such conduct shall promptly notify a supervisor.

701.7 SUPERVISOR RESPONSIBILITIES

The responsibilities of supervisors include, but are not limited to:

(a) Ensuring that members under their command are provided appropriate training on the use of PCDs consistent with this policy.

(b) Monitoring, to the extent practicable, PCD use in the workplace and taking prompt corrective action if a member is observed or reported to be improperly using a PCD.

1. An investigation into improper conduct should be promptly initiated when circumstances warrant.
2. Before conducting any administrative search of a member's personally owned device, supervisors should consult with the Chief of Investigations or the authorized designee.

701.8 OFFICIAL USE

Members 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, members shall conduct sensitive or private communications on a land-based or other Office communications network.

701.9 USE WHILE DRIVING

The use of a PCD while driving can adversely affect safety, cause unnecessary distractions and present a negative image to the public. Sworn members operating emergency vehicles should restrict the use of these devices to matters of an urgent nature and should, where practicable, stop the vehicle at an appropriate location to use the PCD.

Members who are operating county vehicles that are not authorized emergency vehicles shall not use a PCD while driving unless the device is specifically designed and configured to allow hands-free use. In an emergency, a wireless phone may be used to place an emergency call to the Office or other emergency services agency (Vehicle Code § 23123; Vehicle Code § 23123.5). Hands-free use should be restricted to business-related calls or calls of an urgent nature.

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Vehicle Use

702.1 PURPOSE AND SCOPE

The purpose of this policy is to establish a system of accountability to ensure County-owned vehicles are used appropriately. For the purpose of this policy, County-owned includes any vehicle owned, leased or rented by the County.

702.2 POLICY

The Contra Costa County District Attorney's Office Investigations Division provides vehicles for Office-related business and may assign take-home vehicles based on its determination of operational efficiency.

702.3 GENERAL USE OF VEHICLES

(a) It is the responsibility of all members operating a County vehicle to be familiar with County Administrative Bulletin 507.7 – County Vehicle Operation.

(b) All members operating a County vehicle shall maintain a valid California Driver's License and carry it with them when operating the vehicle.

(c) County vehicles shall be used only for conducting official business of the Contra Costa County District Attorney's Office.

(d) Only authorized members of the Office shall operate a County vehicle assigned to the Office. No member shall allow an unauthorized person to operate a County vehicle absent emergency circumstances or supervisor approval.

(e) County vehicles will not be used to transport any passengers other than authorized county employees on official county business, or persons directly involved in official county business (i.e., victims, witnesses, prisoners) or as authorized by a supervisor.

(f) Members transporting children shall ensure the child is secured in an approved child restraint system meeting applicable California Vehicle Code safety standards.

(g) Members shall comply with all state and local traffic laws, including parking restrictions and will operate County vehicles in a safe, lawful and courteous manner. Members are personally responsible for any citation they receive due to their operation or parking of a County vehicle, including any fees or expenses resulting from the impoundment of a County vehicle for violation of any parking regulation or vehicle code provision.

(h) All persons riding in a County vehicle shall wear safety belts.

(i) Members operating a County vehicle shall take all reasonable precautions to protect the vehicle from theft, vandalism and accidents. The vehicle will be parked in the safest location available and will be locked when left unattended.

(j) Smoking is prohibited in County vehicles.

(k) Members shall not modify County vehicles in any way. Any proposed change in a vehicle must be submitted to the Chief of Investigations through the chain of command.

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(l) All citizen complaints regarding the use of County vehicles will be referred to the Chief of Investigations.

702.3.1 VEHICLE LOCATION SYSTEM

All County vehicles are equipped with an internal GPS device which monitors not only the vehicle location, but complete mechanical/electrical analysis as well. Members shall not make any unauthorized modifications to the system.

System data may be accessed by supervisors at any time. However, access to historical data by other than supervisors will require Chief of Investigations approval.

All data captured by the system shall be retained in accordance with the County's established records retention schedule.

702.3.2 ALCOHOL

Members who have consumed alcohol are prohibited from operating any County vehicle unless it is required by the duty assignment (e.g., task force, undercover work). Regardless of assignment, members may not violate state law regarding vehicle operation while intoxicated.

702.3.3 MAINTENANCE

(a) Members are responsible for the cleanliness (exterior and interior) and overall maintenance of their assigned vehicles. It is the member's responsibility to ensure that his/her assigned vehicle is maintained according to the established service and maintenance schedule. Members are contacted via email when their assigned vehicle is due for service.

(b) All scheduled vehicle maintenance and car washes shall be performed as necessary at a facility approved by the County's Fleet manager.

(c) All weapons shall be removed from any vehicle left for maintenance.

702.3.4 FUELING

County vehicles will be fueled at the County fuel facility on Waterbird Way in Martinez. Commercial service stations should only be used in an emergency or when the County facility in not accessible. Each County vehicle has an assigned fuel card to be utilized at commercial service stations in such situations.

702.3.5 VEHICLE ACCIDENTS

Any member involved in an accident where there are obvious or claimed injuries shall immediately call 911 or the local law enforcement agency to report the accident. In non-injury accidents, the member shall contact the local law enforcement jurisdiction to request an accident report be taken.

In addition to an accident report taken by the local law enforcement jurisdiction, the member will complete a County Vehicle Accident Report and submit to his/her supervisor. Members are required to immediately notify their supervisor when involved in an accident.

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702.4 EMERGENCY VEHICLE OPERATION

Most vehicles utilized by Investigations Division members are equipped with emergency (Code 3) lights and siren. This equipment may be activated and displayed only for legitimate law enforcement purposes. Only sworn members may utilize emergency (Code 3) equipment. Vehicles not equipped with emergency (Code 3) equipment shall not be operated in an emergency (Code 3) manner.

Section 21055 of the California Vehicle Code provides exemption from the “Rules of the Road” only if a siren is activated and a red light is displayed. Furthermore, even though a siren is activated and a red light is displayed, California Vehicle Code Section 21056 imposes a duty to always drive with due regard for public safety.

Any sworn member who responds, using emergency lights and siren, to a request for emergency assistance from a law enforcement agency will notify CCCSO Communications that he/she is responding “Code 3”. The sworn member will notify CCCSO Communications upon arrival at the scene. CCCSO Communications will be advised when the member terminates his/her involvement in the incident and/or clears the scene. Code 3 responses will not be conducted with civilian personnel in the vehicle. The member will report all Code 3 responses to his/her supervisor as soon as practical after the response.

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Safety Equipment

703.1 PURPOSE AND SCOPE

This policy identifies the different types of safety equipment provided by the Office as well the requirements and guidelines for the use of safety equipment.

This policy does not address ballistic vests or protection from communicable disease, as those issues are addressed in the Body Armor and Communicable Diseases policies.

703.1.1 DEFINITIONS

Definitions related to this policy include:

Safety Equipment - Equipment issued to members to assist in the daily performance of their duties as sworn law enforcement professionals and to aid in protecting them from inherent job hazards..

703.2 POLICY

The Contra Costa County District Attorney's Office Investigations Division endeavors to protect members by supplying safety equipment as provided in this policy and in accordance with current MOU’s.

703.3 SWORN MEMBER RESPONSIBILITIES

Members are required to use safety equipment as provided in this policy and pursuant to their training.

Members are responsible for proper maintenance and storage of issued safety equipment. Safety equipment should be stored in an appropriate location so that it is available when needed.

Any member who identifies hazards in the workplace is encouraged to utilize the procedures in the Illness and Injury Prevention Policy to recommend new or improved safety equipment or additional needs for safety equipment.

703.4 HEARING PROTECTION

Approved hearing protection shall be used by members during firearms training.

Hearing protection shall meet or exceed the requirements provided in 8 CCR 5098.

703.5 EYE PROTECTION

Approved eye protection shall be used by members during firearms training. Eye protection for members who wear prescription lenses shall incorporate the prescription (e.g., eye protection that can be worn over prescription lenses). Members shall ensure their eye protection does not interfere with the fit of their hearing protection.

The Rangemaster shall ensure eye protection meets or exceeds the requirements provided in 8 CCR 3382.

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703.6 RECORDS

The Chief of Investigations or his/her designee shall maintain a list of all issued safety equipment. This list shall be updated as needed and utilized for securing all issued safety equipment upon the member's retirement or termination of service.

703.7 TRAINING

All members shall be trained in the proper use and maintenance of safety equipment issued to them, including how to care for the safety equipment and the limitations (8 CCR 3380).

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Chapter 8 - Support Services

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Property and Evidence

800.1 PURPOSE AND SCOPE

This policy provides for the proper collection, storage, and security of evidence and other property. Additionally, this policy provides for the protection of the chain of evidence and identifies those persons authorized to remove and/or destroy property.

800.2 DEFINITIONS

Property - Includes all items of evidence, items taken for safekeeping and found property.

Evidence - Includes items taken or recovered in the course of an investigation that may be used in the prosecution of a case. This includes photographs and latent fingerprints.

Safekeeping - Includes the following types of property:

- Property obtained by the Office for safekeeping such as a firearm
- Personal property of an arrestee not taken as evidence
- Property taken for safekeeping under authority of a law (e.g., Welfare and Institutions Code § 5150 (mentally ill persons))

Found property - Includes property found by an employee or citizen that has no apparent evidentiary value and where the owner cannot be readily identified or contacted.

800.3 PROPERTY HANDLING

Any employee who first comes into possession of any property shall retain such property in his/her possession until it is properly tagged and placed in the designated property locker or storage room along with the property form. Care shall be taken to maintain the chain of custody for all evidence.

Where ownership can be established as to found property with no apparent evidentiary value, such property may be released to the owner without the need for booking. The property form must be completed to document the release of property not booked and the owner shall sign the form acknowledging receipt of the items.

800.3.1 PROPERTY BOOKING PROCEDURE

All property must be booked into the property and evidence room prior to the member going off-duty unless otherwise approved by a supervisor. Employees booking property shall observe the following guidelines:

(a) The original property chain of custody form shall be submitted with the case report. A copy shall be placed with the property in the property and evidence room or with the property if property is stored somewhere other than the property and evidence room.

(b) Electronic items may be directly logged with one of the Investigations Division forensic examiners for initial processing and analysis.

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800.3.2 NARCOTICS AND DANGEROUS DRUGS
All narcotics and dangerous drugs shall be booked separately using a separate property record. Paraphernalia as defined by Health and Safety Code § 11364 shall also be booked separately.

The sworn member seizing the narcotics and dangerous drugs shall place them in the designated locker accompanied by two copies of the form for the Records Section and detectives. The remaining copy will be detached and submitted with the case report.

800.3.3 EXPLOSIVES
Sworn members who encounter a suspected explosive device shall promptly notify their immediate supervisor. The City of Walnut Creek EOD Unit will be called to handle explosive-related incidents and will be responsible for the handling, storage, sampling and disposal of all suspected explosives.

Explosives will not be retained in the county facility. Only fireworks that are considered stable and safe and road flares or similar signaling devices may be booked into property. All such items shall be stored in proper containers and in an area designated for the storage of flammable materials. The Assistant Investigator is responsible for transporting to the Fire Department, on a regular basis, any fireworks or signaling devices that are not retained as evidence.

800.3.4 RELINQUISHED FIREARMS
Individuals who relinquish firearms pursuant to the provisions of Penal Code § 29850 shall be issued a receipt that describes the firearm, the serial number or other identification of the firearm at the time of relinquishment (Penal Code § 29810).

Relinquished firearms shall be retained for 30 days, after which time they may be destroyed, retained, sold or otherwise transferred, unless (Penal Code § 29810):

(a) A certificate is issued by a judge of a court of record or the District Attorney stating the firearms shall be retained; or

(b) The convicted person provides written notice of an intent to appeal the conviction that necessitated the relinquishment; or

(c) The Automated Firearms System indicates that the firearm was reported lost or stolen.

1. In such event, the firearm shall be restored to the lawful owner as soon as it is no longer needed as evidence, the lawful owner has identified the weapon and provided proof of ownership, and the Office has complied with the requirements of Penal Code § 33850 et seq.

The Assistant Investigator shall be responsible for the updating the Automated Firearms System and the disposition of the firearm for purposes of notifying the California Department of Justice (DOJ) (See the Records Section Policy).

800.4 PACKAGING OF PROPERTY
Certain items require special consideration and shall be booked separately as follows:

(a) Narcotics and dangerous drugs

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(b) Firearms (ensure they are unloaded and booked separately from ammunition)

(c) Property with more than one known owner

(d) Paraphernalia as described in Health and Safety Code § 11364

(e) Fireworks

(f) Contraband

800.4.1 PACKAGING CONTAINERS

Employees shall package all property, except narcotics and dangerous drugs in a suitable container available for its size. Knife boxes should be used to package knives, and syringe tubes should be used to package syringes and needles.

A property tag shall be securely attached to the outside of all items or group of items packaged together.

800.4.2 PACKAGING NARCOTICS

A member seizing narcotics and dangerous drugs shall retain such property in his/her possession until it is properly weighed, packaged, tagged, and placed in the designated property and evidence room safe, accompanied by a copy of the property record.

Narcotics and dangerous drugs shall be packaged in an envelope of appropriate size. Narcotics and dangerous drugs shall not be packaged with other property.

A completed property form shall be attached to the outside of the container. The chain of evidence shall be recorded on the form.

800.5 PROPERTY CONTROL

Each time the Assistant Investigator receives property or releases property to another person, he/she shall enter this information on the property control card. Sworn members desiring property for court shall contact the Assistant Investigator at least one day prior to the court day.

800.5.1 TRANSFER OF EVIDENCE TO CRIME LABORATORY

The transporting member will check the evidence out of the property and evidence room, indicating the date and time on the property chain of custody form and the request for laboratory analysis.

The member releasing the evidence must complete the required information on the property chain of custody form and the evidence. The lab forms will be transported with the property to the examining laboratory. Upon delivering the item involved, the member will record the delivery time on both copies, and indicate the locker in which the item was placed or the employee to whom it was delivered. The original copy of the lab form will remain with the evidence and the copy will be returned to the Office for filing with the case.

800.5.2 STATUS OF PROPERTY

Each person receiving property will make the appropriate entry to document the chain of evidence. Temporary release of property to sworn members for investigative purposes, or for court, shall be noted on the property control card, stating the date, time and to whom released.

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The Assistant Investigator shall obtain the signature of the person to whom property is released, and the reason for release. Any employee receiving property shall be responsible for such property until it is properly returned to property or properly released to another authorized person or entity.

The return of the property should be recorded on the property control card, indicating date, time, and the person who returned the property.

800.5.3 RELEASE OF PROPERTY

All reasonable attempts shall be made to identify the rightful owner of found property or evidence not needed for an investigation.

Release of property shall be made upon receipt of an authorized release form, listing the name and address of the person to whom the property is to be released. The release authorization shall be signed by the authorizing supervisor or detective and must conform to the items listed on the property form or must specify the specific item(s) to be released. Release of all property shall be documented on the property form.

With the exception of firearms and other property specifically regulated by statute, found property and property held for safekeeping shall be held for a minimum of 90 days. During such period, property personnel shall attempt to contact the rightful owner by telephone and/or mail when sufficient identifying information is available. Property not held for any other purpose and not claimed within 90 days after notification (or receipt, if notification is not feasible) may be auctioned to the highest bidder at a properly published public auction. If such property is not sold at auction or otherwise lawfully claimed, it may thereafter be destroyed (Civil Code § 2080.6). The final disposition of all such property shall be fully documented in related reports.

A Assistant Investigator shall release the property upon proper identification being presented by the owner for which an authorized release has been received. A signature of the person receiving the property shall be recorded on the original property form. After release of all property entered on the property control card, the card shall be forwarded to the Records Section for filing with the case. If some items of property have not been released, the property card will remain with the Property and Evidence Section. Upon release, the proper entry shall be documented in the Property Log.

Under no circumstances shall any firearm, magazine, or ammunition be returned to any individual unless and until such person presents valid identification and written notification from the California Department of Justice that conforms to the provisions of Penal Code § 33865.

The Property and Evidence Section Supervisor should also make reasonable efforts to determine whether the person is the subject of any court order preventing the person from possessing a firearm and, if so, the firearm should not be released to the person while the order is in effect.

The Office is not required to retain any firearm, magazine, or ammunition longer than 180 days after notice has been provided to the owner that such items are available for return. At the expiration of such period, the firearm, magazine, or ammunition may be processed for disposal in accordance with applicable law (Penal Code § 33875).

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800.5.4 DISPUTED CLAIMS TO PROPERTY
Occasionally more than one party may claim an interest in property being held by the Office, and the legal rights of the parties cannot be clearly established. Such property shall not be released until one party has obtained a valid court order or other undisputed right to the involved property.

All parties should be advised that their claims are civil and in extreme situations, legal counsel for the Office may wish to file an interpleader to resolve the disputed claim (Code of Civil Procedure § 386(b)).

800.5.5 RELEASE OF FIREARMS, MAGAZINES, AND AMMUNITION
The Office shall not return any firearm, magazine, or ammunition taken into custody to any individual unless all requirements of Penal Code § 33855 are met.

800.6 DISPOSITION OF PROPERTY
All property not held for evidence in a pending criminal investigation or proceeding, and held for six months or longer where the owner has not been located or fails to claim the property, may be disposed of in compliance with existing laws upon receipt of proper authorization for disposal. The Assistant Investigator shall request a disposition or status on all property which has been held in excess of 120 days, and for which no disposition has been received from a supervisor.

800.6.1 EXCEPTIONAL DISPOSITIONS
The following types of property shall be destroyed or disposed of in the manner, and at the time prescribed by law, unless a different disposition is ordered by a court of competent jurisdiction:

- Weapons declared by law to be nuisances (Penal Code § 29300; Penal Code § 18010; Penal Code § 32750)
- Animals, birds, and related equipment that have been ordered forfeited by the court (Penal Code § 599a)
- Counterfeiting equipment (Penal Code § 480)
- Gaming devices (Penal Code § 335a)
- Obscene matter ordered to be destroyed by the court (Penal Code § 312)
- Altered vehicles or component parts (Vehicle Code § 10751)
- Narcotics (Health and Safety Code § 11474 et seq.)
- Unclaimed, stolen, or embezzled property (Penal Code § 1411)
- Destructive devices (Penal Code § 19000)
- Sexual assault evidence (Penal Code § 680)

800.6.2 RETENTION OF BIOLOGICAL EVIDENCE
The Property and Evidence Section Supervisor shall ensure that no biological evidence held by the Office is destroyed without adequate notification to the following persons, when applicable:

(a) The defendant

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(b) The defendant’s attorney

(c) The appropriate prosecutor and Attorney General

(d) Any sexual assault victim

(e) The Investigation Unit supervisor

Biological evidence shall be retained for either a minimum period that has been established by law (Penal Code § 1417.9) or that has been established by the Property and Evidence Section Supervisor, or until the expiration of any imposed sentence that is related to the evidence, whichever time period is greater. Following the retention period, notifications should be made by certified mail and should inform the recipient that the evidence will be destroyed after a date specified in the notice unless a motion seeking an order to retain the sample is filed and served on the Office within 180 days of the date of the notification. A record of all certified mail receipts shall be retained in the appropriate file. Any objection to, or motion regarding, the destruction of the biological evidence should be retained in the appropriate file and a copy forwarded to the Investigation Unit supervisor.

Biological evidence related to a homicide shall be retained indefinitely and may only be destroyed with the written approval of the Chief of Investigations and the head of the applicable prosecutor’s office.

Biological evidence or other crime scene evidence from an unsolved sexual assault should not be disposed of prior to expiration of the statute of limitations and shall be retained as required in Penal Code § 680. Even after expiration of an applicable statute of limitations, the Investigation Unit supervisor should be consulted and the sexual assault victim shall be notified at least 60 days prior to the disposal (Penal Code § 680). Reasons for not analyzing biological evidence shall be documented in writing (Penal Code § 680.3).

800.7 INSPECTIONS OF THE EVIDENCE ROOM

(a) On a monthly basis, the supervisor of the evidence custodian shall make an inspection of the evidence storage facilities and practices to ensure adherence to appropriate policies and procedures.

(b) Unannounced inspections of evidence storage areas shall be conducted annually as directed by the Chief of Investigations.

(c) An annual audit of evidence held by the Office shall be conducted by a Lieutenant (as appointed by the Chief of Investigations) not routinely or directly connected with evidence control.

(d) Whenever a change is made in personnel who have access to the evidence room, an inventory of all evidence/property shall be made by an individual not associated to the property room or function to ensure that records are correct and all evidence property is accounted for.

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Protected Information

801.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidelines for the access, transmission, release and security of protected information by members of the Contra Costa County District Attorney's Office. This policy addresses the protected information that is used in the day-to-day operation of the Office.

801.1.1 DEFINITIONS

Definitions related to this policy include:

Protected information - Any information or data that is collected, stored or accessed by members of the Contra Costa County District Attorney's Office and is subject to any access or release restrictions imposed by law, regulation, order or use agreement. This includes all information contained in federal, state or local law enforcement databases that is not accessible to the public.

801.2 POLICY

Members of the Contra Costa County District Attorney's Office will adhere to all applicable laws, orders, regulations, use agreements and training related to the access, use, dissemination and release of protected information.

801.3 RESPONSIBILITIES

The Chief of Investigations shall select a member of the Office to coordinate the use of protected information.

The responsibilities of this position include, but are not limited to:

(a) Ensuring member compliance with this policy and with requirements applicable to protected information, including requirements for the National Crime Information Center (NCIC) system, National Law Enforcement Telecommunications System (NLETS), Department of Motor Vehicle (DMV) records and California Law Enforcement Telecommunications System (CLETS).

(b) Developing, disseminating and maintaining procedures that adopt or comply with the U.S. Department of Justice’s current Criminal Justice Information Services (CJIS) Security Policy.

(c) Developing, disseminating and maintaining any other procedures necessary to comply with any other requirements for the access, use, dissemination, release and security of protected information.

(d) Developing procedures to ensure training and certification requirements are met.

(e) Resolving specific questions that arise regarding authorized recipients of protected information.

(f) Ensuring security practices and procedures are in place to comply with requirements applicable to protected information.

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801.4 ACCESS TO PROTECTED INFORMATION

Protected information shall not be accessed in violation of any law, order, regulation, user agreement, Contra Costa County District Attorney's Office policy or training. Only those members who have completed applicable training and met any applicable requirements, such as a background check, may access protected information, and only when the member has a legitimate work-related reason for such access.

Unauthorized access, including access for other than a legitimate work-related purpose, is prohibited and may subject a member to administrative action pursuant to the Personnel Complaints Policy and/or criminal prosecution.

801.4.1 PENALTIES FOR MISUSE OF RECORDS

It is a misdemeanor to furnish, buy, receive or possess Department of Justice criminal history information without authorization by law (Penal Code § 11143).

Authorized persons or agencies violating state regulations regarding the security of Criminal Offender Record Information (CORI) maintained by the California Department of Justice may lose direct access to CORI (11 CCR 702).

801.5 RELEASE OR DISSEMINATION OF PROTECTED INFORMATION

Protected information may be released only to authorized recipients who have both a right to know and a need to know.

A member who is asked to release protected information that should not be released should refer the requesting person to a supervisor or to the Law and Motions Unit for information regarding a formal request.

Unless otherwise ordered or when an investigation would be jeopardized, protected information maintained by the Office may generally be shared with authorized persons from other law enforcement agencies who are assisting in the investigation or conducting a related investigation. Any such information should be released through the Law and Motion Unit to ensure proper documentation of the release (see the Records Maintenance and Release Policy).

Protected information, such as Criminal Justice Information (CJI), which includes Criminal History Record Information (CHRI), should generally not be transmitted by radio, cellular telephone or any other type of wireless transmission to members in the field or in vehicles through any computer or electronic device, except in cases where there is an immediate need for the information to further an investigation or where circumstances reasonably indicate that the immediate safety of sworn members, other office members or the public is at risk.

Nothing in this policy is intended to prohibit broadcasting warrant information.

801.5.1 REVIEW OF CRIMINAL OFFENDER RECORD

Individuals requesting to review their own California criminal history information shall be referred to the Department of Justice (Penal Code § 11121).

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Individuals shall be allowed to review their arrest or conviction record on file with the Office after complying with all legal requirements regarding authority and procedures in Penal Code § 11120 through Penal Code § 11127 (Penal Code § 13321).

801.6 SECURITY OF PROTECTED INFORMATION

The Chief of Investigations will select a member of the Office to oversee the security of protected information.

The responsibilities of this position include, but are not limited to:

(a) Developing and maintaining security practices, procedures and training.

(b) Ensuring federal and state compliance with the CJIS Security Policy and the requirements of any state or local criminal history records systems.

(c) Establishing procedures to provide for the preparation, prevention, detection, analysis and containment of security incidents including computer attacks.

(d) Tracking, documenting and reporting all breach of security incidents to the Chief of Investigations and appropriate authorities.

801.6.1 MEMBER RESPONSIBILITIES

Members accessing or receiving protected information shall ensure the information is not accessed or received by persons who are not authorized to access or receive it. This includes leaving protected information, such as documents or computer databases, accessible to others when it is reasonably foreseeable that unauthorized access may occur (e.g., on an unattended table or desk; in or on an unattended vehicle; in an unlocked desk drawer or file cabinet; on an unattended computer terminal).

801.7 TRAINING

All members authorized to access or release protected information shall complete a training program that complies with any protected information system requirements and identifies authorized access and use of protected information, as well as its proper handling and dissemination.

801.8 CALIFORNIA RELIGIOUS FREEDOM ACT

Members shall not release personal information from any agency database for the purpose of investigation or enforcement of any program compiling data on individuals based on religious belief, practice, affiliation, national origin or ethnicity (Government Code § 8310.3).

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Computers and Digital Evidence

802.1 PURPOSE AND SCOPE

This policy establishes procedures for the seizure and storage of computers, personal communications devices (PCDs) digital cameras, digital recorders and other electronic devices that are capable of storing digital information; and for the preservation and storage of digital evidence. All evidence seized and/or processed pursuant to this policy shall be done so in compliance with clearly established Fourth Amendment and search and seizure provisions.

802.2 SEIZING COMPUTERS AND RELATED EVIDENCE

Computer equipment requires specialized training and handling to preserve its value as evidence. Members should be aware of the potential to destroy information through careless or improper handling, and utilize the most knowledgeable available resources. When possible, the Division's electronic forensic examiner or another member with specialized forensic training should be present and/or consulted prior to beginning the seizure process.

When seizing a computer and accessories the following steps should be taken:

(a) Photograph each item, front and back, specifically including cable connections to other items. Look for a phone line or cable to a modem for Internet access.

(b) Do not overlook the possibility of the presence of physical evidence on and around the hardware relevant to the particular investigation such as fingerprints, biological or trace evidence, and/or documents.

(c) If the computer is off, do not turn it on.

(d) If the computer is on, do not shut it down normally and do not click on anything or examine any files.

1. Photograph the screen, if possible, and note any programs or windows that appear to be open and running.

2. Disconnect the power cable from the back of the computer box or if a portable notebook style, disconnect any power cable from the case and remove the battery.

(e) Label each item with case number, evidence sheet number, and item number.

(f) Handle and transport the computer and storage media (e.g., tape, discs, memory cards, flash memory, external drives) with care so that potential evidence is not lost.

(g) All electronic items seized by division members should be turned over to the division's electronic forensics examiner for storage in the electronic forensics lab. If the examiner is unavailable, the seized items shall be placed into the property and evidence room for temporary storage until it can be transferred to the electronic forensics lab. Normal evidence seizure and storage documentation shall be completed. The member seizing

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the evidence shall contact both the division's Electronic Forensics Examiner and the Property and Evidence custodian to inform them of the location of the temporarily stored electronic evidence.

(h) At minimum, members should document the following in related reports:

1. Where the computer was located and whether or not it was in operation.
2. Who was using it at the time.
3. Who claimed ownership.
4. If it can be determined, how it was being used.

(i) In most cases when a computer is involved in criminal acts and is in the possession of the suspect, the computer itself and all storage devices (hard drives, tape drives, and disk drives) should be seized along with all media. Accessories (printers, monitors, mouse, scanner, keyboard, cables, software and manuals) should not be seized unless as a precursor to forfeiture.

802.2.1 BUSINESS OR NETWORKED COMPUTERS

If the computer belongs to a business or is part of a network, it may not be feasible to seize the entire computer. Cases involving networks require specialized handling. Sworn members should contact a certified forensic computer examiner for instructions or a response to the scene. It may be possible to perform an on-site inspection, or to image the hard drive only of the involved computer. This should only be done by someone specifically trained in processing computers for evidence.

802.2.2 FORENSIC EXAMINATION OF COMPUTERS

If an examination of the contents of the computer's hard drive, or floppy disks, compact discs, or any other storage media is required, forward the following items to a computer forensic examiner:

(a) Copy of report(s) involving the computer, including the Evidence/Property documentation.

(b) Copy of a consent to search form signed by the computer owner or the person in possession of the computer, or a copy of a search warrant authorizing the search of the computer hard drive for evidence relating to investigation.

(c) A listing of the items to search for (e.g., photographs, financial records, e-mail, documents).

(d) A duplicate forensic image of the hard drive or disk will be made by someone trained in the examination of computer storage devices for evidence.

802.3 SEIZING DIGITAL STORAGE MEDIA

Digital storage media including hard drives, floppy discs, CD's, DVD's, tapes, memory cards, or flash memory devices should be seized and stored in a manner that will protect them from damage.

(a) If the media has a write-protection tab or switch, it should be activated.

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(b) Do not review, access or open digital devices prior to submission. If the information is needed for immediate investigation, request the division's electronic forensics examiner or another specially trained member to copy the contents to an appropriate form of storage media.

(c) Many kinds of storage media can be erased or damaged by magnetic fields. Keep all media away from magnetic devices, electric motors, radio transmitters or other sources of magnetic fields.

(d) Do not leave storage media where they would be subject to excessive heat such as in a parked vehicle on a hot day.

(e) Use plastic cases designed to protect the media, or other protective packaging, to prevent damage.

802.4 SEIZING PCDS

Personal communication devices such as cell phones, PDAs or other hand-held devices connected to any communication network must be handled with care to preserve evidence that may be on the device including messages, stored data and/or images.

(a) Absent exigent circumstances, members should not attempt to access, review or search the contents of such devices prior to examination by a forensic expert. Unsent messages can be lost, data can be inadvertently deleted and incoming messages can override stored messages.

(b) Do not turn the device on or off. The device should be placed in a solid metal container such as a paint can or in a faraday bag, to prevent the device from sending or receiving information from its host network.

(c) When seizing the devices, also seize the charging units and keep them plugged in to the chargers until they can be examined. If the batteries go dead all the data may be lost.

802.5 DIGITAL EVIDENCE RECORDED BY OFFICERS

Sworn members handling and submitting recorded and digitally stored evidence from digital cameras and audio or video recorders will comply with these procedures to ensure the integrity and admissibility of such evidence.

802.5.1 COLLECTION OF DIGITAL EVIDENCE

Once evidence is recorded it shall not be erased, deleted or altered in any way prior to submission. All photographs taken will be preserved regardless of quality, composition or relevance. Video and audio files will not be altered in any way.

802.5.2 DOWNLOADING OF DIGITAL FILES

Digital information such as video or audio files recorded on devices using internal memory must be downloaded to storage media. The following procedures are to be followed:

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(a) Files should not be opened or reviewed prior to downloading and storage.

(b) Where possible, the device should be connected to a computer and the files accessed directly from the computer directory or downloaded to a folder on the host computer for copying to the storage media.

802.5.3 PRESERVATION OF DIGITAL EVIDENCE

(a) The original digital media shall remain in evidence and shall remain unaltered.

(b) Digital images that are enhanced to provide a better quality photograph for identification and investigative purposes must only be made from a copy of the original media.

(c) If any enhancement is done to the copy of the original, it shall be noted in the corresponding incident report.

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Chapter 9 - Custody

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Custodial Searches

900.1 PURPOSE AND SCOPE

This policy provides guidance regarding searches of individuals in custody. Such searches are necessary to eliminate the introduction of contraband, intoxicants or weapons into Contra Costa County District Attorney's Office facilities. Such items can pose a serious risk to the safety and security of Office members, individuals in custody, contractors and the public.

900.1.1 DEFINITIONS

Custody search - An in-custody search of an individual and of his/her property, shoes and clothing, including pockets, cuffs and folds on the clothing, to remove all weapons, dangerous items and contraband.

Pat-Down Search – Search commonly utilized by law enforcement personnel in the field to check individuals for weapons. It involves a thorough patting down of clothing to locate any weapons or dangerous items that could pose a danger.

Physical body cavity search - A search that includes a visual inspection and may include a physical intrusion into a body cavity. Body cavity means the stomach or rectal cavity of an individual, and the vagina of a female person.

Strip search - A search that requires an individual to remove or rearrange some or all of his/her clothing to permit a visual inspection of the underclothing, breasts, buttocks, anus or outer genitalia. This includes monitoring an individual who is changing clothes, where his/her underclothing, buttocks, genitalia or female breasts are visible.

900.2 POLICY

All searches shall be conducted with concern for safety, dignity, courtesy, respect for privacy and hygiene, and in compliance with policy and law to protect the rights of those who are subject to any search.

Searches shall not be used for intimidation, harassment, punishment or retaliation.

900.3 PAT DOWN SEARCHES

When a sworn member has reasonable suspicion to believe that a person being lawfully detained may possess weapons or other dangerous itmes, or in such circumstances the member reasonably believes that the individual may present a threat to officer safety, that member may conduct a normal pat-down search of that individual.

Prior to detaining any individual in any County vehicle, a sworn member should conduct a normal pat-down search of the individual.

Whenever practicable, a pat-down search of an individual should be conducted by a member of the same sex as the person being searched. Absent the availability of a same sex member, it is

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recommended that a witness member be present during any pat-down search of an individual of the opposite sex as the searching member.

900.4 FIELD AND TRANSPORTATION SEARCHES

A sworn member should conduct a custody search of an individual immediately after his/her arrest, when receiving an individual from the custody of another, and before transporting a person who is in custody in any County vehicle.

Whenever practicable, a custody search should be conducted by a sworn member of the same sex as the person being searched. If a sworn member of the same sex is not reasonably available, a witnessing sworn member should be present during the search.

900.5 SEARCHES AT COUNTY FACILITIES

Custody searches shall be conducted on all individuals in custody, upon entry to Contra Costa County District Attorney's Office facilities. Except in exigent circumstances, the search should be conducted by a member of the same sex as the individual being searched. If a member of the same sex is not available, a witnessing member must be present during the search.

Custody searches should also be conducted any time an individual in custody enters or re-enters a secure area, or any time it is reasonably believed that a search is necessary to maintain the safety and security of the facility.

900.5.1 PROPERTY

Members shall take reasonable care in handling the property of an individual in custody to avoid discrepancies or losses. Property retained for safekeeping shall be kept in a secure location until the individual is released or transferred.

Some property may not be accepted by a facility or agency that is taking custody of an individual from this Office, such as weapons or large items. These items should be retained for safekeeping in accordance with the Property and Evidence Policy.

All property shall be inventoried by objective description (this does not include an estimated value). The individual from whom it was taken shall be required to sign the completed inventory. If the individual's signature cannot be obtained, the inventory shall be witnessed by another law enforcement member.

900.5.2 VERIFICATION OF MONEY

All money shall be counted in front of the individual from whom it was received. When possible, the individual shall initial the dollar amount on the inventory. Additionally, all money should be placed in a separate envelope and sealed. Negotiable checks or other instruments and foreign currency should also be sealed in an envelope with the amount indicated but not added to the cash total. All envelopes should clearly indicate the contents on the front. The member sealing it should place his/her initials across the sealed flap. Should any money be withdrawn or added, the member

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making such change shall enter the amount below the original entry and initial it. The amount of money in the envelope should always be totaled and written on the outside of the envelope.

900.6 STRIP SEARCHES

No individual in temporary custody at any Contra Costa County District Attorney's Office facility shall be subjected to a strip search unless there is reasonable suspicion based upon specific and articulable facts to believe the individual has a health condition requiring immediate medical attention or is concealing a weapon or contraband. Factors to be considered in determining reasonable suspicion include, but are not limited to:

(a) The detection of an object during a custody search that may be a weapon or contraband and cannot be safely retrieved without a strip search.

(b) Circumstances of a current arrest that specifically indicate the individual may be concealing a weapon or contraband.

1. A felony arrest charge or being under the influence of a controlled substance should not suffice as reasonable suspicion absent other facts.

(c) Custody history (e.g., past possession of contraband while in custody, assaults on law enforcement members, escape attempts).

(d) The individual’s actions or demeanor.

(e) Criminal history (i.e., level of experience in a custody setting).

No transgender or intersex individual shall be searched or examined for the sole purpose of determining the individual’s genital status. If the individual’s genital status is unknown, it may be determined during conversations with the person, by reviewing medical records, or as a result of a broader medical examination conducted in private by a medical practitioner (28 CFR 115.115).

900.6.1 STRIP SEARCH PROCEDURES

Strip searches at Contra Costa County District Attorney's Office facilities shall be conducted as follows (28 CFR 115.115; Penal Code § 4030):

(a) Written authorization from a supervisor shall be obtained prior to the strip search.

(b) All members involved with the strip search shall be of the same sex as the individual being searched, unless the search is conducted by a medical practitioner.

(c) All strip searches shall be conducted in a professional manner under sanitary conditions and in a secure area of privacy so that it cannot be observed by those not participating in the search. The search shall not be reproduced through a visual or sound recording.

(d) Whenever possible, a second member of the same sex should also be present during the search, for security and as a witness to the finding of evidence.

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(e) Members conducting a strip search shall not touch the breasts, buttocks or genitalia of the individual being searched.

(f) The primary member conducting the search shall prepare a written report to include:

1. The facts that led to the decision to perform a strip search.
2. The reasons less intrusive methods of searching were not used or were insufficient.
3. The written authorization for the search, obtained from the supervisor.
4. The name of the individual who was searched.
5. The name and sex of the members who conducted the search.
6. The name, sex and role of any person present during the search.
7. The time and date of the search.
8. The place at which the search was conducted.
9. A list of the items, if any, that were recovered.
10. The facts upon which the member based his/her belief that the individual was concealing a weapon or contraband.

(g) No member should view an individual's private underclothing, buttocks, genitalia or female breasts while that individual is showering, performing bodily functions or changing clothes, unless he/she otherwise qualifies for a strip search. However, if serious hygiene or health issues make it reasonably necessary to assist the individual with a shower or a change of clothes, a supervisor should be contacted to ensure reasonable steps are taken to obtain the individual's consent and/or otherwise protect his/her privacy and dignity.

(h) If the individual has been arrested for a misdemeanor or infraction offense, the written authorization from the supervisor shall include specific and articulable facts and circumstances upon which the reasonable suspicion determination for the search was made.

(i) A copy of the written authorization shall be retained and made available upon request to the individual or the individual's authorized representative. A record of the time, date, place of the search, the name and sex of the person conducting the search, and a statement of the results of the search shall also be retained and made available upon request to the individual or the individual’s authorized representative.

900.6.2 SPECIAL CIRCUMSTANCE FIELD STRIP SEARCHES

A strip search may be conducted in the field only with supervisor authorization and only in exceptional circumstances, such as when:

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(a) There is probable cause to believe that the individual is concealing a weapon or other dangerous item that cannot be recovered by a more limited search.

(b) There is probable cause to believe that the individual is concealing controlled substances or evidence that cannot be recovered by a more limited search, and there is no reasonable alternative to ensure the individual cannot destroy or ingest the substance during transportation.

These special-circumstance field strip searches shall only be authorized and conducted under the same restrictions as the strip search procedures in this policy, except that the supervisor authorization does not need to be in writing.

900.7 PHYSICAL BODY CAVITY SEARCH

Physical body cavity searches shall be subject to the following (Penal Code § 4030):

(a) No individual shall be subjected to a physical body cavity search without written approval of the supervisor and only upon a search warrant. A copy of any search warrant and the results of the physical body cavity search shall be included with the related reports and made available, upon request, to the individual or authorized representative (except for those portions of the warrant ordered sealed by a court).

(b) Only a physician, nurse practitioner, registered nurse, licensed vocational nurse or Emergency Medical Technician Level II licensed to practice in California may conduct a physical body cavity search.

(c) Except for the physician or licensed medical personnel conducting the search, persons present must be of the same sex as the individual being searched. Only the necessary members needed to maintain the safety and security of the medical personnel shall be present.

(d) Privacy requirements, including restricted touching of body parts and sanitary condition requirements, are the same as required for a strip search.

(e) All such searches shall be documented, including:

1. The facts that led to the decision to perform a physical body cavity search of the individual.
2. The reasons less intrusive methods of searching were not used or were insufficient.
3. The supervisor's approval.
4. A copy of the search warrant.
5. The time, date and location of the search.
6. The medical personnel present.
7. The names, sex and roles of any members present.

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8. Any contraband or weapons discovered by the search.

(f) Copies of the written authorization and search warrant shall be retained and shall be provided to the individual who was searched or other authorized representative upon request. A record of the time, date, place of the search, the name and sex of the person conducting the search and a statement of the results of the search shall also be retained and made available upon request to the individual or the individual's authorized representative.

900.8 TRAINING

The Chief of Investigations shall ensure members have training that includes (28 CFR 115.115):

(a) Conducting searches of cross-gender individuals.

(b) Conducting searches of transgender and intersex individuals.

(c) Conducting searches in a professional and respectful manner, and in the least intrusive manner possible, consistent with security needs.

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Chapter 10 - Personnel

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Recruitment and Selection

1000.1 PURPOSE AND SCOPE

This policy provides a framework for employee recruiting efforts and identifying job-related standards for the selection process. This policy supplements the rules that govern employment practices for the Contra Costa County District Attorney's Office and that are promulgated and maintained by the Department of Human Resources.

1000.2 POLICY

In accordance with applicable federal, state, and local law, the Contra Costa County District Attorney's Office provides equal opportunities for applicants and employees regardless of actual or perceived race, ethnicity, national origin, religion, sex, sexual orientation, gender identity or expression, age, disability, pregnancy, genetic information, veteran status, marital status, and any other classification or status protected by law. The Office does not show partiality or grant any special status to any applicant, employee, or group of employees unless otherwise required by law.

The Office will recruit and hire only those individuals who demonstrate a commitment to service and who possess the traits and characteristics that reflect personal integrity and high ethical standards.

1000.3 RECRUITMENT

The Administrative Services Lieutenant should employ a comprehensive recruitment and selection strategy to recruit and select employees from a qualified and diverse pool of candidates.

The strategy should include:

(a) Identification of racially and culturally diverse target markets.

(b) Use of marketing strategies to target diverse applicant pools.

(c) Expanded use of technology and maintenance of a strong internet presence. This may include an interactive office website and the use of office-managed social networking sites, if resources permit.

(d) Expanded outreach through partnerships with media, community groups, citizen academies, local colleges, universities, and the military.

(e) Employee referral and recruitment incentive programs.

(f) Consideration of shared or collaborative regional testing processes.

The Administrative Services Lieutenant shall avoid advertising, recruiting and screening practices that tend to stereotype, focus on homogeneous applicant pools or screen applicants in a discriminatory manner.

The Office should strive to facilitate and expedite the screening and testing process, and should periodically inform each candidate of his/her status in the recruiting process.

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1000.4 SELECTION PROCESS

The Office shall actively strive to identify a diverse group of candidates who have in some manner distinguished themselves as being outstanding prospects. Minimally, the Office should employ a comprehensive screening, background investigation, and selection process that assesses cognitive and physical abilities and includes review and verification of the following:

(a) A comprehensive application for employment (including previous employment, references, current and prior addresses, education, military record)

(b) Driving record

(c) Reference checks

(d) Employment eligibility, including U.S. Citizenship and Immigration Services (USCIS) Employment Eligibility Verification Form I-9 and acceptable identity and employment authorization documents consistent with Labor Code § 1019.1. This required documentation should not be requested until a candidate is hired. This does not prohibit obtaining documents required for other purposes.

(e) Information obtained from public internet sites

(f) Financial history consistent with the Fair Credit Reporting Act (FCRA) (15 USC § 1681 et seq.)

(g) Local, state, and federal criminal history record checks

(h) Lie detector test (when legally permissible) (Labor Code § 432.2)

(i) Medical and psychological examination (may only be given after a conditional offer of employment)

(j) Review board or selection committee assessment

1000.4.1 VETERAN’S PREFERENCE

Qualifying veterans of the United States Armed Forces who receive a passing score on an entrance examination shall be ranked in the top rank of any resulting eligibility list. The veteran’s preference shall also apply to a widow or widower of a veteran or a spouse of a 100 percent disabled veteran (Government Code § 18973.1).

1000.5 BACKGROUND INVESTIGATION

Every candidate shall undergo a thorough background investigation to verify his/her personal integrity and high ethical standards, and to identify any past behavior that may be indicative of the candidate’s unsuitability to perform duties relevant to the operation of the Contra Costa County District Attorney's Office (11 CCR 1953).

The narrative report and any other relevant background information shall be shared with the psychological evaluator. Information shall also be shared with others involved in the hiring process if it is relevant to their respective evaluations (11 CCR 1953).

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1000.5.1 NOTICES
Background investigators shall ensure that investigations are conducted and notices provided in accordance with the requirements of the FCRA and the California Investigative Consumer Reporting Agencies Act (15 USC § 1681d; Civil Code § 1786.16).

1000.5.2 STATE NOTICES
If information disclosed in a candidate's criminal offender record information (CORI) is the basis for an adverse employment decision, a copy of the CORI shall be provided to the applicant (Penal Code § 11105).

1000.5.3 REVIEW OF SOCIAL MEDIA SITES
Due to the potential for accessing unsubstantiated, private, or protected information, the Administrative Services Lieutenant shall not require candidates to provide passwords, account information, or access to password-protected social media accounts (Labor Code § 980).

The Administrative Services Lieutenant should consider utilizing the services of an appropriately trained and experienced third party to conduct open source, internet-based searches, and/or review information from social media sites to ensure that:

(a) The legal rights of candidates are protected.

(b) Material and information to be considered are verified, accurate, and validated.

(c) The Office fully complies with applicable privacy protections and local, state, and federal law.

Regardless of whether a third party is used, the Administrative Services Lieutenant should ensure that potentially impermissible information is not available to any person involved in the candidate selection process.

1000.5.4 DOCUMENTING AND REPORTING
The background investigator shall summarize the results of the background investigation in a narrative report that includes sufficient information to allow the reviewing authority to decide whether to extend a conditional offer of employment. The report shall not include any information that is prohibited from use, including that from social media sites, in making employment decisions. The report and all supporting documentation shall be included in the candidate's background investigation file (11 CCR 1953).

1000.5.5 RECORDS RETENTION
The background report and all supporting documentation shall be maintained for a minimum of two years and in accordance with the established records retention schedule (Government Code § 12946; 11 CCR 1953).

1000.6 DISQUALIFICATION GUIDELINES
As a general rule, performance indicators and candidate information and records shall be evaluated by considering the candidate as a whole, and taking into consideration the following:

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- Age at the time the behavior occurred
- Passage of time
- Patterns of past behavior
- Severity of behavior
- Probable consequences if past behavior is repeated or made public
- Likelihood of recurrence
- Relevance of past behavior to public safety employment
- Aggravating and mitigating factors
- Other relevant considerations

A candidate's qualifications will be assessed on a case-by-case basis, using a totality-of-the-circumstances framework.

1000.7 EMPLOYMENT STANDARDS

All candidates shall meet the minimum standards required by state law (Government Code § 1029; Government Code § 1031; 11 CCR 1950 et seq.). Candidates will be evaluated based on merit, ability, competence, and experience, in accordance with the high standards of integrity and ethics valued by the Office and the community. The California Commission on Peace Officer Standards and Training (POST) developed a Job Dimensions list, which is used as a professional standard in background investigations.

Validated, job-related, and nondiscriminatory employment standards shall be established for each job classification and shall minimally identify the training, abilities, knowledge, and skills required to perform the position's essential duties in a satisfactory manner. Each standard should include performance indicators for candidate evaluation. The Department of Human Resources should maintain validated standards for all positions.

1000.7.1 STANDARDS FOR SWORN MEMBERS

Candidates shall meet the minimum standards established by POST (Government Code § 1029; Government Code § 1031; 11 CCR 1950 et seq.):

(a) Free of any felony convictions

(b) Citizen of the United States, or permanent resident alien eligible for and has applied for citizenship

(c) At least 18 years of age

(d) Fingerprinted for local, state and national fingerprint check

(e) Good moral character as determined by a thorough background investigation (11 CCR 1953)

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(f) High school graduate, passed the GED or other high school equivalency test or obtained a two-year, four-year or advanced degree from an accredited or approved institution

(g) Free from any physical, emotional, or mental condition which might adversely affect the exercise of police powers (11 CCR 1954; 11 CCR 1955)

(h) Candidates must also satisfy the POST selection requirements, including (11 CCR 1950 et seq.):

1. Reading and writing ability assessment (11 CCR 1951)
2. Oral interview to determine suitability for law enforcement service (11 CCR 1952)

In addition to the above minimum POST required standards, candidates may be subjected to additional standards established by the Office (Penal Code § 13510(d)).

1000.8 PROBATIONARY PERIODS

The Administrative Services Lieutenant should coordinate with the Contra Costa Department of Human Resources to identify positions subject to probationary periods and procedures for:

(a) Appraising performance during probation.

(b) Assessing the level of performance required to complete probation.

(c) Extending probation.

(d) Documenting successful or unsuccessful completion of probation.

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Evaluation of Employees

1001.1 PURPOSE AND SCOPE

The Office's employee performance evaluation system is designed to record work performance for both the Office and the employee, providing recognition for good work and developing a guide for improvement.

1001.2 POLICY

The Contra Costa County District Attorney's Office 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 Office evaluates employees in a non-discriminatory manner based upon job-related factors specific to the employee's position, without regard to actual or perceived race, ethnicity, national origin, religion, sex, sexual orientation, gender identity or expression, age, disability, pregnancy, genetic information, veteran status, marital status, and any other classification or status protected by law.

1001.3 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 Assistant Investigator 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.

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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.

1001.4 FULL TIME PROBATIONARY PERSONNEL

assistant investigator personnel are on probation for six months before being eligible for certification as permanent employees. An evaluation is completed monthly for all full-time Assistant Investigator personnel during the probationary period.

Sworn personnel are on probation for 12 months before being eligible for certification as permanent employees. Probationary sworn members are evaluated daily, weekly and monthly during the probationary period.

1001.5 FULL-TIME PERMANENT STATUS PERSONNEL

All Investigations Division members (sworn and non-sworn) shall receive performance evaluations on a yearly basis.

1001.5.1 RATINGS

When completing the Employee Performance Evaluation, the rater will place a check mark in the column that best describes the employee's performance. The definition of each rating category is as follows:

Outstanding - Is actual performance well beyond that required for the position. It is exceptional performance, definitely superior or extraordinary.

Exceeds Standards - Represents performance that is better than expected of a fully competent employee. It is superior to what is expected, but is not of such rare nature to warrant outstanding.

Meets Standards - Is the performance of a fully competent employee. It means satisfactory performance that meets the standards required of the position.

Needs Improvement - Is a level of performance less than that expected of a fully competent employee and less than standards required of the position. A needs improvement rating must be thoroughly discussed with the employee.

Unsatisfactory - Performance is inferior to the standards required of the position. It is very inadequate or undesirable performance that cannot be tolerated.

Space for written comments is provided at the end of the evaluation in the rater comments section. This section allows the rater to document the employee's strengths, weaknesses, and suggestions for improvement. Any rating under any job dimension marked unsatisfactory or outstanding shall be substantiated in the rater comments section.

1001.6 EVALUATION INTERVIEW

When the supervisor has completed the preliminary evaluation, arrangements shall be made for a private discussion of the evaluation with the employee. The supervisor should discuss the results of the just completed rating period and clarify any questions the employee may

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have. If the employee has valid and reasonable protests of any of the ratings, the supervisor may make appropriate changes to the evaluation. Areas needing improvement and goals for reaching the expected level of performance should be identified and discussed. The supervisor should also provide relevant counseling regarding advancement, specialty positions and training opportunities. The supervisor and employee will sign and date the evaluation. Permanent employees may also write comments in the Employee Comments section of the performance evaluation report.

1001.7 EVALUATION REVIEW

After the supervisor finishes the discussion with the member, the signed performance evaluation is forwarded to the Chief of Investigations. The Chief of Investigations shall review the evaluation for fairness, impartiality, uniformity, and consistency.

1001.8 EVALUATION DISTRIBUTION

The original performance evaluation shall be maintained in the member’s personnel file in the office of the Chief of Investigations for the tenure of the member’s employment. A copy will be given to the member.

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Anti-Retaliation

1002.1 PURPOSE AND SCOPE

This policy prohibits retaliation against members who identify workplace issues, such as fraud, waste, abuse of authority, gross mismanagement or any inappropriate conduct or practices, including violations that may pose a threat to the health, safety or well-being of members.

This policy does not prohibit actions taken for nondiscriminatory or non-retaliatory reasons, such as discipline for cause.

These guidelines are intended to supplement and not limit members' access to other applicable remedies. Nothing in this policy shall diminish the rights or remedies of a member pursuant to any applicable federal law, provision of the U.S. Constitution, law, ordinance or memorandum of understanding.

1002.2 POLICY

The Contra Costa County District Attorney's Office has a zero tolerance for retaliation and is committed to taking reasonable steps to protect from retaliation members who, in good faith, engage in permitted behavior or who report or participate in the reporting or investigation of workplace issues. All complaints of retaliation will be taken seriously and will be promptly and appropriately investigated.

1002.3 RETALIATION PROHIBITED

No member may retaliate against any person for engaging in lawful or otherwise permitted behavior; for opposing a practice believed to be unlawful, unethical, discriminatory or retaliatory; for reporting or making a complaint under this policy; or for participating in any investigation related to a complaint under this or any other policy.

Retaliation includes any adverse action or conduct, including but not limited to:

- Refusing to hire or denying a promotion.
- Extending the probationary period.
- Unjustified reassignment of duties or change of work schedule.
- Real or implied threats or other forms of intimidation to dissuade the reporting of wrongdoing or filing of a complaint, or as a consequence of having reported or participated in protected activity.
- Taking unwarranted disciplinary action.
- Spreading rumors about the person filing the complaint or about the alleged wrongdoing.
- Shunning or unreasonably avoiding a person because he/she has engaged in protected activity.

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1002.4 COMPLAINTS OF RETALIATION

Any member who feels he/she has been retaliated against in violation of this policy should promptly report the matter to any supervisor, command staff member, Chief of Investigations or the County Director of Human Resources.

Members shall act in good faith, not engage in unwarranted reporting of trivial or minor deviations or transgressions, and make reasonable efforts to verify facts before making any complaint in order to avoid baseless allegations. Members shall not report or state an intention to report information or an allegation knowing it to be false, with willful or reckless disregard for the truth or falsity of the information or otherwise act in bad faith.

Investigations are generally more effective when the identity of the reporting member is known, thereby allowing investigators to obtain additional information from the reporting member. However, complaints may be made anonymously. All reasonable efforts shall be made to protect the reporting member’s identity. However, confidential information may be disclosed to the extent required by law or to the degree necessary to conduct an adequate investigation and make a determination regarding a complaint. In some situations, the investigative process may not be complete unless the source of the information and a statement by the member is part of the investigative process.

1002.5 SUPERVISOR RESPONSIBILITIES

Supervisors are expected to remain familiar with this policy and ensure that members under their command are aware of its provisions.

The responsibilities of supervisors include, but are not limited to:

(a) Ensuring complaints of retaliation are investigated as provided in the Personnel Complaints Policy.

(b) Receiving all complaints in a fair and impartial manner.

(c) Documenting the complaint and any steps taken to resolve the problem.

(d) Acknowledging receipt of the complaint, notifying the Chief of Investigations via the chain of command and explaining to the member how the complaint will be handled.

(e) Taking appropriate and reasonable steps to mitigate any further violations of this policy.

(f) Monitoring the work environment to ensure that any member making a complaint is not subjected to further retaliation.

(g) Periodic follow-up with the complainant to ensure that retaliation is not continuing.

(h) Not interfering with or denying the right of a member to make any complaint.

(i) Taking reasonable steps to accommodate requests for assignment or schedule changes made by a member who may be the target of retaliation if it would likely mitigate the potential for further violations of this policy.

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1002.6 COMMAND STAFF RESPONSIBILITIES

The Chief of Investigations should communicate to all supervisors the prohibition against retaliation.

Command staff shall treat all complaints as serious matters and shall ensure that prompt actions take place, including but not limited to:

(a) Communicating to all members the prohibition against retaliation.

(b) The timely review of complaint investigations.

(c) Remediation of any inappropriate conduct or condition and instituting measures to eliminate or minimize the likelihood of recurrence.

(d) The timely communication of the outcome to the complainant.

1002.7 WHISTLE-BLOWING

California law protects members who (Labor Code § 1102.5; Government Code § 53296 et seq.):

(a) Report a violation of a state or federal statute or regulation to a government or law enforcement agency, including the member's supervisor or any other member with the authority to investigate the reported violation.

(b) Provide information or testify before a public body if the member has reasonable cause to believe a violation of law occurred.

(c) Refuse to participate in an activity that would result in a violation of a state or federal statute or regulation.

(d) File a complaint with a local agency about gross mismanagement or a significant waste of funds, abuse of authority, or a substantial and specific danger to public health or safety. Members shall exhaust all available administrative remedies prior to filing a formal complaint.

(e) Are family members of a person who has engaged in any protected acts described above.

Members are encouraged to report any legal violations through the chain of command (Labor Code § 1102.5).

Members who believe they have been the subject of retaliation for engaging in such protected behaviors should promptly report it to a supervisor. Supervisors should refer the complaint to the Lieutenant for investigation pursuant to the Personnel Complaints Policy.

1002.7.1 DISPLAY OF WHISTLE-BLOWER LAWS

The Office shall display a notice to members regarding their rights and responsibilities under the whistle-blower laws, including the whistle-blower hotline maintained by the Office of the Attorney General (Labor Code § 1102.8).

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1002.8 RECORDS RETENTION AND RELEASE

The Chief of Investigations shall ensure that documentation of investigations is maintained in accordance with the established records retention schedules.

1002.9 TRAINING

The policy should be reviewed with each new member.

All members should receive periodic refresher training on the requirements of this policy.

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Reporting of Employee Convictions

1003.1 PURPOSE AND SCOPE

Convictions of certain offenses may restrict or prohibit an employee's ability to properly perform official duties. Therefore, all employees shall be required to promptly notify the Office of any past and current criminal convictions.

1003.2 DOMESTIC VIOLENCE CONVICTIONS, OUTSTANDING WARRANTS AND RESTRAINING ORDERS

California and federal law prohibit individuals convicted of, or having an outstanding warrant for, certain offenses and individuals subject to certain court orders from lawfully possessing a firearm. Such convictions and court orders often involve allegations of the use or attempted use of force or threatened use of a weapon on any individual in a domestic relationship (e.g., spouse, cohabitant, parent, child) (18 USC § 922; Penal Code § 29805).

All members are responsible for ensuring that they have not been disqualified from possessing a firearm by any such conviction or court order and shall promptly report any such conviction or court order to a supervisor, as provided in this policy.

1003.3 OTHER CRIMINAL CONVICTIONS AND COURT ORDERS

Government Code § 1029 prohibits any person convicted of a felony from being a peace officer in the State of California. This prohibition applies regardless of whether the guilt was established by way of a verdict, guilty or nolo contendre plea.

Convictions of certain violations of the Vehicle Code and other provisions of law may also place restrictions on an employee's ability to fully perform the duties of the job.

Outstanding warrants as provided in Penal Code § 29805 also place restrictions on a member's ability to possess a firearm.

Moreover, while legal restrictions may or may not be imposed by statute or by the courts upon conviction of any criminal offense, criminal conduct by members of this office may be inherently in conflict with law enforcement duties and the public trust.

1003.4 REPORTING PROCEDURE

All members of this office and all retired sworn members with an identification card issued by the Office shall promptly notify their immediate supervisor (or the Chief of Investigations in the case of retired sworn members) in writing of any past or current criminal arrest, outstanding warrant or conviction regardless of whether or not the matter is currently on appeal and regardless of the penalty or sentence, if any.

All members and all retired sworn members with an identification card issued by the Office shall further promptly notify their immediate supervisor (or the Chief of Investigations in the case of

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retired sworn members) in writing if the member or retiree becomes the subject of a domestic violence restraining order or similar court order or becomes the subject of an outstanding warrant.

Any member whose criminal conviction unduly restricts or prohibits that member from fully and properly performing his/her duties may be disciplined including, but not limited to, being placed on administrative leave, reassignment and/or termination. Any effort to remove such disqualification or restriction shall remain entirely the responsibility of the member on his/her own time and expense.

Any member failing to provide prompt written notice pursuant to this policy shall be subject to discipline.

1003.5 PROCEDURE FOR RELIEF

Pursuant to Penal Code § 29855, a peace officer may petition the court for permission to carry a firearm following a conviction under state law. Federal law, however, does not provide for any such similar judicial relief and the granting of a state court petition under Penal Code § 29855 will not relieve one of the restrictions imposed by federal law. Therefore, relief for any employee falling under the restrictions imposed by federal law may only be obtained by expungement of the conviction. Each employee shall seek relief from firearm restrictions on their own time and through their own resources.

Pursuant to Family Code § 6389(h), an individual may petition the court for an exemption to any restraining order, which would thereafter permit the individual to carry a firearm as a part of their employment. Relief from any domestic violence or other restriction shall also be pursued through the employee’s own resources and on the employee’s own time.

Pending satisfactory proof of relief from any legal restriction imposed on an employee’s duties, the employee may be placed on administrative leave, reassigned or disciplined. The Office may, but is not required to return an employee to any assignment, reinstate any employee or reverse any pending or imposed discipline upon presentation of satisfactory proof of relief from any legal restriction set forth in this policy.

1003.5.1 NOTIFICATION REQUIREMENTS

The Administrative Services Supervisor shall submit within 30 days of final disposition a notice to the Commission on Peace Officer Standards and Training (POST) of a felony conviction or Government Code § 1029 reason that disqualifies any current peace officer employed by this office or any former peace officer if this office was responsible for the investigation (11 CCR 1003).

The Administrative Services Supervisor shall submit within 30 days a notice to POST of any appointment, termination, reinstatement, name change, or status change regarding any peace officer, reserve peace officer, public safety dispatcher, and records supervisor employed by this office (11 CCR 1003).

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Communicable Diseases

1004.1 PURPOSE AND SCOPE

This policy provides general guidelines to assist in minimizing the risk of office members contracting and/or spreading communicable diseases.

1004.1.1 DEFINITIONS

Definitions related to this policy include:

Communicable disease - A human disease caused by microorganisms that are present in and transmissible through human blood, bodily fluid, tissue, or by breathing or coughing. These diseases commonly include, but are not limited to, hepatitis B virus (HBV), HIV and tuberculosis.

Exposure - When an eye, mouth, mucous membrane or non-intact skin comes into contact with blood or other potentially infectious materials, or when these substances are injected or infused under the skin; when an individual is exposed to a person who has a disease that can be passed through the air by talking, sneezing or coughing (e.g., tuberculosis), or the individual is in an area that was occupied by such a person. Exposure only includes those instances that occur due to a member's position at the Contra Costa County District Attorney's Office. (See the exposure control plan for further details to assist in identifying whether an exposure has occurred.)

1004.2 POLICY

The Contra Costa County District Attorney's Office is committed to providing a safe work environment for its members. Members should be aware that they are ultimately responsible for their own health and safety.

1004.3 EXPOSURE CONTROL OFFICER

The District Attorney will assign a person as the Office Safety Manager. The Office Safety Manager shall develop an exposure control plan that includes:

(a) Exposure-prevention and decontamination procedures.

(b) Procedures for when and how to obtain medical attention in the event of an exposure or suspected exposure.

(c) The provision that office members will have no-cost access to the appropriate personal protective equipment (PPE) (e.g., gloves, face masks, eye protection, pocket masks) for each member's position and risk of exposure.

(d) Evaluation of persons in custody for any exposure risk and measures to separate them (15 CCR 1051; 15 CCR 1207).

(e) Compliance with all relevant laws or regulations related to communicable diseases, including:

1. Responding to requests and notifications regarding exposures covered under the Ryan White law (42 USC § 300ff-133; 42 USC § 300ff-136).

2. Bloodborne pathogen mandates including (8 CCR 5193):

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(a) Sharps injury log.

(b) Needleless systems and sharps injury protection.

3. Airborne transmissible disease mandates including (8 CCR 5199):

(a) Engineering and work practice controls related to airborne transmissible diseases.

(b) Distribution of appropriate personal protective equipment to minimize exposure to airborne disease.

4. Promptly notifying the county health officer regarding member exposures (Penal Code § 7510).

5. Establishing procedures to ensure that members request exposure notification from health facilities when transporting a person that may have a communicable disease and that the member is notified of any exposure as required by Health and Safety Code § 1797.188.

6. Informing members of the provisions of Health and Safety Code § 1797.188 (exposure to communicable diseases and notification).

(f) Provisions for acting as the designated officer liaison with health care facilities regarding communicable disease or condition exposure notification. The designated officer should coordinate with other office members to fulfill the role when not available. The designated officer shall ensure that the name, title and telephone number of the designated officer is posted on the Office website (Health and Safety Code § 1797.188).

The Office Safety Manager should also act as the liaison with the Division of Occupational Safety and Health (Cal/OSHA) and may request voluntary compliance inspections. The Office Safety Manager shall annually review and update the exposure control plan and review implementation of the plan (8 CCR 5193).

1004.4 EXPOSURE PREVENTION AND MITIGATION

1004.4.1 GENERAL PRECAUTIONS

All members are expected to use good judgment and follow training and procedures related to mitigating the risks associated with communicable disease. This includes, but is not limited to (8 CCR 5193):

(a) Stocking disposable gloves, antiseptic hand cleanser, CPR masks or other specialized equipment in the work area or office vehicles, as applicable.

(b) Wearing office-approved disposable gloves when contact with blood, other potentially infectious materials, mucous membranes and non-intact skin can be reasonably anticipated.

(c) Washing hands immediately or as soon as feasible after removal of gloves or other PPE.

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(d) Treating all human blood and bodily fluids/tissue as if it is known to be infectious for a communicable disease.

(e) Using an appropriate barrier device when providing CPR.

(f) Using a face mask or shield if it is reasonable to anticipate an exposure to an airborne transmissible disease.

(g) Decontaminating non-disposable equipment (e.g., flashlight, control devices, clothing and portable radio) as soon as possible if the equipment is a potential source of exposure.

1. Clothing that has been contaminated by blood or other potentially infectious materials shall be removed immediately or as soon as feasible and stored/ decontaminated appropriately.

(h) Handling all sharps and items that cut or puncture (e.g., needles, broken glass, razors, knives) cautiously and using puncture-resistant containers for their storage and/or transportation.

(i) Avoiding eating, drinking, smoking, applying cosmetics or lip balm, or handling contact lenses where there is a reasonable likelihood of exposure.

(j) Disposing of biohazardous waste appropriately or labeling biohazardous material properly when it is stored.

1004.4.2 IMMUNIZATIONS
Members who could be exposed to HBV due to their positions may receive the HBV vaccine and any routine booster at no cost (8 CCR 5193).

1004.5 POST EXPOSURE

1004.5.1 INITIAL POST-EXPOSURE STEPS
Members who experience an exposure or suspected exposure shall:

(a) Begin decontamination procedures immediately (e.g., wash hands and any other skin with soap and water, flush mucous membranes with water).

(b) Obtain medical attention as appropriate.

(c) Notify a supervisor as soon as practicable.

1004.5.2 REPORTING REQUIREMENTS
The supervisor on-duty shall investigate every exposure or suspected exposure that occurs as soon as possible following the incident. The supervisor shall ensure the following information is documented (8 CCR 5193):

(a) Name and Social Security number of the member exposed

(b) Date and time of the incident

(c) Location of the incident

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(d) Potentially infectious materials involved and the source of exposure (e.g., identification of the person who may have been the source)

(e) Work being done during exposure

(f) How the incident occurred or was caused

(g) PPE in use at the time of the incident

(h) Actions taken post-event (e.g., clean-up, notifications)

The supervisor shall advise the member that disclosing the identity and/or infectious status of a source to the public or to anyone who is not involved in the follow-up process is prohibited. The supervisor should complete the incident documentation in conjunction with other reporting requirements that may apply (see the Occupational Disease and Work-Related Injury Reporting Policy).

1004.5.3 MEDICAL CONSULTATION, EVALUATION AND TREATMENT

Office members shall have the opportunity to have a confidential medical evaluation immediately after an exposure and follow-up evaluations as necessary (8 CCR 5193).

The Office Safety Manager should request a written opinion/evaluation from the treating medical professional that contains only the following information:

(a) Whether the member has been informed of the results of the evaluation.

(b) Whether the member has been notified of any medical conditions resulting from exposure to blood or other potentially infectious materials which require further evaluation or treatment.

No other information should be requested or accepted by the Office Safety Manager.

1004.5.4 COUNSELING

The Office shall provide the member, and his/her family if necessary, the opportunity for counseling and consultation regarding the exposure (8 CCR 5193).

1004.5.5 SOURCE TESTING

Testing a person for communicable diseases when that person was the source of an exposure should be done when it is desired by the exposed member or when it is otherwise appropriate (8 CCR 5193). Source testing is the responsibility of the Office Safety Manager. If the Office Safety Manager is unavailable to seek timely testing of the source, it is the responsibility of the exposed member’s supervisor to ensure testing is sought.

Source testing may be achieved by:

(a) Obtaining consent from the individual.

(b) Complying 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.

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(c) Testing the exposed member for evidence of a communicable disease and seeking consent from the source individual to either access existing blood samples for testing or for the source to submit to testing (Health and Safety Code § 120262).

(d) Taking 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).

(e) Under certain circumstances, a court may issue a search warrant for the purpose of HIV testing a person when the exposed member qualifies as a crime victim (Penal Code § 1524.1).

Since there is the potential for overlap between the different manners in which source testing may occur, the Office Safety Manager is responsible for coordinating the testing to prevent unnecessary or duplicate testing.

The Office Safety Manager should seek the consent of the individual for testing and consult the County Counsel / Risk Manager to discuss other options when no statute exists for compelling the source of an exposure to undergo testing if he/she refuses.

1004.6 CONFIDENTIALITY OF REPORTS

Medical information shall remain in confidential files and shall not be disclosed to anyone without the member'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.

1004.7 TRAINING

All members shall participate in training regarding communicable diseases commensurate with the requirements of their position. The training (8 CCR 5193):

(a) Shall be provided at the time of initial assignment to tasks where an occupational exposure may take place and at least annually after the initial training.

(b) Shall be provided whenever the member is assigned new tasks or procedures affecting his/her potential exposure to communicable disease.

(c) Should provide guidance on what constitutes an exposure, what steps can be taken to avoid an exposure and what steps should be taken if a suspected exposure occurs.

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Personnel Complaints

1005.1 PURPOSE AND SCOPE

This policy provides guidelines for the reporting, investigation and disposition of complaints regarding the conduct of members of the Contra Costa County District Attorney's Office. This policy shall not apply to any questioning, counseling, instruction, informal verbal admonishment or other routine or unplanned contact of a member in the normal course of duty, by a supervisor or any other member, nor shall this policy apply to a criminal investigation.

1005.2 POLICY

The Contra Costa County District Attorney's Office takes seriously all complaints regarding the service provided by the Office and the conduct of its members.

The Office will accept and address all complaints of misconduct in accordance with this policy and applicable federal, state and local law, municipal and county rules and the requirements of any collective bargaining agreements.

It is also the policy of this office to ensure that the community can report misconduct without concern for reprisal or retaliation.

1005.3 PERSONNEL COMPLAINTS

Personnel complaints include any allegation of misconduct or improper job performance that, if true, would constitute a violation of office policy or of federal, state or local law, policy or rule. Personnel complaints may be generated internally or by the public.

Inquiries about conduct or performance that, if true, would not violate office policy or federal, state or local law, policy or rule may be handled informally by a supervisor and shall not be considered a personnel complaint. Such inquiries generally include clarification regarding policy, procedures or the response to specific incidents by the Office.

1005.3.1 COMPLAINT CLASSIFICATIONS

Personnel complaints shall be classified in one of the following categories:

Informal - A matter in which the Chief of Investigations is satisfied that appropriate action has been taken by a supervisor of rank greater than the accused member.

Formal - A matter in which a supervisor determines that further action is warranted. Such complaints may be investigated by a supervisor of rank greater than the accused member or referred to the Chief of Investigations, 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 assigned supervisor or the Chief of Investigations, such matters may be further investigated depending on the seriousness of the complaint and the availability of sufficient information.

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1005.3.2 SOURCES OF COMPLAINTS
The following applies to the source of complaints:

(a) Individuals from the public may make complaints in any form, including in writing, by email, in person or by telephone.

(b) Any office member becoming aware of alleged misconduct shall immediately notify a supervisor.

(c) Supervisors shall initiate a complaint based upon observed misconduct or receipt from any source alleging misconduct that, if true, could result in disciplinary action.

(d) Anonymous and third-party complaints should be accepted and investigated to the extent that sufficient information is provided.

(e) Tort claims and lawsuits may generate a personnel complaint.

1005.4 AVAILABILITY AND ACCEPTANCE OF COMPLAINTS

1005.4.1 COMPLAINT FORMS
Personnel complaint forms will be maintained in a clearly visible location in each of the Office's lobby/reception areas.

Personnel complaint forms in languages other than English may also be provided, as determined necessary or practicable.

1005.4.2 ACCEPTANCE
All complaints will be courteously accepted by any office member and promptly given to the appropriate supervisor. Although written complaints are preferred, a complaint may also be filed orally, either in person or by telephone. Such complaints will be directed to a supervisor. If a supervisor is not immediately available to take an oral complaint, the receiving member shall obtain contact information sufficient for the supervisor to contact the complainant. The supervisor, upon contact with the complainant, shall complete and submit a complaint form as appropriate.

Although not required, complainants should be encouraged to file complaints in person so that proper identification, signatures, photographs or physical evidence may be obtained as necessary.

A complainant shall be provided with a copy of his/her statement at the time it is filed with the Office (Penal Code § 832.7).

1005.5 DOCUMENTATION
Supervisors shall ensure that all formal and informal complaints are documented on a complaint form. The supervisor shall ensure that the nature of the complaint is defined as clearly as possible.

All complaints and inquiries should also be documented in a log that records and tracks complaints. The log shall include the nature of the complaint and the actions taken to address the complaint. On an annual basis, the Office should audit the log and send an audit report to the Chief of Investigations or the authorized designee.

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1005.6 ADMINISTRATIVE INVESTIGATIONS

Allegations of misconduct will be administratively investigated as follows.

1005.6.1 SUPERVISOR RESPONSIBILITIES

In general, the primary responsibility for the investigation of a personnel complaint shall rest with the member's immediate supervisor, unless the supervisor is the complainant, or the supervisor is the ultimate decision-maker regarding disciplinary action or has any personal involvement regarding the alleged misconduct. The Chief of Investigations or the authorized designee may direct that another supervisor investigate any complaint.

A supervisor who becomes aware of alleged misconduct shall take reasonable steps to prevent aggravation of the situation.

The responsibilities of supervisors include but are not limited to:

(a) Ensuring that upon receiving or initiating any formal complaint, a complaint form is completed.

  1. The original complaint form will be directed to the N/A of the accused member, via the chain of command, who will take appropriate action and/or determine who will have responsibility for the investigation.

  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 member's Lieutenant or the Chief of Investigations, who will initiate appropriate action.

(b) Responding to all complainants in a courteous and professional manner.

(c) Resolving those personnel complaints that can be resolved immediately.

  1. Follow-up contact with the complainant should be made within 24 hours of the Office receiving the complaint.

  2. If the matter is resolved and no further action is required, the supervisor will note the resolution on a complaint form and forward the form to the N/A.

(d) Ensuring that upon receipt of a complaint involving allegations of a potentially serious nature, the N/A and the Chief of Investigations are notified via the chain of command as soon as practicable.

(e) Promptly contacting the Department of Human Resources and the N/A for direction regarding their roles in addressing a complaint that relates to sexual, racial, ethnic or other forms of prohibited harassment or discrimination.

(f) Forwarding unresolved personnel complaints to the N/A, who will determine whether to contact the complainant or assign the complaint for investigation.

(g) Informing the complainant of the investigator’s name and the complaint number within three days after assignment.

(h) Investigating a complaint as follows:

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1. Making reasonable efforts to obtain names, addresses and telephone numbers of witnesses.
2. When appropriate, ensuring immediate medical attention is provided and photographs of alleged injuries and accessible uninjured areas are taken.

(i) Ensuring that the procedural rights of the accused member are followed (Government Code § 3303 et seq.).

(j) Ensuring interviews of the complainant are generally conducted during reasonable hours.

1005.6.2 ADMINISTRATIVE INVESTIGATION PROCEDURES

Whether conducted by a supervisor or a member designated by the Chief of Investigations, the following applies to members covered by the Public Safety Officers Procedural Bill of Rights Act (POBR) (Government Code § 3303):

(a) Interviews of an accused member shall be conducted during reasonable hours and preferably when the member is on-duty. If the member is off-duty, he/she shall be compensated.

(b) Unless waived by the member, interviews of an accused member shall be at the Contra Costa County District Attorney's Office or other reasonable and appropriate place.

(c) No more than two interviewers should ask questions of an accused member.

(d) Prior to any interview, a member shall be informed of the nature of the investigation, the name, rank and command of the sworn member in charge of the investigation, the interviewing officers and all other persons to be present during the interview.

(e) All interviews shall be for a reasonable period and the member's personal needs should be accommodated.

(f) No member should be subjected to offensive or threatening language, nor shall any promises, rewards or other inducements be used to obtain answers.

(g) Any member refusing to answer questions directly related to the investigation may be ordered to answer questions administratively and may be subject to discipline for failing to do so.

1. A member should be given an order to answer questions in an administrative investigation that might incriminate the member in a criminal matter only after the member has been given a *Lybarger* advisement. Administrative investigators should consider the impact that compelling a statement from the member may have on any related criminal investigation and should take reasonable steps to avoid creating any foreseeable conflicts between the two related investigations. This may include conferring with the person in charge of the criminal investigation (e.g., discussion of processes, timing, implications).
2. No information or evidence administratively coerced from a member may be provided to anyone involved in conducting the criminal investigation or to any prosecutor.

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(h) The interviewer should record all interviews of members and witnesses. The member may also record the interview. If the member has been previously interviewed, a copy of that recorded interview shall be provided to the member prior to any subsequent interview.

(i) All members subjected to interviews that could result in discipline have the right to have an uninvolved representative present during the interview. However, in order to maintain the integrity of each individual's statement, involved members shall not consult or meet with a representative or attorney collectively or in groups prior to being interviewed.

(j) All members shall provide complete and truthful responses to questions posed during interviews.

(k) No member may be requested or compelled to submit to a polygraph examination, nor shall any refusal to submit to such examination be mentioned in any investigation (Government Code § 3307).

No investigation shall be undertaken against any sworn member solely because the sworn member has been placed on a prosecutor's *Brady* list or the name of the sworn member may otherwise be subject to disclosure pursuant to *Brady v. Maryland*. However, an investigation may be based on the underlying acts or omissions for which the sworn member has been placed on a *Brady* list or may otherwise be subject to disclosure pursuant to *Brady v. Maryland* (Government Code § 3305.5).

1005.6.3 ADMINISTRATIVE INVESTIGATION FORMAT

Formal investigations of personnel complaints shall be thorough, complete and essentially follow this format:

Introduction - Include the identity of the members, the identity of the assigned investigators, the initial date and source of the complaint.

Synopsis - Provide a brief summary of the facts giving rise to the investigation.

Summary - List the allegations separately, including applicable policy sections, with a brief summary of the evidence relevant to each allegation. A separate recommended finding should be provided for each allegation.

Evidence - Each allegation should be set forth with the details of the evidence applicable to each allegation provided, including comprehensive summaries of member and witness statements. Other evidence related to each allegation should also be detailed in this section.

Conclusion - A recommendation regarding further action or disposition should be provided.

Exhibits - A separate list of exhibits (e.g., recordings, photos, documents) should be attached to the report.

1005.6.4 DISPOSITIONS

Each personnel complaint shall be classified with one of the following dispositions:

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Unfounded - When the investigation discloses that the alleged acts did not occur or did not involve office members. Complaints that are determined to be frivolous will fall within the classification of unfounded (Penal Code § 832.8).

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 member.

Sustained - A final determination by an investigating agency, commission, board, hearing officer, or arbitrator, as applicable, following an investigation and opportunity for an administrative appeal pursuant to Government Code § 3304 and Government Code § 3304.5 that the actions of a sworn member were found to violate law or office policy (Penal Code § 832.8).

If an investigation discloses misconduct or improper job performance that was not alleged in the original complaint, the investigator shall take appropriate action with regard to any additional allegations.

1005.6.5 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 (Government Code § 3304).

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.

1005.6.6 NOTICE TO COMPLAINANT OF INVESTIGATION STATUS

The member conducting the investigation should provide the complainant with periodic updates on the status of the investigation, as appropriate.

1005.7 ADMINISTRATIVE SEARCHES

Assigned lockers, storage spaces and other areas, including desks, offices and vehicles, may be searched as part of an administrative investigation upon a reasonable suspicion of misconduct.

Such areas may also be searched any time by a supervisor for non-investigative purposes, such as obtaining a needed report, radio or other document or equipment.

Lockers and storage spaces may only be administratively searched in the member's presence, with the member’s consent, with a valid search warrant or where the member has been given reasonable notice that the search will take place (Government Code § 3309).

1005.7.1 DISCLOSURE OF FINANCIAL INFORMATION

An employee may be compelled to disclose personal financial information under the following circumstances (Government Code § 3308):

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(a) Pursuant to a state law or proper legal process

(b) Information exists that tends to indicate a conflict of interest with official duties

(c) If the employee is assigned to or being considered for a special assignment with a potential for bribes or other improper inducements

1005.8 ADMINISTRATIVE LEAVE

When a complaint of misconduct is of a serious nature, or when circumstances indicate that allowing the accused to continue to work would adversely affect the mission of the Office, the Chief of Investigations or the authorized designee may temporarily assign an accused employee to administrative leave. Any employee placed on administrative leave:

(a) May be required to relinquish any office badge, identification, assigned weapons and any other office equipment.

(b) Shall be required to continue to comply with all policies and lawful orders of a supervisor.

(c) May be temporarily reassigned to a different shift, generally a normal business-hours shift, during the investigation. The employee may be required to remain available for contact at all times during such shift, and will report as ordered.

1005.9 CRIMINAL INVESTIGATION

Where a member is accused of potential criminal conduct, a separate supervisor or investigator shall be assigned to investigate the criminal allegations apart from any administrative investigation. Any separate administrative investigation may parallel a criminal investigation.

The Chief of Investigations shall be notified as soon as practicable when a member is accused of criminal conduct. The Chief of Investigations may request a criminal investigation by an outside law enforcement agency.

A member accused of criminal conduct shall be advised of his/her constitutional rights (Government Code § 3303(h)). The member should not be administratively ordered to provide any information in the criminal investigation.

The Contra Costa County District Attorney's Office may release information concerning the arrest or detention of any member, including a sworn member, that has not led to a conviction. No disciplinary action should be taken until an independent administrative investigation is conducted.

1005.10 POST-ADMINISTRATIVE INVESTIGATION PROCEDURES

Upon completion of a formal investigation, an investigation report should be forwarded to the Chief of Investigations through the chain of command. Each level of command should review the report and include his/her comments in writing before forwarding the report. The Chief of Investigations may accept or modify any classification or recommendation for disciplinary action.

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1005.10.1 LIEUTENANT RESPONSIBILITIES

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

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

Prior to forwarding recommendations to the Chief of Investigations, the Lieutenant may return the entire investigation to the assigned investigator or supervisor for further investigation or action.

When forwarding any written recommendation to the Chief of Investigations, the Lieutenant shall include all relevant materials supporting the recommendation. Actual copies of a member's existing personnel file need not be provided and may be incorporated by reference.

1005.10.2 CHIEF OF INVESTIGATIONS RESPONSIBILITIES

Upon receipt of any written recommendation for disciplinary action, the Chief of Investigations shall review the recommendation and all accompanying materials. The Chief of Investigations may modify any recommendation and/or may return the file to the Lieutenant for further investigation or action.

Once the Chief of Investigations is satisfied that no further investigation or action is required by staff, the Chief of Investigations shall determine the amount of discipline, if any, that should be imposed. In the event disciplinary action is proposed, the Chief of Investigations shall provide the member with a pre-disciplinary procedural due process hearing (*Skelly*) by providing written notice of the charges, proposed action and reasons for the proposed action. Written notice shall be provided within one year from the date of discovery of the misconduct (Government Code § 3304(d)). The Chief of Investigations shall also provide the member with:

(a) Access to all of the materials considered by the Chief of Investigations in recommending the proposed discipline.

(b) An opportunity to respond orally or in writing to the Chief of Investigations within five days of receiving the notice.

1. Upon a showing of good cause by the member, the Chief of Investigations may grant a reasonable extension of time for the member to respond.

2. If the member elects to respond orally, the presentation may be recorded by the Office. Upon request, the member shall be provided with a copy of the recording.

Once the member has completed his/her response or if the member has elected to waive any such response, the Chief of Investigations shall consider all information received in regard to the recommended discipline. The Chief of Investigations shall render a timely written decision to the member and specify the grounds and reasons for discipline and the effective date of the discipline. Once the Chief of Investigations has issued a written decision, the discipline shall become effective.

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1005.10.3 NOTICE OF FINAL DISPOSITION TO THE COMPLAINANT
The Chief of Investigations or the authorized designee shall ensure that the complainant is notified of the disposition (i.e., sustained, not sustained, exonerated, unfounded) of the complaint (Penal Code § 832.7(f)).

1005.10.4 NOTICE REQUIREMENTS
The disposition of any civilian's complaint shall be released to the complaining party within 30 days of the final disposition. This release shall not include what discipline, if any, was imposed (Penal Code § 832.7(f)).

1005.11 PRE-DISCIPLINE 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 of Investigations 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) The response is not intended to be an adversarial or formal hearing.

(b) Although the employee may be represented by an uninvolved representative or legal counsel, the 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 of Investigations to consider.

(d) In the event that the Chief of Investigations elects to cause further investigation to be conducted, the employee shall be provided with the results 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 of Investigations on the limited issues of information raised in any subsequent materials.

1005.12 RESIGNATIONS/RETIREMENTS PRIOR TO DISCIPLINE

In the event that a member tenders a written resignation or notice of retirement prior to the imposition of discipline, it shall be noted in the file. The tender of a resignation or retirement by itself shall not serve as grounds for the termination of any pending investigation or discipline.

1005.13 POST-DISCIPLINE APPEAL RIGHTS

Non-probationary employees have the right to appeal a suspension without pay, punitive transfer, demotion, reduction in pay or step, or termination from employment. The employee has the right to appeal using the procedures established by any collective bargaining agreement, Memorandum of Understanding and/or personnel rules.

In the event of punitive action against an employee covered by the POBR, the appeal process shall be in compliance with Government Code § 3304 and Government Code § 3304.5.

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During any administrative appeal, evidence that a sworn member has been placed on a *Brady* list or is otherwise subject to *Brady* restrictions may not be introduced unless the underlying allegations of misconduct have been independently established. Thereafter, such *Brady* evidence shall be limited to determining the appropriateness of the penalty (Government Code § 3305.5).

1005.14 PROBATIONARY EMPLOYEES AND OTHER MEMBERS

At-will and probationary employees and those members other than non-probationary employees may be released from employment for non-disciplinary reasons (e.g., failure to meet standards) without adherence to the procedures set forth in this policy or any right to appeal. However, any probationary sworn member subjected to an investigation into allegations of misconduct shall be entitled to those procedural rights, as applicable, set forth in the POBR (Government Code § 3303; Government Code § 3304).

At-will, probationary employees and those other than non-probationary employees subjected to discipline or termination as a result of allegations of misconduct shall not be deemed to have acquired a property interest in their position, but shall be given the opportunity to appear before the Chief of Investigations or authorized designee for a non-evidentiary hearing for the sole purpose of attempting to clear their name or liberty interest. There shall be no further opportunity for appeal beyond the liberty interest hearing and the decision of the Chief of Investigations shall be final.

1005.15 RETENTION OF PERSONNEL INVESTIGATION FILES

All personnel complaints shall be maintained in accordance with the established records retention schedule and as described in the Personnel Records Policy.

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Seat Belts

1006.1 PURPOSE AND SCOPE

This policy establishes guidelines for the use of seat belts and child restraints. This policy will apply to all members operating or riding in Office vehicles (Vehicle Code § 27315.5).

1006.1.1 DEFINITIONS

Definitions related to this policy include:

Child restraint system - An infant or child passenger restraint system that meets Federal Motor Vehicle Safety Standards (FMVSS) and Regulations set forth in 49 CFR 571.213.

1006.2 POLICY

It is the policy of the Contra Costa County District Attorney's Office that members use safety and child restraint systems to reduce the possibility of death or injury in a motor vehicle collision.

1006.3 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 Office 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.

1006.4 TRANSPORTING CHILDREN

Children under the age of 8 shall be transported in compliance with California’s child restraint system requirements (Vehicle Code § 27360; Vehicle Code § 27363).

Rear seat passengers in a cage-equipped vehicle may have reduced clearance, which requires careful seating and positioning of seat belts. Due to this reduced clearance, and if permitted by law, children and any child restraint system may be secured in the front seat of such vehicles provided this positioning meets federal safety standards and the vehicle and child restraint system manufacturer’s design and use recommendations. In the event that a child is transported in the front seat of a vehicle, the seat should be pushed back as far as possible and the passenger-side airbag should be deactivated. If this is not possible, members should arrange alternate transportation when feasible. A child shall not be transported in a rear-facing child restraint system in the front seat in a vehicle that is equipped with an active frontal passenger airbag (Vehicle Code § 27363).

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1006.5 TRANSPORTING SUSPECTS, PRISONERS OR ARRESTEES

Suspects, prisoners and arrestees should be in a seated position and secured in the rear seat of any Office vehicle with a prisoner restraint system or, when a prisoner restraint system is not available, by seat belts provided by the vehicle manufacturer. The prisoner restraint system is not intended to be a substitute for handcuffs or other appendage restraints.

Prisoners in leg restraints shall be transported in accordance with the Handcuffing and Restraints Policy.

1006.6 INOPERABLE SEAT BELTS

Office vehicles shall not be operated when the seat belt in the driver's position is inoperable. Persons shall not be transported in a seat in which the seat belt is inoperable.

Office vehicle seat belts shall not be modified, removed, deactivated or altered in any way, except by the vehicle maintenance and repair staff, who shall do so only with the express authorization of the Chief of Investigations.

Members who discover an inoperable restraint system shall report the defect to the county corporation yard vehicle fleet staff. Prompt action should be taken to replace or repair the system.

1006.7 VEHICLES MANUFACTURED WITHOUT SEAT BELTS

Vehicles manufactured and certified for use without seat belts or other restraint systems are subject to the manufacturer’s operator requirements for safe use.

1006.8 VEHICLE AIRBAGS

In all vehicles equipped with airbag restraint systems, the system will not be tampered with or deactivated, except when transporting children as written elsewhere in this policy. All equipment installed in vehicles equipped with airbags will be installed as per the vehicle manufacturer specifications to avoid the danger of interfering with the effective deployment of the airbag device.

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Body Armor

1007.1 PURPOSE AND SCOPE

The purpose of this policy is to provide members with guidelines for the proper use of body armor.

1007.2 POLICY

It is the policy of the Contra Costa County District Attorney's Office to maximize officer safety through the use of body armor in combination with prescribed safety procedures. While body armor provides a significant level of protection, it is not a substitute for the observance of officer safety procedures.

1007.3 ISSUANCE OF BODY ARMOR

The Chief of Investigations or his/her disignee shall ensure that body armor is issued to all sworn members when the sworn member begins service at the Contra Costa County District Attorney's Office and that, when issued, the body armor meets or exceeds the standards of the National Institute of Justice.

The Chief of Investigations or his/her designee shall establish a body armor replacement schedule and ensure that replacement body armor is issued pursuant to the schedule or whenever the body armor becomes worn or damaged to the point that its effectiveness or functionality has been compromised.

1007.3.1 USE OF SOFT BODY ARMOR

Generally, the use of body armor is required subject to the following:

(a) Sworn members shall only wear agency-approved body armor.

(b) Sworn members shall wear body armor anytime they are in a situation where they could reasonably be expected to take enforcement action.

(c) Sworn members may be excused from wearing body armor when they are functioning primarily in an administrative or support capacity and could not reasonably be expected to take enforcement action.

(d) Body armor shall be worn when a sworn member is taking part in Office range training.

(e) A sworn member may be excused from wearing body armor when he/she is involved in undercover or plainclothes work that his/her supervisor determines could be compromised by wearing body armor, or when a supervisor determines that other circumstances make it inappropriate to mandate wearing body armor.

1007.3.2 INSPECTIONS OF BODY ARMOR

Supervisors should ensure that body armor is worn and maintained in accordance with this policy through routine observation and periodic inspections. Annual inspections of body armor should be conducted by an authorized designee for fit, cleanliness, and signs of damage, abuse and wear.

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1007.3.3 CARE AND MAINTENANCE OF SOFT BODY ARMOR

Soft 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.

Soft 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.

Soft 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.

Soft body armor should be replaced in accordance with the manufacturer’s recommended replacement schedule.

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Personnel Records

1008.1 PURPOSE AND SCOPE

This policy governs maintenance and access to personnel records. Personnel records include any file maintained under an individual member's name.

1008.2 POLICY

It is the policy of this office to maintain personnel records and preserve the confidentiality of personnel records pursuant to the Constitution and the laws of California (Penal Code § 832.7).

1008.3 OFFICE FILE

The office file shall be maintained as a record of a person’s employment/appointment with this office. The office file should contain, at a minimum:

(a) Personal data, including photographs, marital status, names of family members, educational and employment history, or similar information. A photograph of the member should be permanently retained.

(b) Election of employee benefits.

(c) Personnel action reports reflecting assignments, promotions, and other changes in employment/appointment status. These should be permanently retained.

(d) Original performance evaluations. These should be permanently maintained.

(e) Discipline records, including copies of sustained personnel complaints.

1. Disciplinary action resulting from sustained internally initiated complaints or observation of misconduct shall be maintained pursuant to the established records retention schedule and at least two years (Government Code § 26202; Government Code § 34090).

2. Disciplinary action resulting from a sustained civilian's complaint shall be maintained pursuant to the established records retention schedule and at least five years (Penal Code § 832.5).

(f) Adverse comments such as supervisor notes or memos may be retained in the office file after the member has had the opportunity to read and initial the comment (Government Code § 3305).

1. Once a member has had an opportunity to read and initial any adverse comment, the member shall be given the opportunity to respond in writing to the adverse comment within 30 days (Government Code § 3306).

2. Any member response shall be attached to and retained with the original adverse comment (Government Code § 3306).

3. If a member 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 and the member should sign or initial the noted refusal. Such a refusal, however, shall

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not be deemed insubordination, nor shall it prohibit the entry of the adverse comment into the member's file (Government Code § 3305).

(g) Commendations and awards.

(h) Any other information, the disclosure of which would constitute an unwarranted invasion of personal privacy.

1008.4 UNIT FILE

Unit files may be separately maintained internally by a member's supervisor for the purpose of completing timely performance evaluations. The Unit file may contain supervisor comments, notes, notices to correct and other materials that are intended to serve as a foundation for the completion of timely performance evaluations.

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 Government Code § 3306.

1008.5 TRAINING FILE

An individual training file shall be maintained by the Training Manager for each member. Training files will contain records of all training; original or photocopies of available certificates, transcripts, diplomas and other documentation; and education and firearms qualifications. Training records may also be created and stored remotely, either manually or automatically (e.g., Daily Training Bulletin (DTB) records).

(a) The involved member is responsible for providing the Training Manager or immediate supervisor with evidence of completed training/education in a timely manner.

(b) The Training Manager or supervisor shall ensure that copies of such training records are placed in the member’s training file.

1008.6 INTERNAL AFFAIRS FILE

Internal affairs files shall be maintained under the exclusive control of the Lieutenant in conjunction with the office of the Chief of Investigations. Access to these files may only be approved by the Chief of Investigations or the Lieutenant supervisor.

These files shall contain the complete investigation of all formal complaints of member misconduct, regardless of disposition (Penal Code § 832.12). Investigations of complaints that result in the following findings shall not be placed in the member's file but will be maintained in the internal affairs file:

(a) Not sustained

(b) Unfounded

(c) Exonerated

Investigation files arising out of civilian’s complaints shall be maintained pursuant to the established records retention schedule and for a period of at least five years. Investigations that

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resulted in other than a sustained finding may not be used by the Office to adversely affect an employee's career (Penal Code § 832.5).

Investigation files arising out of internally generated complaints shall be maintained pursuant to the established records retention schedule and for at least two years (Government Code § 26202; Government Code § 34090).

1008.7 MEDICAL FILE

A medical file shall be maintained separately from all other personnel records and shall contain all documents relating to the member's medical condition and history, including but not limited to:

(a) Materials relating to a medical leave of absence, including leave under the Family and Medical Leave Act (FMLA).

(b) Documents relating to workers' compensation claims or the 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 that reveal a member's medical condition.

(e) Any other documents or materials that reveal the member's medical history or medical condition, including past, present or future anticipated mental, psychological or physical limitations.

1008.8 SECURITY

Personnel records should be maintained in a secured location and locked either in a cabinet or access-controlled room. Personnel records maintained in an electronic format should have adequate password protection.

Personnel records are subject to disclosure only as provided in this policy, the Records Maintenance and Release Policy or according to applicable discovery procedures.

Nothing in this policy is intended to preclude review of personnel records by the County Administrator, County Counsel or other attorneys or representatives of the County in connection with official business.

1008.8.1 REQUESTS FOR DISCLOSURE

Any member receiving a request for a personnel record shall promptly notify the Custodian of Records or other person charged with the maintenance of such records.

Upon receipt of any such request, the responsible person shall notify the affected member as soon as practicable that such a request has been made (Evidence Code § 1043).

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 may require assistance of available legal counsel.

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All requests for disclosure that result in access to a member's personnel records shall be logged in the corresponding file.

1008.8.2 RELEASE OF PERSONNEL INFORMATION
Personnel records shall not be disclosed except as allowed by law (Penal Code § 832.7; Evidence Code § 1043) (See also Records Maintenance and Release Policy).

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 office may be guilty of a misdemeanor (Penal Code § 146e).

The Office may release any factual information concerning a disciplinary investigation if the member who is the subject of the investigation (or the member's representative) publicly makes a statement that is published in the media and that the member (or representative) knows 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).

1008.9 MEMBER ACCESS TO HIS/HER OWN PERSONNEL RECORDS

Any member may request access to his/her own personnel records during the normal business hours of those responsible for maintaining such files. Any member seeking the removal of any item from his/her personnel records shall file a written request to the Chief of Investigations through the chain of command. The Office shall remove any such item if appropriate, or within 30 days provide the member with a written explanation of why the contested item will not be removed. If the contested item is not removed from the file, the member's request and the written response from the Office shall be retained with the contested item in the member's corresponding personnel record (Government Code § 3306.5).

Members may be restricted from accessing files containing any of the following information:

(a) An ongoing internal affairs investigation to the extent that it could jeopardize or compromise the investigation pending final disposition or notice to the member of the intent to discipline.

(b) Confidential portions of internal affairs files that have not been sustained against the member.

(c) Criminal investigations involving the member.

(d) Letters of reference concerning employment/appointment, licensing or issuance of permits regarding the member.

(e) Any portion of a test document, except the cumulative total test score for either a section of the test document or for the entire test document.

(f) Materials used by the Office for staff management planning, including judgments or recommendations concerning future salary increases and other wage treatments, management bonus plans, promotions and job assignments or other comments or ratings used for department planning purposes.

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(g) Information of a personal nature about a person other than the member if disclosure of the information would constitute a clearly unwarranted invasion of the other person's privacy.

(h) Records relevant to any other pending claim between the Office and the member that may be discovered in a judicial proceeding.

1008.10 RETENTION AND PURGING

Unless provided otherwise in this policy, personnel records shall be maintained in accordance with the established records retention schedule.

(a) During the preparation of each member’s performance evaluation, all personnel complaints and disciplinary actions should be reviewed to determine the relevancy, if any, to progressive discipline, training and career development. Each supervisor responsible for completing the member's performance evaluation should determine whether any prior sustained disciplinary file should be retained beyond the required 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 required period, approval for such retention should be obtained through the chain of command from the Chief of Investigations.

(c) If, in the opinion of the Chief of Investigations, a personnel complaint or disciplinary action maintained beyond the required retention period is no longer relevant, all records of such matter may be destroyed in accordance with the established records retention schedule.

1008.11 RELEASE OF PERSONNEL RECORDS AND RECORDS RELATED TO CERTAIN INCIDENTS, COMPLAINTS, AND INVESTIGATIONS OF SWORN MEMBERS

Personnel records and records related to certain incidents, complaints, and investigations of sworn members shall be released pursuant to a proper request under the Public Records Act and subject to redaction and delayed release as provided by law.

The Custodian of Records should work as appropriate with the Chief of Investigations or the Lieutenant supervisor in determining what records may qualify for disclosure when a request for records is received and if the requested record is subject to redaction or delay from disclosure.

For purposes of this section, a record includes (Penal Code § 832.7(b)(2)):

- All investigation reports.
- Photographic, audio, and video evidence.
- Transcripts or recordings of interviews.
- Autopsy reports.
- All materials compiled and presented for review to the District Attorney or to any person or body charged with determining whether to file criminal charges against a sworn member in connection with an incident, or whether the sworn member’s action was

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consistent with law and office policy for purposes of discipline or administrative action, or what discipline to impose or corrective action to take.

- Documents setting forth findings or recommending findings.
- Copies of disciplinary records relating to the incident, including any letters of intent to impose discipline, any documents reflecting modifications of discipline due to the *Skelly* or grievance process, and letters indicating final imposition of discipline or other documentation reflecting implementation of corrective action.

Unless a record or information is confidential or qualifies for delayed disclosure as provided by Penal Code § 832.7(b)(7) or other law, the following records shall be made available for public inspection upon request (Penal Code § 832.7):

(a) Records relating to the report, investigation, or findings of:

1. The discharge of a firearm at another person by a sworn member.
2. The use of force against a person resulting in death or in great bodily injury (as defined by Penal Code § 243(f)(4)) by a sworn member.

(b) Records relating to an incident where a sustained finding (see the Personnel Complaints Policy) was made by the office or oversight agency regarding:

1. A sworn member engaged in sexual assault of a member of the public (as defined by Penal Code § 832.7(b)).
2. Dishonesty of a sworn member relating to the reporting, investigation, or prosecution of a crime, or directly relating to the reporting of, or investigation of misconduct by, another sworn member, including but not limited to any sustained finding of perjury, false statements, filing false reports, destruction, falsifying, or concealing of evidence.

A record from a separate and prior investigation or assessment of a separate incident shall not be released unless it is independently subject to disclosure (Penal Code § 832.7(b)(3)).

When an investigation involves multiple sworn members, the Office shall not release information about allegations of misconduct or the analysis or disposition of an investigation of a sworn member unless it relates to a sustained finding of a qualified allegation as provided by Penal Code § 832.7(b)(4) against the sworn member. However, factual information about the action of the sworn member during an incident or the statements of a sworn member shall be released if the statements are relevant to a sustained finding of the qualified allegation against another sworn member that is subject to release (Penal Code § 832.7(b)(4)).

1008.11.1 REDACTION

The Custodian of Records, in consultation with the Chief of Investigations or authorized designee, shall redact the following portions of records made available for release (Penal Code § 832.7(b)(5)):

(a) Personal data or information (e.g., home address, telephone number, identities of family members) other than the names and work-related information of sworn members

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(b) Information that would compromise the anonymity of complainants and witnesses

(c) Confidential medical, financial, or other information where disclosure is prohibited by federal law or would cause an unwarranted invasion of personal privacy that clearly outweighs the strong public interest in records about misconduct and serious use of force

(d) Where there is a specific, articulable, and particularized reason to believe that disclosure of the record would pose a significant danger to the physical safety of the sworn member or another person

Additionally, a record may be redacted, including redacting personal identifying information, where, on the facts of the particular case, the public interest served by not disclosing the information clearly outweighs the public interest served by disclosing it (Penal Code § 832.7(b)(6)).

1008.11.2 DELAY OF RELEASE

Unless otherwise directed by the Chief of Investigations, the Custodian of Records should consult with a supervisor familiar with the underlying investigation to determine whether to delay disclosure of records relating to the discharge of a firearm or use of force resulting in death or in great bodily injury due to any of the following conditions (Penal Code § 832.7):

(a) Active criminal investigations

1. Disclosure may be delayed 60 days from the date the use of force occurred or until the District Attorney determines whether to file criminal charges, whichever occurs sooner.

2. After the initial 60 days, delay of disclosure may be continued if the disclosure could reasonably be expected to interfere with a criminal enforcement proceeding against a sworn member or against someone other than a sworn member who used the force.

(b) Filed criminal charges

1. When charges are filed related to an incident where force was used, disclosure may be delayed until a verdict on those charges is returned at trial or, if a plea of guilty or no contest is entered, the time to withdraw the plea has passed.

(c) Administrative investigations

1. Disclosure may be delayed until whichever occurs later:

(a) There is a determination from the investigation whether the use of force violated law or office policy, but no longer than 180 days after the date of the office’s discovery of the use of force or allegation of use of force

(b) Thirty days after the close of any criminal investigation related to the sworn member’s use of force

1008.11.3 NOTICE OF DELAY OF RECORDS

When there is justification for delay of disclosure of records relating to the discharge of a firearm or use of force resulting in death or in great bodily injury during an active criminal investigation,

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the Custodian of Records shall provide written notice of the reason for any delay to a requester as follows (Penal Code § 832.7):

(a) Provide the specific basis for the determination that the interest in delaying disclosure clearly outweighs the public interest in disclosure. The notice shall also include the estimated date for the disclosure of the withheld information.

(b) When delay is continued beyond the initial 60 days because of criminal enforcement proceedings against anyone, at 180-day intervals provide the specific basis that disclosure could reasonably be expected to interfere with a criminal enforcement proceeding and the estimated date for disclosure.

1. Information withheld shall be disclosed when the specific basis for withholding the information is resolved, the investigation or proceeding is no longer active, or no later than 18 months after the date of the incident, whichever occurs sooner, unless:

(a) When the criminal proceeding is against someone other than a sworn member and there are extraordinary circumstances to warrant a continued delay due to the ongoing criminal investigation or proceeding, then the Office must show by clear and convincing evidence that the interest in preventing prejudice to the active and ongoing criminal investigation or proceeding outweighs the public interest for prompt disclosure of records about use of serious force by sworn members.

In cases where an action to compel disclosure is brought pursuant to Government Code § 6258, the Office may justify delay by filing an application to seal the basis for withholding if disclosure of the written basis itself would impact a privilege or compromise a pending investigation (Penal Code § 832.7(b)(7)).

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Fitness for Duty

1009.1 PURPOSE AND SCOPE

All sworn members 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 sworn members of this Office remain fit for duty and able to perform their job functions (Government Code § 1031).

1009.2 EMPLOYEE RESPONSIBILITIES

(a) It shall be the responsibility of each member of this Office to maintain good physical condition sufficient to safely and properly perform essential duties of their position.

(b) Each member of this Office shall perform his/her respective duties without physical, emotional, and/or mental constraints.

(c) During working hours, all members are required to be alert, attentive, and capable of performing his/her assigned responsibilities.

(d) Any member who feels unable to perform his/her duties shall promptly notify a supervisor. In the event that a member believes that another member is unable to perform his/her duties, such observations and/or belief shall be promptly reported to a supervisor.

1009.3 SUPERVISOR RESPONSIBILITIES

(a) A supervisor observing a member, or receiving a report of a member 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 member to perform his/her duties.

(c) In the event the member 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 an available Lieutenant, a determination should be made whether or not the member should be temporarily relieved from his/her duties.

(e) The Chief of Investigations shall be promptly notified in the event that any member is relieved from duty.

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1009.4 NON-WORK RELATED CONDITIONS

Any member suffering from a non-work related condition which warrants a temporary relief from duty may be required to use sick leave or other paid time off (PTO) in order to obtain medical treatment or other reasonable rest period.

1009.5 WORK RELATED CONDITIONS

Any member 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 a supervisor and concurrence of a Lieutenant, any member 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 wellbeing of the member and until such time as the following may be completed:

(a) A preliminary determination that the member's conduct appears to be in compliance with policy and, if appropriate.

(b) The member has had the opportunity to receive necessary counseling and/or psychological clearance to return to full duty.

1009.6 PHYSICAL AND PSYCHOLOGICAL EXAMINATIONS

(a) Whenever circumstances reasonably indicate that a member is unfit for duty, the Chief of Investigations may serve that member with a written order to undergo a physical and/or psychological examination in cooperation with the Department of Human Resources to determine the level of the member’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 Office with a report indicating that the member is either fit for duty or, if not, listing any functional limitations which limit the member's ability to perform job duties. If the member 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)).

(c) In order to facilitate the examination of any member, the Office 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 member’s confidential personnel file.

(e) Any member 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

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examining physician or therapist may be deemed insubordination and shall be subject to discipline up to and including termination.

(f) Once a member has been deemed fit for duty by the examining physician or therapist, the member will be notified to resume his/her duties.

1009.7 LIMITATION ON HOURS WORKED

Absent emergency operations members should not work more than:

- 16 hours in one day (24 hour) period or
- 30 hours in any 2 day (48 hour) period or
- 84 hours in any 7 day (168 hour) period

Except in very limited circumstances members should have a minimum of 8 hours off between shifts. Supervisors should give consideration to reasonable rest periods and are authorized to deny overtime or relieve to off-duty status any member who has exceeded the above guidelines.

Limitations on the number of hours worked apply to shift changes, shift trades, rotation, holdover, training, general overtime and any other work assignments.

1009.8 APPEALS

A member 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 Personnel Complaints Policy.

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Meal Periods and Breaks

1010.1 PURPOSE AND SCOPE

This policy shall adhere to current Memorandums of Understanding and, insofar as possible, shall conform to California Labor Code section 512 .

1010.1.1 MEAL BREAKS

Members are considered "on duty" at all times during their work day and are subject to immediate activation from breaks unless specifically granted an exemption by the Chief of Investigations or his/her designee.

1010.1.2

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Lactation Break Policy

1011.1 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 (Labor Code § 1034).

1011.2 POLICY

It is the policy of this office 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; Labor Code § 1030).

1011.3 LACTATION BREAK TIME

A rest period should be permitted each time the employee has the need to express breast milk (29 USC § 207; Labor Code § 1030). 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 N/A or a supervisor prior to taking such a break. Such breaks may be reasonably delayed if they would seriously disrupt office operations (Labor Code § 1032).

Once a lactation break has been approved, the break should not be interrupted except for emergency or exigent circumstances.

1011.4 PRIVATE LOCATION

The Office 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; 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.

Authorized lactation breaks for employees assigned to the field may be taken at the nearest appropriate private area.

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1011.5 STORAGE OF EXPRESSED MILK

Any employee storing expressed milk in any authorized refrigerated area within the Office shall clearly label it as such and shall remove it when the employee ends her shift.

1011.5.1 STATE REQUIREMENTS

Employees have the right to request lactation accommodations. If a break time or location accommodation cannot be provided, the supervisor shall provide the member with a written response regarding the reasons for the determination (Labor Code § 1034).

Lactation rooms or other locations should comply with the prescribed feature and access requirements of Labor Code § 1031.

Employees who believe that their rights have been violated under this policy or have been the subject of discrimination or retaliation for exercising or attempting to exercise their rights under this policy, are encouraged to follow the chain of command in reporting a violation, but may also file a complaint directly with the Labor Commissioner (Labor Code § 1033).

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Overtime Compensation Requests

1012.1 PURPOSE AND SCOPE

It is the policy of the Office to compensate non-exempt salaried members who work authorized overtime either by payment of wages as agreed and in effect through the Memorandum of Understanding (MOU), or by the allowance of accrual of compensatory time off. In order to qualify for either, the member must complete and submit an Overtime Record form as soon as practical after overtime is worked.

1012.1.1 OFFICE POLICY

Because of the nature of law enforcement work, and the specific needs of the Office, a degree of flexibility concerning overtime policies must be maintained.

Non-exempt members are not authorized to volunteer work time to the Office. All requests to work overtime should be approved in advance by a supervisor. If circumstances do not permit prior approval, then approval should be sought as soon as practical.

Short periods of work at the end of the normal duty day (e.g., less than one hour in duration) may be handled unofficially between the supervisor and the member by flexing a subsequent shift schedule to compensate for the time worked rather than by submitting requests for overtime payments. If the supervisor authorizes or directs the member to complete a form for such a period, the member shall comply.

The individual member may request compensatory time in lieu of receiving overtime payment as detailed in current MOU's.

1012.2 REQUEST FOR OVERTIME COMPENSATION

Members shall submit all overtime compensation requests to their immediate supervisors as soon as practicable for verification and forwarding to the Administrative Services Unit.

1012.2.1 MEMBERS RESPONSIBILITY

Members shall complete the requests immediately after working the overtime and turn them in to their immediate supervisor. Members submitting overtime forms for on-call pay when off duty shall submit cards to their supervisor the first day after returning for work.

1012.2.2 SUPERVISORS RESPONSIBILITY

The supervisor who verifies the overtime earned shall verify that the overtime was worked before approving the request.

1012.3 VARIATION IN TIME REPORTED

Where two or more members are assigned to the same activity, case, or court trial and the amount of time for which payment is requested varies from that reported by the other member, the approving supervisor may require each member to include the reason for the variation on the back of the overtime payment request.

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Outside Employment

1013.1 PURPOSE AND SCOPE

In order to avoid actual or perceived conflicts of interest for Investigations Division members engaging in outside employment, all members shall obtain written approval from the Chief of Investigations prior to engaging in any outside employment. Approval of outside employment shall be at the discretion of the Chief of Investigations in accordance with the provisions of this policy.

1013.1.1 DEFINITIONS

Outside Employment - Any member of the Investigations Division who receives wages, compensation or other consideration of value from another employer, organization or individual not affiliated directly with this Office for services, product(s) or benefits rendered. For purposes of this section, the definition of outside employment includes those members who are self-employed and not affiliated directly with this Office for services, product(s) or benefits rendered

Outside Overtime - Any member of the Investigations Division who performs duties or services on behalf of an outside organization, company, or individual within this jurisdiction. Such outside overtime shall be requested and scheduled directly through this Office so that the Office may be reimbursed for the cost of wages and benefits.

1013.2 OBTAINING APPROVAL

No member of the Investigations Division may engage in any outside employment without first obtaining prior written approval of the Chief of Investigations. Failure to obtain prior written approval for outside employment or engaging in outside employment prohibited by this policy may lead to disciplinary action.

In order to obtain approval for outside employment, the member must submit a memorandum detailing the scope of the outside employment. This memorandum shall be submitted to the Chief of Investigations through the chain of command.

If approved, the member will be provided with a copy of the approval. Unless otherwise indicated in writing on the approval document, approval will be valid through the end of the calendar year in which the approval is granted. Any member seeking to renew approval shall submit a new Outside Employment memorandum in a timely manner.

Any member seeking approval of outside employment, whose request has been denied, shall be provided with a written reason for the denial of the application at the time of the denial (Penal Code § 70(e)(3)).

1013.2.1 APPEAL OF DENIAL OF OUTSIDE EMPLOYMENT

If a member’s Outside Employment request is denied or withdrawn by the Office, the member may file a written notice of appeal to the Chief of Investigations within ten days of the date of denial.

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1013.2.2 REVOCATION/SUSPENSION OF OUTSIDE EMPLOYMENT APPROVAL
Any outside employment approval may be revoked or suspended under the following circumstances:

(a) Should a member's performance at this Office decline to a point where it is evaluated by a supervisor as needing improvement to reach an overall level of competency, the Chief of Investigations may, at his or her discretion, revoke any previously approved outside employment. That revocation will stand until the member's performance has been reestablished at a satisfactory level and his/her supervisor recommends reinstatement of the outside employment.

(b) Suspension or revocation of previously approved outside employment may be included as a term or condition of sustained discipline

(c) If, at any time during the term of valid outside employment, an member's conduct or outside employment conflicts with the provisions of Office policy, the approval may be suspended or revoked

(d) When a member is unable to perform at a full duty capacity due to an injury or other condition, any previously approved outside employment approval may be subject to similar restrictions as those applicable to the member's full time duties until the member has returned to a full duty status

1013.3 PROHIBITED OUTSIDE EMPLOYMENT
Consistent with the provisions of Government Code § 1126, the Office expressly reserves the right to deny any Outside Employment request submitted by a member seeking to engage in any activity which:

(a) Involves the member's use of Office time, facilities, equipment or supplies, the use of the Office badge, identifiable apparel, prestige or influence for private gain or advantage

(b) Involves the member's receipt or acceptance of any money or other consideration from anyone other than this Office for the performance of an act which the member, if not performing such act, would be required or expected to render in the regular course or hours of employment or as a part of the member's duties as a member of this Office

(c) Involves the performance of an act in other than the member's capacity as a member of this Office that may later be subject directly or indirectly to the control, inspection, review, audit or enforcement of any other member of this Office

(d) Involves time demands that would render performance of the member's duties for this Office less efficient

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1013.3.1 OUTSIDE SECURITY AND PEACE OFFICER EMPLOYMENT
Consistent with the provisions of Penal Code § 70, and because it would further create a potential conflict of interest, no member of this Office may engage in any outside or secondary employment as a private security guard or private investigator.

1013.3.2 OUTSIDE OVERTIME ARREST AND REPORTING PROCEDURE
Any member making an arrest or taking other official law enforcement action while working in an approved outside overtime assignment shall be required to complete all related reports in a timely manner pursuant to Office policy. Time spent on the completion of such reports shall be considered incidental to the outside overtime assignment.

1013.4 OFFICE RESOURCES

Members are prohibited from using any Office equipment or resources in the course of or for the benefit of any outside employment. This shall include the prohibition of access to official records or databases of this Office or other agencies through the use of the member's position with this Office.

1013.4.1 REVIEW OF FINANCIAL RECORDS
Members approved for outside employment expressly agree that their personal financial records may be requested and reviewed/audited for potential conflict of interest (Government Code § 3308; Government Code § 1126). Prior to providing written approval for an outside employment position, the Office may request that employee member provide his/her personal financial records for review/audit in order to determine whether a conflict of interest exists. Failure of the member to provide the requested personal financial records could result in denial of the off-duty work permit. If, after approving a request for an outside employment position, the Office becomes concerned that a conflict of interest exists based on a financial reason, the Office may request that the Member provide his/her personal financial records for review/audit. If the member elects not to provide the requested records, his/her off-duty work permit may be revoked pursuant to the Revocation/ Suspension of Outside Employment section of this policy.

1013.5 CHANGES IN OUTSIDE EMPLOYMENT STATUS

If a member terminates his or her outside employment, the member shall promptly submit written notification of such termination to the Chief of Investigations through channels. Any subsequent request for renewal or continued outside employment must thereafter be processed and approved through normal procedures set forth in this policy.

Members shall also promptly submit in writing to the Chief of Investigations any material changes in outside employment including any change in the number of hours, type of duties, or demands of any approved outside employment. Members who are uncertain whether a change in outside employment is material are advised to report the change.

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1013.6 OUTSIDE EMPLOYMENT WHILE ON DISABILITY

Office 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 of Investigations whether such outside employment should continue.

In the event the Chief of Investigations determines that the outside employment should be discontinued or if the member fails to promptly notify his/her supervisor of his/her intentions regarding their outside work approval, a notice of revocation of the member's outside work approval will be forwarded to the involved member, and a copy attached to the original work approval.

Criteria for revoking the outside employment approval 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 member’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 District Attorney's Office, a request (in writing) may be made to the Chief of Investigations to restore the approval.

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Occupational Disease and Work-Related Injury Reporting

1014.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidance regarding the timely reporting of occupational diseases, mental health issues, and work-related injuries.

1014.1.1 DEFINITIONS

Definitions related to this policy include:

Occupational disease or work-related injury - An injury, disease, or mental health issue arising out of employment (Labor Code § 3208; Labor Code § 3208.3; Labor Code § 3212 et seq.).

1014.2 POLICY

The Contra Costa County District Attorney's Office will address occupational diseases and work-related injuries appropriately, and will comply with applicable state workers' compensation requirements (Labor Code § 3200 et seq.).

1014.3 RESPONSIBILITIES

1014.3.1 MEMBER RESPONSIBILITIES

Any member sustaining any occupational disease or work-related injury shall report such event as soon as practicable, but within 24 hours, to a supervisor, and shall seek medical care when appropriate (8 CCR 14300.35).

1014.3.2 SUPERVISOR RESPONSIBILITIES

A supervisor learning of any occupational disease or work-related injury should ensure the member receives medical care as appropriate.

Supervisors shall ensure that required documents regarding workers' compensation are completed and forwarded promptly. Any related Countywide disease- or injury-reporting protocol shall also be followed.

Supervisors shall determine whether the Major Incident Notification and Illness and Injury Prevention policies apply and take additional action as required.

1014.3.3 LIEUTENANT RESPONSIBILITIES

The Lieutenant who receives a report of an occupational disease or work-related injury should review the report for accuracy and determine what additional action should be taken. The report shall then be forwarded to the Chief of Investigations, the County's risk management entity, and the Administrative Services Lieutenant to ensure any required Division of Occupational Health and Safety Administration (Cal/OSHA) reporting is made as required in the illness and injury prevention plan identified in the Illness and Injury Prevention Policy.

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1014.3.4 CHIEF OF INVESTIGATIONS RESPONSIBILITIES
The Chief of Investigations shall review and forward copies of the report to the Department of Human Resources. Copies of the report and related documents retained by the Office shall be filed in the member's confidential medical file.

1014.4 OTHER DISEASE OR INJURY

Diseases and injuries caused or occurring on-duty that do not qualify for workers' compensation reporting shall be documented on the designated report of injury form, which shall be signed by a supervisor. A copy of the completed form shall be forwarded to the Chief of Investigations through the chain of command and a copy sent to the Administrative Services Unit.

Unless the injury is extremely minor, this report shall be signed by the affected member, indicating that he/she desired no medical attention at the time of the report. By signing, the member does not preclude his/her ability to later seek medical attention.

1014.5 SETTLEMENT OFFERS

When a member sustains an occupational disease or work-related injury that is caused by another person and is subsequently contacted by that person, his/her agent, insurance company or attorney and offered a settlement, the member shall take no action other than to submit a written report of this contact to his/her supervisor as soon as possible.

1014.5.1 NO SETTLEMENT WITHOUT PRIOR APPROVAL
No less than 10 days prior to accepting and finalizing the settlement of any third-party claim arising out of or related to an occupational disease or work-related injury, the member shall provide the Chief of Investigations with written notice of the proposed terms of such settlement. In no case shall the member accept a settlement without first providing written notice to the Chief of Investigations. The purpose of such notice is to permit the County to determine whether the offered settlement will affect any claim the County may have regarding payment for damage to equipment or reimbursement for wages against the person who caused the disease or injury, and to protect the County's right of subrogation, while ensuring that the member's right to receive compensation is not affected.

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Personal Appearance Standards

1015.1 PURPOSE AND SCOPE

In order to project uniformity and neutrality toward the public and other members of the office, employees shall maintain their personal hygiene and appearance to project a professional image appropriate for this office and for their assignment.

1015.2 GROOMING STANDARDS

Unless otherwise stated the following appearance standards shall apply to all members, except those whose current assignment would deem them not appropriate, and where the Chief of Investigations has granted exception.

1015.2.1 HAIR

Hairstyles of all members shall be neat in appearance.

1015.2.2 FACIAL HAIR

Facial hair shall be neat in appearance.

1015.3 TATTOOS

While on-duty or representing the Office in any official capacity, members should make every reasonable effort to conceal tattoos or other body art. At no time while the member is on-duty or representing the Office in any official capacity shall any offensive tattoo or body art be visible. Examples of offensive tattoos include but are not limited to those that exhibit or advocate discrimination; those that exhibit gang, supremacist, or extremist group affiliation; and those that depict or promote drug use, sexually explicit acts, or other obscene material.

1015.4 BODY PIERCING OR ALTERATION

Body piercing or alteration to any area of the body visible in any authorized 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.

1015.5 EXEMPTIONS

Members who seek cultural (e.g., culturally protected hairstyles) or other exemptions to this policy that are protected by law should generally be accommodated (Government Code § 12926). A member with an exemption may be ineligible for an assignment if the individual accommodation presents a security or safety risk. The Chief of Investigations should be advised any time a request

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for such an accommodation is denied or when a member with a cultural or other exemption is denied an assignment based on a safety or security risk.

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Nepotism and Conflicting Relationships

1016.1 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 Office. 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.

1016.1.1 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 Office member'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 an Office member's action, inaction or decisions are or may be influenced by the member'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 member vested with authority by law, rule or regulation or to whom authority has been delegated.

Relative - A member's parent, stepparent, spouse, domestic partner, significant other, child (natural, adopted or step), sibling or grandparent.

Subordinate - A member who is subject to the temporary or ongoing direct or indirect authority of a supervisor.

Supervisor - A member who has temporary or ongoing direct or indirect authority over the actions, decisions, evaluation and/or performance of a subordinate member.

1016.2 RESTRICTED DUTIES AND ASSIGNMENTS

The Office will not prohibit all personal or business relationships between members. However, in order to avoid nepotism or other inappropriate conflicts, the following reasonable restrictions shall apply (Government Code § 12940):

(a) Members are prohibited from directly supervising, occupying a position in the line of supervision or being directly supervised by any other member who is a relative or with whom they are involved in a personal or business relationship.

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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 member to an uninvolved supervisor.
2. When personnel and circumstances permit, the Office will attempt to make every reasonable effort to avoid placing members in such supervisor/subordinate situations. The Office, however, reserves the right to transfer or reassign any member to another position within the same classification in order to avoid conflicts with any provision of this policy.

(b) Members are prohibited from participating in, contributing to or recommending promotions, assignments, performance evaluations, transfers or other personnel decisions affecting a member who is a relative or with whom they are involved in a personal or business relationship.

(c) Whenever possible, trainers will not be assigned to train relatives. Trainers are prohibited from entering into or maintaining personal or business relationships with any member they are assigned to train until such time as the training has been successfully completed and the member is off probation.

(d) To avoid actual or perceived conflicts of interest, members of this Office 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.

(e) Except as required in the performance of official duties or, in the case of immediate relatives, members 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.

1016.2.1 MEMBER RESPONSIBILITY

Prior to entering into any personal or business relationship or other circumstance which the member knows or reasonably should know could create a conflict of interest or other violation of this policy, the member shall promptly notify his/her uninvolved, next highest level of supervisor.

Whenever any member is placed in circumstances that would require the member to take enforcement action or provide official information or services to any relative or individual with whom the member is involved in a personal or business relationship, the member shall promptly notify his/her uninvolved, immediate supervisor. In the event that no uninvolved supervisor is immediately available, the member shall promptly notify another uninvolved member to either relieve the involved member or minimally remain present to witness the action.

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1016.2.2 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 of Investigations of such actual or potential violations through the chain of command.

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Department Badges

1017.1 PURPOSE AND SCOPE

The Contra Costa County District Attorney's Office badge and uniform patch as well as the likeness of these items and the name of the Contra Costa County District Attorney's Office are property of the Office and their use shall be restricted as set forth in this policy.

1017.2 POLICY

The Office issued badge shall be issued to Office members as a symbol of authority and the use and display of Office badges shall be in strict compliance with this policy. Only authorized badges issued by this Office shall be displayed, carried or worn by members while on duty or otherwise acting in an official or authorized capacity.

1017.2.1 FLAT BADGE

Sworn members, with the written approval of the Chief of Investigations may purchase, at his/her own expense, a flat badge capable of being carried in a wallet. The use of the flat badge is subject to all the same provisions of Office policy as the Office issued badge.

(a) A sworn member may sell, exchange, or transfer the flat badge he/she purchased to another sworn member within the Contra Costa County District Attorney's Office with the written approval of the Chief of Investigations.

(b) Should the flat badge become lost, damaged, or otherwise removed from the sworn member’s control, he/she shall make the proper notifications as outlined in the Office Owned and Personal Property Policy.

(c) An honorably retired sworn member may keep his/her flat badge upon retirement.

(d) The purchase, carrying or display of a flat badge is not authorized for non-sworn personnel.

1017.2.2 ASSISTANT INVESTIGATOR PERSONNEL

Badges and Office identification cards issued to non-sworn personnel shall be clearly marked to reflect the position of the assigned employee.

(a) Non-sworn personnel shall not display any Office badge except when acting in an official and authorized capacity.

(b) Non-sworn personnel shall not display any Office badge or represent him/herself, on or off duty, in such a manner which would cause a reasonable person to believe that he/she is a sworn peace officer.

1017.2.3 RETIREE BADGE

Upon honorable retirement members may purchase their assigned duty badge for display purposes. It is intended that the duty badge be used only as private memorabilia as other uses of the badge may be unlawful or in violation of this policy.

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1017.3 UNAUTHORIZED USE

Except as required for on-duty use by current sworn members, no badge designed for carry or display in a wallet, badge case or similar holder shall be issued to anyone other than a current or honorably retired peace officer.

Office badges are issued to all sworn members and Assistant Investigator members for official use only. The Office badge, shoulder patch or the likeness thereof, or the Office 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 web sites and web pages.

The use of the badge, uniform patch and Office name for all material (printed matter, products or other items) developed for Office use shall be subject to approval by the Chief of Investigations.

Members shall not loan their Office badge or identification card to others and shall not permit the badge or identification card to be reproduced or duplicated.

1017.4 PERMITTED USE BY MEMBER GROUPS

The likeness of the Office badge shall not be used without the expressed authorization of the Chief of Investigations and shall be subject to the following:

(a) The member associations may use the likeness of the Office badge for merchandise and official association business provided they are used in a clear representation of the association and not the Contra Costa County District Attorney's Office. The following modifications shall be included:

1. The text on the upper and lower ribbons is replaced with the name of the member association.
2. The badge number portion displays the acronym of the member association.

(b) The likeness of the Office badge for endorsement of political candidates shall not be used without the expressed approval of the Chief of Investigations.

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Employee Speech, Expression and Social Networking

1018.1 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 Office.

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 association, 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.

1018.1.1 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.

1018.2 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 office. Due to the nature of the work and influence associated with the law enforcement profession, it is necessary that employees of this office 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 District Attorney's Office will carefully balance the individual employee’s rights against the Office’s needs and interests when exercising a reasonable degree of control over its employees’ speech and expression.

1018.3 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 District Attorney's Office 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

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family, or associates. Examples of the type of information that could reasonably be expected to compromise safety include:

- Disclosing a photograph and name or address of a sworn member who is working undercover.
- Disclosing the address of a fellow sworn member.
- Otherwise disclosing where another sworn member can be located off-duty.

1018.4 PROHIBITED SPEECH, EXPRESSION AND CONDUCT

To meet the office'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 sworn member 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 District Attorney's Office 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 District Attorney's Office and tends to compromise or damage the mission, function, reputation or professionalism of the Contra Costa County District Attorney's Office 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 support 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 Office. 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 District Attorney's Office.

(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 Office

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for financial or personal gain, or any disclosure of such materials without the express authorization of the Chief of Investigations or the authorized designee.

(g) Posting, transmitting or disseminating any photographs, video or audio recordings, likenesses or images of office logos, emblems, uniforms, badges, patches, marked vehicles, equipment or other material that specifically identifies the Contra Costa County District Attorney's Office on any personal or social networking or other website or web page, without the express authorization of the Chief of Investigations.

(h) Accessing websites for non-authorized purposes, or use of any personal communication device, game device or media device, whether personally or office-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 breaks such usage should be limited as much as practicable to areas out of sight and sound of the public and shall not be disruptive to the work environment.

Employees must take reasonable and prompt action to remove any content, including content 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).

1018.4.1 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 or sworn member associations, employees may not represent the Contra Costa County District Attorney's Office or identify themselves in any way that could be reasonably perceived as representing the Contra Costa County District Attorney's Office in order to do any of the following, unless specifically authorized by the Chief of Investigations (Government Code § 3206; Government Code § 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 sworn member associations), is affiliated with this office, the employee shall give a specific disclaiming statement that any such speech or expression is not representative of the Contra Costa County District Attorney's Office.

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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 sworn member 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).

1018.5 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) that is accessed, transmitted, received, or reviewed on any office technology system (see the Information Technology Use Policy for additional guidance).

The Office shall not require an employee to disclose a personal user name or password for accessing personal social media or to open a personal social website; however, the Office may request access when it is reasonably believed to be relevant to the investigation of allegations of work-related misconduct (Labor Code § 980).

1018.6 CONSIDERATIONS

In determining whether to grant authorization of any speech or conduct that is prohibited under this policy, the factors that the Chief of Investigations 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 Office or the efficiency or morale of its members.

(c) Whether the speech or conduct would reflect unfavorably upon the Office.

(d) Whether the speech or conduct would negatively affect the member’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 Office.

1018.7 TRAINING

Subject to available resources, the Office should provide training regarding employee speech and the use of social networking to all members of the Office.

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Line-of-Duty Deaths

1019.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidance to members of the Contra Costa County District Attorney's Office in the event of the death of a member occurring in the line of duty and to direct the Office in providing proper support for the member's survivors.

The Chief of Investigations may also apply some or all of this policy in situations where members are injured in the line of duty and the injuries are life-threatening.

1019.1.1 DEFINITIONS

Definitions related to this policy include:

Line-of-duty death - The death of a sworn member during the course of performing law enforcement-related functions while on- or off-duty, or a Assistant Investigator member during the course of performing their assigned duties.

Survivors - Immediate family members of the deceased member, which can include spouse, children, parents, other next of kin or significant others. The determination of who should be considered a survivor for purposes of this policy should be made on a case-by-case basis given the individual's relationship with the member.

1019.2 POLICY

It is the policy of the Contra Costa County District Attorney's Office to make appropriate notifications and to provide assistance and support to survivors and coworkers of a member who dies in the line of duty.

It is also the policy of this Office to respect the requests of the survivors when they conflict with these guidelines, as appropriate.

1019.3 INITIAL ACTIONS BY COMMAND STAFF

(a) Upon learning of a line-of-duty death, the deceased member's supervisor should provide all reasonably available information to the Chief of Investigations and the District Attorney.

1. Communication of information concerning the member and the incident should be restricted to secure networks to avoid interception by the media or others (see the Public Information Officer section of this policy).

(b) The Chief of Investigations should ensure that notifications are made in accordance with the Officer-Involved Shootings and Deaths and Major Incident Notification policies as applicable.

(c) If the member has been transported to the hospital, the Chief of Investigation's designee should respond to the hospital to assume temporary responsibilities as the Hospital Liaison.

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(d) The Chief of Investigations or the authorized designee should assign members to handle survivor notifications and assign members to the roles of Hospital Liaison (to relieve the temporary Hospital Liaison) and the Office Liaison as soon as practicable (see the Notifying Survivors section and the Office Liaison and Hospital Liaison subsections in this policy).

1019.4 NOTIFYING SURVIVORS

Survivors should be notified as soon as possible in order to avoid the survivors hearing about the incident in other ways.

The Chief of Investigations or the authorized designee should review the deceased member's emergency contact information and make accommodations to respect the member's wishes and instructions specific to notifying survivors. However, notification should not be excessively delayed because of attempts to assemble a notification team in accordance with the member's wishes.

The Chief of Investigations or the authorized designee should select at least two members to conduct notification of survivors.

Notifying members should:

(a) Make notifications in a direct and compassionate manner, communicating as many facts of the incident as possible, including the current location of the member. Information that is not verified should not be provided.

(b) Determine the method of notifying surviving children by consulting with other survivors and taking into account factors such as the child's age, maturity and current location (e.g., small children at home, children in school).

(c) Plan for concerns such as known health concerns of survivors or language barriers.

(d) Offer to transport survivors to the hospital, if appropriate. Survivors should be transported in Office vehicles. Notifying members shall inform the Hospital Liaison over a secure network that the survivors are on their way to the hospital and should remain at the hospital while the survivors are present.

(e) When survivors are not at their residences or known places of employment, actively seek information and follow leads from neighbors, other law enforcement, postal authorities and other sources of information in order to accomplish notification in as timely a fashion as possible. Notifying members shall not disclose the reason for their contact other than a family emergency.

(f) If making notification at a survivor's workplace, ask a workplace supervisor for the use of a quiet, private room to meet with the survivor. Members shall not inform the workplace supervisor of the purpose of their visit other than to indicate that it is a family emergency.

(g) Offer to call other survivors, friends or clergy to support the survivors and to avoid leaving survivors alone after notification.

(h) Assist the survivors with meeting childcare or other immediate needs.

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(i) Provide other assistance to survivors and take reasonable measures to accommodate their needs, wishes and desires. Care should be taken not to make promises or commitments to survivors that cannot be met.

(j) Inform the survivors of the name and phone number of the Survivor Support Liaison (see the Survivor Support Liaison section of this policy), if known, and the Office Liaison.

(k) Provide their contact information to the survivors before departing.

(l) Document the survivor's names and contact information, as well as the time and location of notification. This information should be forwarded to the Office Liaison.

(m) Inform the Chief of Investigations or the authorized designee once survivor notifications have been made so that other Contra Costa County District Attorney's Office members may be apprised that survivor notifications are complete.

1019.4.1 OUT-OF-AREA NOTIFICATIONS

The Office Liaison should request assistance from law enforcement agencies in appropriate jurisdictions for in-person notification to survivors who are out of the area.

(a) The Office Liaison should contact the appropriate jurisdiction using a secure network and provide the assisting agency with the name and telephone number of the Office member that the survivors can call for more information following the notification by the assisting agency.

(b) The Office Liaison may assist in making transportation arrangements for the member's survivors, but will not obligate the Office to pay travel expenses without the authorization of the Chief of Investigations.

1019.5 NOTIFYING OFFICE MEMBERS

Supervisors or members designated by the Chief of Investigations are responsible for notifying Office members of the line-of-duty death as soon as possible after the survivor notification is made. Notifications and related information should be communicated in person or using secure networks and should not be transmitted over the radio.

Notifications should be made in person and as promptly as possible to all members on-duty at the time of the incident. Those members who are working later shifts or are on days off should be notified by phone as soon as practicable.

Members having a close bond with the deceased member should be notified of the incident in person. Supervisors should consider assistance (e.g., peer support group, modifying work schedules, approving sick leave) for members who are especially affected by the incident.

Supervisors should direct members not to disclose any information outside the Office regarding the deceased member or the incident.

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1019.6 LIAISONS AND COORDINATORS

The Chief of Investigations or the authorized designee should select members to serve as liaisons and coordinators to handle responsibilities related to a line-of-duty death, including, but not limited to:

(a) Department Liaison.

(b) Hospital Liaison.

(c) Survivor Support Liaison.

(d) Critical Incident Stress Management (CISM) coordinator.

(e) Funeral Liaison.

(f) Mutual aid coordinator.

(g) Benefits Liaison.

(h) Finance coordinator.

Liaisons and coordinators will be directed by the Office Liaison and should be given sufficient duty time to complete their assignments.

Members may be assigned responsibilities of more than one liaison or coordinator position depending on available Office resources. The Office Liaison may assign separate liaisons and coordinators to accommodate multiple family units, if needed.

1019.6.1 OFFICE LIAISON

The Office Liaison should be a Lieutenant or of sufficient rank to effectively coordinate Office resources, and should serve as a facilitator between the deceased member's survivors and the Office. The Office Liaison reports directly to the Chief of Investigations. The Office Liaison's responsibilities include, but are not limited to:

(a) Directing the other liaisons and coordinators in fulfilling survivors' needs and requests. Consideration should be given to organizing the effort using the National Incident Management System (NIMS).

(b) Establishing contact with survivors within 24 hours of the incident and providing them contact information.

(c) Advising survivors of the other liaison and coordinator positions and their roles and responsibilities.

(d) Identifying locations that will accommodate a law enforcement funeral and presenting the options to the appropriate survivors, who will select the location.

(e) Coordinating all official law enforcement notifications and arrangements.

(f) Making necessary contacts for authorization to display flags at half-mast.

(g) Ensuring that Office members are reminded of appropriate information–sharing restrictions regarding the release of information that could undermine future legal proceedings.

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(h) Coordinating security checks of the member's residence as necessary and reasonable.

(i) Serving as a liaison with visiting law enforcement agencies during memorial and funeral services.

1019.6.2 HOSPITAL LIAISON

The Hospital Liaison should work with hospital personnel to:

(a) Arrange for appropriate and separate waiting areas for:

1. The survivors and others whose presence is requested by the survivors.
2. Office members and friends of the deceased member.
3. Media personnel.

(b) Ensure, as much as practicable, that any suspects who are in the hospital and their families or friends are not in close proximity to the member's survivors or Contra Costa County District Attorney's Office members (except for members who may be guarding the suspect).

(c) Ensure that survivors receive timely updates regarding the member before information is released to others.

(d) Arrange for survivors to have private time with the member, if requested.

1. The Hospital Liaison or hospital personnel may need to explain the condition of the member to the survivors to prepare them accordingly.
2. The Hospital Liaison should accompany the survivors into the room, if requested.

(e) Stay with survivors and ensure that they are provided with other assistance as needed at the hospital.

(f) If applicable, explain to the survivors why an autopsy may be needed.

(g) Ensure hospital bills are directed to the Office, that the survivors are not asked to sign as guarantor of payment for any hospital treatment and that the member's residence address, insurance information and next of kin are not included on hospital paperwork.

Other responsibilities of the Hospital Liaison include, but are not limited to:

- Arranging transportation for the survivors back to their residence.
- Working with investigators to gather and preserve the deceased member's equipment and other items that may be of evidentiary value.
- Documenting his/her actions at the conclusion of his/her duties.

1019.6.3 SURVIVOR SUPPORT LIAISON

The Survivor Support Liaison should work with the Office Liaison to fulfill the immediate needs and requests of the survivors of any member who has died in the line of duty, and serve as the long-term Office contact for survivors.

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The Survivor Support Liaison should be selected by the deceased member's Lieutenant. The following should be considered when selecting the Survivor Support Liaison:

- The liaison should be an individual the survivors know and with whom they are comfortable working.
- If the survivors have no preference, the selection may be made from names recommended by the deceased member's supervisor and/or coworkers. The deceased member's close friends may not be the best selections for this assignment because the emotional connection to the member or survivors may impair their ability to conduct adequate liaison duties.
- The liaison must be willing to assume the assignment with an understanding of the emotional and time demands involved.

The responsibilities of the Survivor Support Liaison include, but are not limited to:

(a) Arranging for transportation of survivors to hospitals, places of worship, funeral homes and other locations, as appropriate.

(b) Communicating with the Office Liaison regarding appropriate security measures for the family residence, as needed.

(c) If requested by the survivors, providing assistance with instituting methods of screening telephone calls made to their residence after the incident.

(d) Providing assistance with travel and lodging arrangements for out-of-town survivors.

(e) Returning the deceased member's personal effects from the Office and the hospital to the survivors. The following should be considered when returning the personal effects:

1. Items should not be delivered to the survivors until they are ready to receive the items.
2. Items not retained as evidence should be delivered in a clean, unmarked box.
3. All clothing not retained as evidence should be cleaned and made presentable (e.g., items should be free of blood or other signs of the incident).
4. The return of some personal effects may be delayed due to ongoing investigations.

(f) Assisting with the return of Office-issued equipment that may be at the deceased member's residence.

1. Unless there are safety concerns, the return of the equipment should take place after the funeral at a time and in a manner considerate of the survivors' wishes.

(g) Working with the CISM coordinator to ensure that survivors have access to available counseling services.

(h) Coordinating with the Office's designated Public Information Officer to brief the survivors on pending press releases related to the incident and to assist the survivors with media relations in accordance with their wishes (see the Public Information Officer section of this policy).

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(i) Briefing survivors on investigative processes related to the line-of-duty death, such as criminal, internal and administrative investigations.

(j) Informing survivors of any related criminal proceedings and accompanying them to such proceedings.

(k) Introducing survivors to prosecutors, victim's assistance personnel and other involved personnel as appropriate.

(l) Maintaining long-term contact with survivors and taking measures to sustain a supportive relationship (e.g., follow-up visits, phone calls, cards on special occasions, special support during holidays).

(m) Inviting survivors to Office activities, memorial services or other functions as appropriate.

Survivor Support Liaisons providing services after an incident resulting in multiple members being killed should coordinate with and support each other through conference calls or meetings as necessary.

The Office recognizes that the duties of a Survivor Support Liaison will often affect regular assignments over many years, and is committed to supporting members in the assignment.

1019.6.4 CRITICAL INCIDENT STRESS MANAGEMENT COORDINATOR

The CISM coordinator should work with the Chief of Investigations or the authorized designee, liaisons, coordinators and other resources to make CISM and counseling services available to members and survivors who are impacted by a line-of-duty death. The responsibilities of the CISM coordinator include, but are not limited to:

(a) Identifying members who are likely to be significantly affected by the incident and may have an increased need for CISM and counseling services, including:

1. Members involved in the incident.
2. Members who witnessed the incident.
3. Members who worked closely with the deceased member but were not involved in the incident.

(b) Ensuring that members who were involved in or witnessed the incident are relieved of department responsibilities until they can receive CISM support as appropriate and possible.

(c) Ensuring that CISM and counseling resources (e.g., peer support, debriefing, grief counselors) are available to members as soon as reasonably practicable following the line-of-duty death.

(d) Coordinating with the Survivor Support Liaison to ensure survivors are aware of available CISM and counseling services and assisting with arrangements as needed.

(e) Following up with members and the Survivor Support Liaison in the months following the incident to determine if additional CISM or counseling services are needed.

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1019.6.5 FUNERAL LIAISON

The Funeral Liaison should work with the Office Liaison, Survivor Support Liaison and survivors to coordinate funeral arrangements to the extent the survivors wish. The Funeral Liaison's responsibilities include, but are not limited to:

(a) Assisting survivors in working with the funeral director regarding funeral arrangements and briefing them on law enforcement funeral procedures.

(b) Completing funeral notification to other law enforcement agencies.

(c) Coordinating the funeral activities of the Office, including, but not limited to the following:

1. Honor Guard
    - (a) Casket watch
    - (b) Color guard
    - (c) Pallbearers
    - (d) Bell/rifle salute
2. Bagpipers/bugler
3. Uniform for burial
4. Flag presentation
5. Last radio call

(d) Briefing the Chief of Investigations and command staff concerning funeral arrangements.

(e) Assigning a member to remain at the family home during the viewing and funeral.

(f) Arranging for transportation of the survivors to and from the funeral home and interment site using Office vehicles and drivers.

1019.6.6 MUTUAL AID COORDINATOR

The mutual aid coordinator should work with the Office Liaison and the Funeral Liaison to request and coordinate any assistance from outside law enforcement agencies needed for, but not limited to:

(a) Traffic control during the deceased member's funeral.

(b) Office coverage so that as many Contra Costa County District Attorney's Office members can attend funeral services as possible.

The mutual aid coordinator should perform his/her duties in accordance with the Mutual Aid and Outside Agency Assistance Policy.

1019.6.7 BENEFITS LIAISON

The Benefits Liaison should provide survivors with information concerning available benefits and assist them in applying for benefits. Responsibilities of the Benefits Liaison include, but are not limited to:

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(a) Confirming the filing of workers' compensation claims and related paperwork (see the Occupational Disease and Work-Related Injury Reporting Policy).

(b) Researching and assisting survivors with application for federal government survivor benefits, such as those offered through the:

1. Public Safety Officers' Benefits (PSOB) Programs.
2. Public Safety Officers' Educational Assistance (PSOEA) Program.
3. Social Security Administration.
4. Department of Veterans Affairs.

(c) Researching and assisting survivors with application for state and local government survivor benefits.

1. Education benefits (Education Code § 68120)
2. Health benefits (Labor Code § 4856)
3. Worker's compensation death benefit (Labor Code § 4702)

(d) Researching and assisting survivors with application for other survivor benefits such as:

1. Private foundation survivor benefits programs.
2. Survivor scholarship programs.

(e) Researching and informing survivors of support programs sponsored by county associations and other organizations.

(f) Documenting and informing survivors of inquiries and interest regarding public donations to the survivors.

1. If requested, working with the finance coordinator to assist survivors with establishing a process for the receipt of public donations.

(g) Providing survivors with a summary of the nature and amount of benefits applied for, including the name of a contact person at each benefit office. Printed copies of the summary and benefit application documentation should be provided to affected survivors.

(h) Maintaining contact with the survivors and assisting with subsequent benefit questions and processes as needed.

1019.6.8 FINANCE COORDINATOR

The finance coordinator should work with the Chief of Investigations and the Office Liaison to manage financial matters related to the line-of-duty death. The finance coordinator's responsibilities include, but are not limited to:

(a) Establishing methods for purchasing and monitoring costs related to the incident.

(b) Providing information on finance-related issues, such as:

1. Paying survivors' travel costs if authorized.

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2. Transportation costs for the deceased.
3. Funeral and memorial costs.
4. Related funding or accounting questions and issues.

(c) Working with the Benefits Liaison to establish a process for the receipt of public donations to the deceased member's survivors.

(d) Providing accounting and cost information as needed.

1019.7 PUBLIC INFORMATION OFFICER

In the event of a line-of-duty death, the Office's designated public information member should be the Office's contact point for the media. As such, the member should coordinate with the Office Liaison to:

(a) Collect and maintain the most current incident information and determine what information should be released.

(b) Ensure that Office members are instructed to direct any media inquiries to the designated member.

(c) Prepare necessary press releases.

1. Ensure coordination with other entities having media roles (e.g., outside agencies involved in the investigation or incident).
2. Ensure that important public information is disseminated, such as information on how the public can show support for the Office and deceased member's survivors.

(d) Arrange for community and media briefings by the Chief of Investigations or the authorized designee as appropriate.

(e) Respond, or coordinate the response, to media inquiries.

(f) If requested, assist the member's survivors with media inquiries.

1. Brief the survivors on handling sensitive issues such as the types of questions that reasonably could jeopardize future legal proceedings.

(g) Release information regarding memorial services and funeral arrangements to Office members, other agencies and the media as appropriate.

(h) If desired by the survivors, arrange for the recording of memorial and funeral services via photos and/or video.

The identity of deceased members should be withheld until the member's survivors have been notified. If the media has obtained identifying information for the deceased member prior to survivor notification, the designated member should request that the media withhold the information from release until proper notification can be made to survivors. The designated member should ensure that media are notified when survivor notifications have been made.

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1019.8 INVESTIGATION OF THE INCIDENT

The Chief of Investigations shall ensure that line-of-duty deaths are investigated thoroughly and may choose to use the investigation process outlined in the Officer-Involved Shootings and Deaths Policy.

Investigators from other agencies may be assigned to work on any criminal investigation related to line-of-duty deaths. Partners, close friends or personnel who worked closely with the deceased member should not have any investigative responsibilities because such relationships may impair the objectivity required for an impartial investigation of the incident.

Involved Office members should be kept informed of the progress of the investigations and provide investigators with any information that may be pertinent to the investigations.

1019.9 LINE-OF-DUTY DEATH OF A LAW ENFORCEMENT ANIMAL

The Chief of Investigations may authorize appropriate memorial and funeral services for law enforcement animals killed in the line of duty.

1019.10 NON-LINE-OF-DUTY DEATH

The Chief of Investigations may authorize certain support services for the death of a member not occurring in the line of duty.

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Attachments

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Commission on Peace Officer Standards and Training Hate Crimes Model Policy 2019.pdf

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Hate Crime Checklist.pdf

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HATE CRIME CHECKLIST

VICTIM

Victim Type:

☐ **Individual**
Legal name (Last, First): _____
Other Names used (AKA): _____

☐ **School, business or organization**
Name: _____
Type: _____
(e.g., non-profit, private, public school)
Address: _____

☐ **Faith-based organization**
Name: _____
Faith: _____
Address: _____

Target of Crime (Check all that apply):

☐ Person ☐ Private property ☐ Public property

☐ Other _____

Nature of Crime (Check all that apply):

☐ Bodily injury ☐ Threat of violence

☐ Property damage

☐ Other crime: _____

Property damage - estimated value _____

BIAS

Type of Bias
(Check all characteristics that apply):

☐ Disability
☐ Gender
☐ Gender identity/expression
☐ Sexual orientation
☐ Race
☐ Ethnicity
☐ Nationality
☐ Religion
☐ Significant day of offense
(e.g., 9/11, holy days)
☐ Other: _____

Specify disability (be specific):

_____

_____

Actual or Perceived Bias – Victim's Statement:

☐ Actual bias [Victim actually has the indicated characteristic(s)].

☐ Perceived bias [Suspect believed victim had the indicated characteristic(s)].

If perceived, explain the circumstances in narrative portion of Report.

Reason for Bias:

Do you feel you were targeted based on one of these characteristics?
☐ Yes ☐ No *Explain in narrative portion of Report.*

Do you know what motivated the suspect to commit this crime?
☐ Yes ☐ No *Explain in narrative portion of Report.*

Do you feel you were targeted because you associated yourself with an individual or a group?
☐ Yes ☐ No *Explain in narrative portion of Report.*

Are there indicators the suspect is affiliated with a Hate Group (i.e., literature/tattoos)?
☐ Yes ☐ No *Describe in narrative portion of Report.*

Are there Indicators the suspect is affiliated with a criminal street gang?
☐ Yes ☐ No *Describe in narrative portion of Report.*

Bias Indicators (Check all that apply):

☐ Hate speech ☐ Acts/gestures ☐ Property damage ☐ Symbol used
☐ Written/electronic communication ☐ Graffiti/spray paint ☐ Other: _____

Describe with exact detail in narrative portion of Report.

HISTORY

Relationship Between Suspect & Victim:

Suspect known to victim? ☐ Yes ☐ No
Nature of relationship: _____
Length of relationship: _____
If Yes, describe in narrative portion of Report

☐ Prior reported incidents with suspect? Total # _____
☐ Prior unreported incidents with suspect? Total # _____
Restraining orders? ☐ Yes ☐ No
If Yes, describe in narrative portion of Report
Type of order: _____ Order/Case# _____

WEAPONS

Weapon(s) used during incident? ☐ Yes ☐ No Type: _____
Weapon(s) booked as evidence? ☐ Yes ☐ No
Automated Firearms System (AFS) Inquiry attached to Report? ☐ Yes ☐ No

HATE CRIME CHECKLIST

EVIDENCE

Witnesses present during incident? ☐ Yes ☐ No Statements taken? ☐ Yes ☐ No

Evidence collected? ☐ Yes ☐ No

Photos taken? ☐ Yes ☐ No

Total # of photos: _____ D#: _____

Taken by: _____ Serial #: _____

Recordings: ☐ Video ☐ Audio ☐ Booked

Suspect identified: ☐ Field ID ☐ By photo ☐ Known to victim

OBSERVATIONS

VICTIM	SUSPECT
☐ Tattoos	☐ Tattoos
☐ Shaking	☐ Shaking
☐ Unresponsive	☐ Unresponsive
☐ Crying	☐ Crying
☐ Scared	☐ Scared
☐ Angry	☐ Angry
☐ Fearful	☐ Fearful
☐ Calm	☐ Calm
☐ Agitated	☐ Agitated
☐ Nervous	☐ Nervous
☐ Threatening	☐ Threatening
☐ Apologetic	☐ Apologetic
☐ Other observations: _____	☐ Other observations: _____

ADDITIONAL QUESTIONS (Explain all boxes marked "Yes" in narrative portion of report):

Has suspect ever threatened you? ☐ Yes ☐ No

Has suspect ever harmed you? ☐ Yes ☐ No

Does suspect possess or have access to a firearm? ☐ Yes ☐ No

Are you afraid for your safety? ☐ Yes ☐ No

Do you have any other information that may be helpful? ☐ Yes ☐ No

Resources offered at scene: ☐ Yes ☐ No Type: _____

MEDICAL

Victim	Suspect	
☐	☐	Declined medical treatment
☐	☐	Will seek own medical treatment
☐	☐	Received medical treatment

Authorization to Release Medical Information, Form 05.03.00, signed? ☐ Yes ☐ No

Paramedics at scene? ☐ Yes ☐ No Unit # _____

Name(s)/ID #: _____

Hospital: _____

Jail Dispensary: _____

Physician/Doctor: _____

Patient #: _____

Officer (Name/Rank)	Date
Officer (Name/Rank)	Date
Supervisor Approving (Name/Rank)	Date

Statutes and Legal Requirements.pdf

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Statutes and Legal Requirements

Items listed in this section include sections from the California Penal Code (CPC), Welfare and Institutions Code (WI) and Government Code (GC).

Definitions

CPC 422.55 - Provides general definition of hate crimes in California.

CPC 422.56- Provides definitions of terms included in hate crimes statutes.

GC 12926- Disability-related definitions applicable to some hate crime statutes.

Felonies

Hate Crimes

CPC 422.7 - Commission of a crime for the purpose of interfering with another's exercise of civil rights.

Related Crimes

CPC 190.2(a)(16) - Homicide penalties related to certain hate crime related acts.

CPC 190.03(a) - Homicide penalties related to certain hate crime related acts.

CPC 288(b)(2) - Sexual assault of dependent person by caretaker

CPC 368(b) - Dependent adult abuse generally - may apply as disability-related hate crime.

CPC 594.3 - Vandalism of places of worship.

CPC 11412 - Causing or attempting to cause other to refrain from exercising religion by threat.

CPC 11413 - Arson or destructive device at place of worship.

Misdemeanors

Hate Crimes

CPC 422.6 - Use of force, threats, or destruction of property to interfere with another's exercise of civil rights.

CPC 422.77 - Violation of civil order (Bane Act) protecting the exercise of civil rights

Related Crimes

CPC 302 - Disorderly conduct during an assemblage of people gathered for religious worship at a tax-exempt place of worship.

CPC 538(c) - Unauthorized insertion of advertisements in newspapers and redistribution to the public.

CPC 640.2 - Placing handbill, notice of advertisement on a consumer product or product packaged without authorization.

CPC 11411 - Terrorism of owner or occupant of real property. Placement or display of sign, symbol, or other physical impression without authorization, engagement in pattern of conduct, or burning or desecration of religious symbols.

Enhancements

CPC 190.2(a)(16) - Special circumstances imposing the Death Penalty or Life Without Possibility of Parole, if the victim was intentionally killed because of sexual orientation, gender, or disability.

CPC 190.3 - Special circumstances imposing LWOP if the victim was intentionally killed because of sexual orientation, gender, or disability.

CPC 422.75 - Penalty for felony committed because of victim's race, color, religion, nationality, country or origin, ancestry, disability, or sexual orientation shall be enhanced one, two, or three years in prison, if the person acts alone; and two, three, or four years if the person commits the act with another.

CPC 1170.8 - Enhancement for robbery or assault at a place of worship.

CPC 1170.85(b) - Felony assault or battery enhancement due to age or disability.

Reporting

CPC 13023- Requirement for law enforcement agencies to report hate crime data to DOJ.

WI 15630 – Elder and Dependent Adult Abuse Mandated Reporting (may apply in disability-related hate crimes).

Training and Policy Requirements

CPC 422.87 - Hate crimes policy adoption and update requirements (AB 1985, Effective January 1, 2019).

CPC 13519.6 - Defines hate crime training requirements for peace officers.

CPC 13519.41 - Training requirements on sexual orientation and gender identity-related hate crimes for peace officers and dispatchers (AB 2504, Effective January 1, 2019).

Miscellaneous Provisions

CPC 422.78 - Responsibility for prosecution of stay away order violations.

CPC 422.86 - Public policy regarding hate crimes.

CPC 422.89 - Legislative intent regarding violations of civil rights and hate crimes

CPC 422.92 - Hate crimes victims brochure requirement for law enforcement agencies.

CPC 422.93 - Protection of victims and witnesses from being reported to immigration authorities.

GC 6254 - Victim confidentiality.

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