

# Ventura County District Attorney's Office

Ventura County DA CA Policy Manual

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## **CHIEF'S PREFACE**

On behalf of District Attorney Gregory D. Totten and myself, I would like to welcome our new employees and acknowledge our current employees for their continued efforts and contributions to the Bureau of Investigation. The employees of the Bureau of Investigation are recognized by the District Attorney as a great asset to the organization, and more importantly, by those to whom we serve. Our employees have the character and courage to promote justice and protect the people in the County of Ventura, State of California, by aggressively and fairly investigating those who violate the law.

The Bureau of Investigation is comprised of highly trained and experienced investigators. They are expected to foster and maintain the highest standards of conduct, appearance, and professionalism while displaying honesty, trust, and integrity when interacting with the public and other criminal justice agencies. The Code of Professional Conduct and Responsibilities for Peace Officers developed by the California Peace Officers' Association and the Law Enforcement Code of Ethics are included for reference as part of this manual. We are expected to be familiar with and adhere to both principles. In any case where a conflict exists between the Code of Professional Conduct and this manual, the manual will take precedent.

This manual is available to you through the Intranet and is maintained with both current and applicable information. It is established to provide all sworn and non-sworn employees of this Bureau with a readily applicable and clear concept of the Bureau of Investigation Policies and Procedures. It is not intended to specifically cover all of the various situations that constantly confront us in the general discharge of our duties. Instead, we as employees of the District Attorney's Office are expected to use discretion, initiative, resourcefulness, and sound judgment while performing our duties. We are all responsible to review any revisions, as they become available. All information contained herein is not to be divulged to those for whom it is not intended. All prior orders, procedures, directive, policy statements, rules, and regulations that are in conflict with the content of this manual are hereby revoked.

As Chief of the Bureau of Investigation, I appreciate each and every one of you for your hard work, dedication, and character. Words do not satisfactorily convey the appreciation I have for the important work you accomplish on a regular basis.

**MIKE BARAY**

Chief Investigator

# Ventura County District Attorney's Office

Ventura County DA CA Policy Manual

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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.

# Ventura County District Attorney's Office

Ventura County DA CA Policy Manual

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## **MISSION STATEMENT**

The mission of the Ventura County District Attorney's Office is to promote justice and protect the people of the County of Ventura and the State of California by aggressively and fairly prosecuting those who violate the law.

We employ individuals of character and courage who provide the highest quality legal representation for the public, steadfastly protect the rights of crime victims, and conscientiously seek to improve the criminal justice system and strengthen our community.

Our vision is to enhance the quality of life in our community, to be leaders in quality prosecution, to aggressively advocate the cause of justice and, above all, to make Ventura County a safer community for everyone.

GREGORY D. TOTTEN

District Attorney

# Ventura County District Attorney's Office

Ventura County DA CA Policy Manual

---

## Table of Contents

<b>CHIEF'S PREFACE . . . . .</b>	<b>1</b>
<b>LAW ENFORCEMENT CODE OF ETHICS . . . . .</b>	<b>2</b>
<b>MISSION STATEMENT . . . . .</b>	<b>3</b>
<b>Chapter 1 - Law Enforcement Role and Authority . . . . .</b>	<b>7</b>
100 - Law Enforcement Authority . . . . .	8
101 - Chief Executive Officer . . . . .	11
102 - Oath of Office . . . . .	12
103 - Policy Manual . . . . .	13
<b>Chapter 2 - Organization and Administration . . . . .</b>	<b>16</b>
200 - Organizational Structure and Responsibility . . . . .	17
201 - Departmental Directive . . . . .	18
202 - Emergency Management Plan . . . . .	19
203 - Training Policy . . . . .	20
204 - Electronic Mail . . . . .	28
205 - Administrative Communications . . . . .	30
206 - Staffing Levels/Work Schedule . . . . .	31
207 - Retiree Concealed Firearms . . . . .	35
<b>Chapter 3 - General Operations . . . . .</b>	<b>40</b>
300 - Use of Force . . . . .	41
301 - Control Devices and Techniques . . . . .	49
302 - Officer-Involved Shootings and Deaths . . . . .	53
303 - Firearms . . . . .	59
304 - Vehicle Pursuits . . . . .	71
305 - Coordination with Other Law Enforcement Agencies . . . . .	79
306 - Office Security-Duty Investigator . . . . .	81
307 - Domestic Violence . . . . .	82
308 - Search and Seizure . . . . .	88
309 - Temporary Custody of Juveniles . . . . .	90
310 - Discriminatory Harassment . . . . .	99
311 - Child Abuse . . . . .	105
312 - Victim and Witness Assistance . . . . .	110
313 - Standards of Conduct . . . . .	113
314 - Report Preparation . . . . .	115
315 - Subpoenas and Court Appearances . . . . .	116
316 - Outside Agency Assistance . . . . .	119
317 - Media Relations . . . . .	120
318 - Major Incident Notification . . . . .	122
319 - Limited English Proficiency Services . . . . .	123
320 - Communications with Persons with Disabilities . . . . .	128

# Ventura County District Attorney's Office

Ventura County DA CA Policy Manual

---

321 - Mandatory Employer Notification . . . . .	136
322 - Off-Duty Law Enforcement Actions . . . . .	138
323 - Adult Abuse . . . . .	140
326 - Bureau Computer Use . . . . .	151
327 - Gun Violence Restraining Orders . . . . .	155
328 - Native American Graves Protection and Repatriation . . . . .	158
329 - Handcuffing and Restraints . . . . .	160
<b>Chapter 4 - Patrol Operations . . . . .</b>	<b>165</b>
400 - Cite and Release Policy . . . . .	166
401 - Foreign Diplomatic and Consular Representatives . . . . .	167
402 - Rapid Response and Deployment . . . . .	170
403 - Threat Assessment . . . . .	173
404 - Reporting Police Activity Outside of Jurisdiction . . . . .	178
405 - Immigration Violations . . . . .	179
406 - Obtaining Helicopter Assistance . . . . .	184
407 - Contacts and Temporary Detentions . . . . .	185
408 - Criminal Organizations . . . . .	188
409 - Tactical Operations . . . . .	193
410 - Portable Audio/Video Recorders . . . . .	195
411 - Non-English Translations . . . . .	200
412 - Public Recording of Law Enforcement Activity . . . . .	201
413 - First Amendment Assemblies . . . . .	204
414 - Medical Aid and Response . . . . .	210
415 - Automated License Plate Readers (ALPRs) . . . . .	214
<b>Chapter 6 - Investigation Operations . . . . .</b>	<b>217</b>
600 - Informant Interview Policy . . . . .	218
601 - Asset Forfeiture . . . . .	219
602 - This section intentionally left blank . . . . .	226
603 - Undercover Credit Cards . . . . .	236
604 - Brady Material Disclosure . . . . .	241
605 - Confidential Informants . . . . .	243
606 - Death Penalty/Life Without Parole Cases . . . . .	247
<b>Chapter 7 - Equipment . . . . .</b>	<b>250</b>
700 - County of Ventura Owned and Personal Property . . . . .	251
701 - Personal Communication Devices . . . . .	253
702 - Vehicle Use . . . . .	254
<b>Chapter 8 - Support Services . . . . .</b>	<b>259</b>
800 - Property and Evidence . . . . .	260
801 - Records Maintenance and Release . . . . .	269
802 - Protected Information . . . . .	278
803 - Computers and Digital Evidence . . . . .	282
804 - Communication Operations . . . . .	285

# Ventura County District Attorney's Office

Ventura County DA CA Policy Manual

---

<b>Chapter 9 - Custody . . . . .</b>	<b>287</b>
900 - Custodial Searches . . . . .	288
901 - Temporary Custody of Adults . . . . .	293
<b>Chapter 10 - Personnel . . . . .</b>	<b>302</b>
1000 - Recruitment and Selection . . . . .	303
1001 - Evaluation of Employees . . . . .	308
1002 - Promotional Policy . . . . .	311
1003 - Grievance Procedure . . . . .	312
1004 - Anti-Retaliation . . . . .	313
1005 - Reporting of Employee Convictions . . . . .	317
1006 - Drug- and Alcohol-Free Workplace . . . . .	320
1007 - Sick Leave . . . . .	324
1008 - Communicable Diseases . . . . .	329
1009 - Smoking and Tobacco Use . . . . .	334
1010 - Personnel Complaints . . . . .	335
1011 - Seat Belts . . . . .	345
1012 - Body Armor and Safety Equipment . . . . .	347
1013 - Personnel Records . . . . .	349
1014 - Request for Change of Assignment . . . . .	357
1015 - Employee Commendations and Recognition . . . . .	358
1016 - Fitness for Duty . . . . .	360
1017 - Meal Periods and Breaks . . . . .	363
1018 - Lactation Break Policy . . . . .	364
1019 - Time Reporting Procedures . . . . .	366
1020 - Overtime Payment Requests . . . . .	367
1021 - Outside Employment . . . . .	369
1022 - Occupational Disease and Work-Related Injury Reporting . . . . .	373
1023 - Death of Bureau Employee . . . . .	375
1024 - Personal Appearance Standards . . . . .	377
1025 - Peer Support Program . . . . .	387
1026 - Nepotism and Conflicting Relationships . . . . .	391
1027 - Department Badges . . . . .	393
1028 - Modified Duty Assignments . . . . .	395
1029 - Employee Speech, Expression and Social Networking . . . . .	399
1030 - Line-of-Duty Deaths . . . . .	404
<b>Attachments . . . . .</b>	<b>415</b>
Vienna Convention LA memo.pdf . . . . .	416
Work schedule policy to Lexipol.pdf . . . . .	417

## **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 Ventura County District Attorney's Office to perform their functions based on established legal authority.

### 100.2 PEACE OFFICER POWERS

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

#### 100.2.1 ARREST AUTHORITY OUTSIDE THE JURISDICTION OF THE VENTURA COUNTY DISTRICT ATTORNEY'S OFFICE

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

- (a) When the investigator has probable cause to believe the person committed a felony.
- (b) When the investigator has probable cause to believe the person has committed a misdemeanor in the presence of the investigator and the investigator reasonably believes there is immediate danger to person or property or of escape.
- (c) When the investigator has probable cause to believe the person has committed a misdemeanor for which an arrest is authorized even if not committed in the presence of the investigator such as certain domestic violence offenses and there is immediate danger to person or property or of escape or the arrest is mandated by statute.
- (d) When authorized by a cross jurisdictional agreement with the jurisdiction in which the arrest is made.
- (e) In compliance with an arrest warrant.

On-duty arrests will not generally be made outside the jurisdiction of this [department/office] except in cases of hot or fresh pursuit, while following up on crimes committed within the County or while assisting another agency.

On-duty investigators who discover criminal activity outside the jurisdiction of the County should when circumstances permit, consider contacting the agency having primary jurisdiction before attempting an arrest.

#### 100.2.2 ARREST AUTHORITY INSIDE THE JURISDICTION OF THE VENTURA COUNTY DISTRICT ATTORNEY'S OFFICE

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

- (a) When the investigator has probable cause to believe the person has committed a felony, whether or not committed in the presence of the investigator.
- (b) When the investigator has probable cause to believe the person has committed a misdemeanor in this jurisdiction and in the presence of the investigator.



## *Law Enforcement Authority*

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- (c) When the investigator has probable cause to believe the person has committed a public offense outside this jurisdiction, in the presence of the investigator and the investigator reasonably believes there is an immediate danger to person or property, or of escape.
- (d) When the investigator 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 investigator such as certain domestic violence offenses.
- (e) In compliance with an arrest warrant.

### 100.2.3 TIME OF MISDEMEANOR ARRESTS

Investigators 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 investigator.
  - 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.

### 100.2.4 OREGON AUTHORITY

Sworn members of this [department/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 investigators 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.

Ventura County District Attorney's Office investigators have no authority to enforce Oregon traffic or motor vehicle laws.

Whenever practicable, investigators should seek permission from a [department/office] supervisor before entering Oregon to provide law enforcement services. As soon as practicable, investigators exercising law enforcement authority in Oregon shall submit any appropriate written reports

## *Law Enforcement Authority*

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concerning the incident to the Oregon agency having primary jurisdiction over the area in which the incident occurred.

### **100.3 POLICY**

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

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

### **100.4 INTERSTATE PEACE OFFICER POWERS**

Peace officer powers may be extended to other states:

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

### **100.5 CONSTITUTIONAL REQUIREMENTS**

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

## **Chief Executive Officer**

### **101.1 PURPOSE AND SCOPE**

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

#### **101.1.1 CHIEF EXECUTIVE OFFICER REQUIREMENTS**

Any Chief Investigator of this agency appointed after January 1, 1999, shall, as a condition of continued employment, complete the course of training prescribed by POST and obtain the Basic Certificate by POST within two years of appointment.

## Oath of Office

### 102.1 PURPOSE AND SCOPE

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

### 102.2 POLICY

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

### 102.3 OATH OF OFFICE

All department 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."

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# Policy Manual

## 103.1 PURPOSE AND SCOPE

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

The Bureau of Investigation conforms to the County of Ventura general policies, procedures and practices. Nothing in this policy is intended to modify or in any way affect the current County of Ventura general policies, procedures and practices.

## 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 department under the circumstances reasonably available at the time of any incident.

### 103.2.1 DISCLAIMER

The provisions contained in the Policy Manual are not intended to create an employment contract nor any employment rights or entitlements. The policies contained within this manual are for the internal use of the Ventura 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 manual shall only form the basis for department administrative action, training or discipline. The Ventura County District Attorney's Office reserves the right to revise any policy content, in whole or in part.

## 103.3 AUTHORITY

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

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

**CHP**- The California Highway Patrol.

**CFR** - Code of Federal Regulations.

**County** - Ventura County District Attorney Office Bureau of Investigation.

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

**Bureau/VCDA** - The Ventura County District Attorney's Office.

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

**Employee/personnel** - Any person employed by the Bureau.

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

**Manual** - The Ventura County District Attorney's Office Policy Manual.

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

**Member** - Any person employed or appointed by the Ventura County District Attorney's Office, including full-time sworn investigators, reserve investigators, non-sworn employees and volunteers.

**Investigator** - Those employees, regardless of rank, who are sworn peace officers of the Ventura County District Attorney's Office-Bureau of Investigation.

**Investigative Assistant**- Non-sworn members of the Ventura County District Attorney's Office-Bureau of Investigation who assist investigators with investigative duties.

**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.

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

**Rank** - The title of the classification held by an investigator.

**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 regarding assignment, reward or discipline of other department members, directing the work of other members or having the authority to adjust

## *Policy Manual*

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grievances. The supervisory exercise of authority may not be merely routine or clerical in nature but requires the use of independent judgment.

The term "supervisor" may also include any person (e.g., investigator-in-charge, lead or senior worker) given responsibility for the direction of the work of others without regard to a formal job title, rank or compensation.

When there is only one department member on-duty, that person may also be the supervisor, except when circumstances reasonably require the notification or involvement of the member's off-duty supervisor or an on-call supervisor.

**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 Bureau network for viewing and printing. No changes shall be made to the manual without authorization from the Chief Investigator or the authorized designee.

Each member shall acknowledge that he/she has been provided access to, and has had the opportunity to review the Policy Manual and Bureau Directives. 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 Investigator 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 Commander will ensure that members under his/her command are aware of any Policy Manual revision.

All Bureau members suggesting revision of the contents of the Policy Manual shall forward their written suggestions to their Commander, who will consider the recommendations and forward them to the command staff as appropriate.

## **Chapter 2 - Organization and Administration**



## **Organizational Structure and Responsibility**

### **200.1 PURPOSE AND SCOPE**

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

### **200.2 DIVISIONS**

#### **200.2.1 ADMINISTRATIVE DIVISION**

One Division is directed by a Commander who will be responsible for Training, Recruitment, Background Investigations, Special Investigations, Internal Affairs, Policies and Procedures, Government Fraud Unit, Disaster Preparedness, Facilities Safety, Equipment, Risk Management, Fleet Services, and other projects as assigned.

#### **200.2.2 MAJOR CRIMES DIVISION**

The second Division is directed by a Commander who is responsible for the Major Crimes, Major Crimes/Gangs, Sexual Assault/Family Protection, Cold Case, Digital Media, Human Trafficking, Juvenile Unit, Misdemeanor Support, Subpoena Unit, and other projects as assigned.

#### **200.2.3 FRAUD DIVISION**

The third Division is directed by a Commander who is responsible for Major Fraud, Consumer Fraud & Environmental Crimes, Real Estate Fraud, Child Abduction and Recovery Unit, Worker's Compensation, Auto Insurance Fraud, Computer Crimes (High Tech Task Force), VenCATT, Special Response Team and Threat Assessments, and other projects as assigned.

## Departmental Directive

### 201.1 PURPOSE AND SCOPE

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

#### 201.1.1 DEPARTMENTAL DIRECTIVE PROTOCOL

Bureau Directives (BD) will be incorporated into the manual as required upon approval of the Chief Investigator. Bureau Directives (BD) will modify existing policies or create a new policy as appropriate and will be rescinded upon incorporation into this manual.

All existing Bureau Directives (BD) have now been incorporated in the updated Bureau of Investigation Policy and Procedure Manual, revised January 2013.

Bureau Directives (BD) 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, 13-01 signifies the first Bureau directive for the year 2013.

### 201.2 RESPONSIBILITIES

#### 201.2.1 STAFF

Command Staff shall review and recommend revisions of the manual, which will incorporate changes originally made by Bureau Directives.

#### 201.2.2 CHIEF INVESTIGATOR

The Chief Investigator shall approve all Bureau Directives. Bureau Directives will be generated in the form of a VCDA Memorandum.

Electronic versions of Bureau Directives will be stored along with the electronic version of this Bureau of Investigation Policy and Procedure Manual on the VCDA Intranet. The Bureau Directives will be temporarily stored in this fashion until such time as they are incorporated into the Bureau of Investigation Policy and Procedure Manual.

### 201.3 ACCEPTANCE OF DEPARTMENTAL DIRECTIVES

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

## Emergency Management Plan

### 202.1 PURPOSE AND SCOPE

The County has prepared a Security and Emergency Action Plan for use by all employees in the event of a major disaster or other emergency event. The plan provides for a strategic response by all employees and assigns specific responsibilities in the event that the plan is activated (Government Code § 8610).

### 202.2 ACTIVATING THE EMERGENCY PLAN

The Security and Emergency Action Plan can be activated in a number of ways. For District Attorney's Office, the Chief Investigator or the highest ranking official on duty may activate the Security and Emergency Action Plan in response to a major emergency.

#### 202.2.1 RECALL OF PERSONNEL

In the event that the Security and Emergency Action Plan is activated, all employees of the Bureau of Investigation are subject to immediate recall. Employees may also be subject to recall during extraordinary circumstances as deemed necessary by the Chief Investigator or the authorized designee.

Failure to promptly respond to an order to report for duty may result in discipline.

### 202.3 LOCATION OF THE PLAN

The Security and Emergency Action Plan is available in the Admin Commander's office. All supervisors should familiarize themselves with the Security and Emergency Action Plan. The Admin Commander or his designee should ensure that Bureau personnel are familiar with the roles Bureau personnel will play when the plan is implemented.

### 202.4 MUTUAL AID

The District Attorney's Office-Bureau of Investigation participates in a mutual aid agreement with the Ventura County Sheriff's Office. When called upon by the Ventura County Sheriff's Office, the Bureau will provide the agreed upon level of assistance. The mutual aid agreement manual is maintained by the Admin Commander.

## Training Policy

### 203.1 PURPOSE AND SCOPE

The policy of the Ventura County District Attorney Office-Bureau of Investigation is to administer a training program that will provide for the professional growth and continued development of its personnel. By so doing, the Bureau of Investigation will ensure its personnel possess the knowledge and skills necessary to provide a professional level of service that meets the needs of the community.

### 203.2 PHILOSOPHY

The Ventura County District Attorney Office-Bureau of Investigation seeks to provide ongoing training and encourages all personnel to participate in advanced training and formal education on a continual basis. Training is provided within the confines of funding, requirements of a given assignment, staffing levels, and legal mandates. Whenever possible, the Bureau will use courses certified by the California Commission on Peace Officer Standards and Training (POST). If a member of the Bureau of Investigation wishes to attend a non-POST reimbursable class, the Travel Expense Request Form (TERF) must be approved by the Deputy Chief Investigator or his designee.

### 203.3 OBJECTIVES

The objectives of the Ventura County District Attorney's Office-Bureau of Investigation's training program are to:

- (a) Enhance the level of law enforcement service to the public
- (b) Increase the technical expertise and overall effectiveness of our personnel
- (c) Provide for continued professional development of Bureau personnel

### 203.4 TRAINING NEEDS ASSESSMENT

The Admin Commander will conduct a periodic training-needs assessment of the Bureau. The needs assessment will form the basis for the training plan for the fiscal year.

#### 203.4.1 TRAINING PLAN

The following training plan has been developed for Bureau personnel. The plan identifies the training needs of all Bureau personnel. The training needs are divided into three priority levels:

- (a) **Mandatory:** Training required by California statutes, P.O.S.T. mandate, and/or office policy.
- (b) **Essential:** Training that is critical to achieve accurate and professional job performance.
- (c) **Desirable:** Training which the office believes to be beneficial to the Bureau member in the performance of his/her job assignment.

## *Training Policy*

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Specific training needs have been established by job classification, unit assignment and collateral assignment. Training hours for the topics listed will coincide with POST recommendations.

### REQUIREMENTS BY JOB CLASSIFICATION

#### **INVESTIGATOR I, II AND III:**

##### **Mandatory**

- Investigation and Trial Preparation Course
- POST Continuing Professional Training (24 hours every two years) Including Tactical Firearms/Force Option Simulator (4 hours) and Tactical or Interpersonal Communication (2 hours)
- Firearms Qualification (in accordance with firearms qualifications requirements)
- Telecommunications (NCIC/CLETS) (In accordance with DOJ regulations)
- Arrest and Control Update (4 hours)
- First Aid/CPR
- Discrimination Prevention
- Workplace Security

##### **Essential**

- Interview and Interrogation Techniques
- Assertive Supervision -DAI III

##### **Desirable**

- Legal Education Update
- Electronic Surveillance/Wiretap
- Flying Armed
- Surveillance Techniques

#### **SENIOR INVESTIGATOR:**

##### **Mandatory**

- Supervisory Course
- Discrimination Prevention (2 hour refresher every two years)
- Workplace Security
- Ethics Training for Managers (2 hour initial + 2 hour refresher every two years)
- Firearms Qualification

## *Training Policy*

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- Arrest and Control Update

### **Essential**

- Internal Affairs Investigations
- Sexual Harassment Recognition and Prevention

### **Desirable**

- Personnel Management Workshop
- ◦ Civil Liability
- ◦ Stress Management

### **COMMANDER:**

#### **Mandatory**

- Management Course
- Discrimination Prevention (4 hours for initial training + 2 hour refresher every 2 years)
- Workplace Security (4 hours for initial training + 2 hours refresher every 2 years)
- Ethics Training for Managers (2 hours every 2 years)

#### **Essential**

- Executive Development Course
- Criminal Investigation Management

#### **Desirable**

- Administrative Services Management
- Management Update Seminar

### **DEPUTY CHIEF INVESTIGATOR:**

#### **Mandatory**

- Management Course
- Discrimination Prevention (4 hours for initial training + 2 hour refresher every 2 years)
- Workplace Security (4 hours for initial training + 2 hours refresher every two years)
- Ethics Training for Managers (2 hours every two years)

#### **Essential**

## Training Policy

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- Executive Development Course
- Criminal Investigation Management

### **Desirable**

- Administrative Services Management
- Management Update Seminar

### **CHIEF INVESTIGATOR:**

#### **Mandatory**

- Executive Development Course
- Discrimination Prevention (4 hours for initial training + 2 hour refresher every two years)
- Workplace Security (4 hours for initial training + 2 hours refresher every two years)
- Ethics Training for Managers (2 hour initial training + 2 hour refresher every two years)

#### **Essential**

- Executive Update Seminar

#### **Desirable**

- Law Enforcement Executive Introduction to Computers
- Leadership and Accountability

### **INVESTIGATIVE ASSISTANT**

- Investigative Assistants will receive formal and/or informal training applicable to their specific job function.

### **TRAINING BY ASSIGNMENT**

#### **INVESTIGATOR I, II AND III:**

##### **Major Crimes / Major Crime Gangs:**

#### **Essential**

- Homicide Investigation (40 hours (

#### **Desirable**

- California Homicide Investigators Association Seminar
- Officer-Involved Fatal Incidents
- DNA Training
- Gang Awareness Update
- Biannual CDAA Homicide Symposium

## *Training Policy*

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- Death Investigations
- Officer-Involved Shootings
- Gangs and Subcultures
- Street Gang Seminar

### **Economic Crimes:**

#### **Essential**

- Economic Crime Investigation
- White Collar Financial Investigations

#### **Desirable**

- Advanced Financial Investigation
- Questioned Documents
- Annual Southern California Fraud Investigators Seminar
- CDAA Economic Crime Prosecution Seminar
- FLETC - Forensic Technologies Training Program

### **Sexual Assault/Family Protection**

#### **Mandatory**

- Sexual Assault Investigations

#### **Essential**

- Sexual Crimes Investigations
- Sexual Exploitation of Children
- Child Abuse Update
- Child Abduction Conference (DACARU)

#### **Desirable**

- Interviewing Child Victims (40 hours)
- Sexual Assault Investigators Conference (24 hours)

### **Asset Forfeiture/Narcotics**

#### **Essential**

- Drug Asset RMV /Financial Investigations
- Advanced Financial Investigations

#### **Desirable**



## *Training Policy*

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- Specialized Surveillance Equipment
- Tactical High Risk Entries
- VIA and Link Analysis
- Narcotics Investigations
- Informant Development
- Annual CNOA/WSIN Conference

### **Special Investigations Unit**

#### **Essential**

- Criminal Intelligence
- Internal Affairs Investigations
- Background Investigations

#### **Desirable**

- Executive Protection
- Specialized Surveillance Equipment
- Organized Crime Informants Development and Maintenance
- Background Investigations Update
- Economic Crime Investigation
- Annual California Background Investigator's Association Conference

### **BACKGROUND INVESTIGATOR:**

#### **Essential**

- Background Investigations

#### **Desirable**

- Background Investigators Update

### **HTTF / COMPUTER CRIMES:**

#### **Essential**

- Computer Crimes Investigation
- ENCASE

#### **Desirable**

- Annual High-Tech Crime Investigator Association Seminar

### **GOVERNMENT FRAUD**

## *Training Policy*

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### **Essential**

- Economic Crimes Investigations
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### **Desirable**

- Basic Interview and Interrogation Course
- California Welfare Fraud annual Training Conference
- CWFIA Regional Roundtable Quarterly Training Meetings

### **RANGE MASTER:**

#### **Essential**

- Firearms Instructor
- 

#### **Desirable**

- Firearms Instructor -- Survival Shooting
- Firearms Instructor Update (advanced)
- Glock Armorers Course
- Rifle Instructor Course
- Shotgun Armorers Course

### **TRAINING MANAGER:**

#### **Essential**

- Training Managers Course

#### **Desirable**

- Disaster Preparedness

### **203.5 TRAINING PROCEDURES**

- (a) All employees assigned to attend training shall attend as scheduled unless previously excused by their immediate supervisor. Excused absences from mandatory training should be limited to the following:
1. Court appearances
  2. Planned and approved vacation
  3. Sick leave
  4. Physical limitations preventing the employee's participation.
  5. Emergency situations

## *Training Policy*

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- (b) When an employee is unable to attend mandatory training, that employee shall:
1. Notify his/her supervisor as soon as possible but no later than one hour prior to the start of training.
  2. Document his/her absence in a memorandum to his/her supervisor.
  3. Make arrangements through his/her supervisor and the Training Manager to attend the required training on an alternate date.

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## Electronic Mail

### 204.1 PURPOSE AND SCOPE

The purpose of this policy is to establish guidelines for the proper use and application of the District Attorney's Office electronic mail (e-mail) system by employees of this Bureau. E-mail is a communication tool available to employees to enhance efficiency in the performance of job duties and is to be used in accordance with generally accepted business practices and current law. While Ventura County does have a policy allowing "limited personal use" of County computers, it is recommended that messages transmitted over the e-mail system be professional in nature and involve County business activities or contain information essential to County employees for the accomplishment of business-related tasks, and/or communication directly related to County business, administration or practices.

Ventura County has a "Computer and Electronic Technology Usage Policy" that is available on the Ventura County Website. Each member of the BOI will be familiar and conform to this County Policy.

### 204.2 E-MAIL RIGHT OF PRIVACY

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

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

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

### 204.3 PROHIBITED USE OF E-MAIL USE FOR BUSINESS PURPOSES

The electronic mail (e-mail) system is provided to employees at the County's expense to assist them in carrying out County business. The e-mail system permits employees to communicate with each other internally and with selected outside individuals and organizations. The e-mail system is to be used for business-related purposes to transmit business information. Any "limited personal use" use of the e-mail system must be in compliance with the County's Employee Technology Use Policy and County's Electronic Mail Use Policy.

### PROHIBITED USE OF E-MAIL FOR PUBLIC RECORDS

## *Electronic Mail*

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Any communications received by County staff in the course of normal business which constitute a public record are to be reduced to hard copies and the e-mail version deleted. Although it is possible for County e-mail to constitute a public record, Government Code Section 6254 provides the following exemption and reads in part as follows: "(a) Preliminary drafts, notes, or inter-agency memoranda that are not retained by the public agency in the ordinary course of business..." Government Code section 6252 defines public records and reads in part as follows: "(e) 'Public records' includes any writing containing information relating to the conduct of the public's business prepared, owned, used, or retained by any state or local agency..." "(g) 'Writing' means any handwriting, typewriting, printing, photostating, photographing, photocopying, transmitting by electronic mail or facsimile, and every other means of recording upon any form of communications or representation, including letters, words, pictures, sounds or symbols or combination thereof, and all papers, maps, magnetic or paper tapes, photographic films and prints, magnetic or punched card, discs, drums, and other documents."

All transmissions must be courteous, professional, and businesslike. Sending derogatory, defamatory, obscene, disrespectful, sexually suggestive or harassing or any other inappropriate messages on the e-mail system is prohibited and may result in disciplinary action.

E-mail messages addressed to the entire office (All DA Staff) are only to be used for official business related items that are of particular interest to all users and must be approved by the Chief Investigator or the Deputy Chief Investigator. Personal advertisements are not acceptable.

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

### **204.4 MANAGEMENT OF E-MAIL**

Because the e-mail system is not designed for long-term retention of messages, e-mail that the employee desires to save or that becomes part of an official record should be printed and/or stored in another database. Users of e-mail are solely responsible for the management of their mailboxes. Messages should be purged manually by the user at least once per week. All messages in excess of two years will be deleted at regular intervals from the server computer.

Ventura County's email retention policy also states the following: E-mail is to be retained in electronic form for no more than two years from the date of creation or receipt. This limitation is to be enforced through automatic, electronic means, and individual agencies and departments are encouraged to further abbreviate this two year period to as short a time as possible. This e-mail retention and limitation policy may be temporarily suspended, wholly or partially, or modified by the County Counsel whenever the County Counsel determines that e-mail may be or is the subject of litigation disclosure of electronically stored information (ESI) pursuant to Federal Rules of Civil Procedure Rule 26 or other laws.

All unsolicited, non-business e-mail received by County staff is to be deleted immediately.

## **Administrative Communications**

### **205.1 PURPOSE AND SCOPE**

Administrative communications of this Bureau are governed by the following policies.

### **205.2 MEMORANDUMS**

Memorandums may be issued periodically by the Chief Investigator via email to announce and document all promotions, transfers, hiring of new personnel, separations, personnel and group commendations, or other changes in status.

### **205.3 CORRESPONDENCE**

In order to ensure the letterhead and name District Attorney's Office and/or District Attorney's Office-Bureau of Investigation is not misused, all external correspondence shall be on Bureau letterhead. Personnel should only use the Bureau letterhead for official business and with supervisory approval; an exception to this policy would include standardized formatted letters.

### **205.4 SURVEYS**

All surveys made in the name of the Ventura County District Attorney's Office-Bureau of Investigation shall be authorized by the Chief Investigator or the Deputy Chief Investigator.

## Staffing Levels/Work Schedule

### **206.1 PURPOSE AND SCOPE**

The purpose of this policy is to ensure that proper supervision is available for all units. The Bureau intends to balance employee needs against the need to have flexibility and discretion in using personnel to meet operational needs. While balance is desirable, the paramount concern is the need to meet operational requirements of the Bureau.

### **206.2 MINIMUM STAFFING LEVELS**

Minimum staffing levels should result in scheduling by the supervisors that will ensure services can be provided and available for the needs of the Bureau of Investigation.

#### **206.2.1 UNIT SUPERVISION**

A District Attorney Investigator III may, for limited time periods (i.e.: days off, vacation, prolonged training etc.) be used in place of a supervising investigator.

### **206.3 WORK SCHEDULE INTRODUCTION AND AGREEMENT**

Our traditional work schedule is the "5 and 2" consisting of a Monday-Friday work week, where investigators work 8 hours a day for 5 days and have 2 consecutive days off. Investigators in the District Attorney's Bureau of Investigation, with the support of their unit managers, may choose an alternative work schedule based upon the 9/80 work schedule set forth in MOA Article 10, Section 1002, Paragraph B, which provides for "An 80-hour biweekly work schedule consisting of eight working days of nine hours and one working day of eight hours." This policy for the alternative work schedule clarifies unique terms and conditions intended to allow for schedule adjustments when court appearances or other specific office demands require temporary modification of work hours for individual investigators.

Investigators and bureau management recognize the need for a greater degree of flexibility over the schedule than is provided under the existing MOA. In consideration of the availability of the 9/80 schedule, the proposal reflects the willingness of investigators to assist the bureau in its efforts to minimize overtime/comp-time accrual, while still allowing the unit to perform periodic duties associated with early morning warrant service, special operations, surveillance activities, after- hours trial preparation, and similar tasks.

As described in the terms and conditions, the 9/80 work schedule is optional for each investigator in the bureau, allowing them to choose the office's traditional "5 and 2" work schedule, or the 9/80 work schedule with the additional terms and conditions set forth. Those investigators who elect to remain on the 5 and 2 schedule, or who elect the 9/80 schedule but temporarily return to the 5 and 2 schedule, will not be bound by any of the additional terms and conditions set forth in this letter that are unique to the 9/80 schedule during the time they are on the 5 and 2 schedule.

## Staffing Levels/Work Schedule

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Work schedule selection by individual investigators, or temporary work schedule changes when investigators on the 9/80 schedule return to the 5 and 2 schedule, shall be for a minimum of one complete biweekly pay period as further described herein.

### **SELECTION OF REGULAR BIWEEKLY WORK SCHEDULE**

Investigators may at any time choose between the current work schedule in the Bureau of Investigation, consisting of five (5) days of eight (8) hours each per week (the "5 and 2" schedule), or the 9/80 schedule with the additional terms and conditions described herein, consisting of eight (8) working days of nine (9) hours and one working day of eight (8) hours in each regular biweekly pay period.

Regardless which schedule is chosen, investigators must commence that schedule at the beginning of a regular biweekly pay period and remain on that schedule no less than one complete biweekly pay period. Both work schedules will allow for a one (1) hour unrestricted lunch period.

Those investigators who elect to remain on the 5 and 2 schedule will not be bound by any of the additional terms and conditions set forth in this policy that are unique to the 9/80 schedule. Likewise, those investigators who elect the 9/80 schedule, but temporarily return to the 5 and 2 schedule because of personal choice, or when so required by specific office demands or court appearances, will not be bound by any of the additional terms and conditions set forth in this policy during the time they are working the 5 and 2 schedule.

### **HOURS OF WORK - 9/80 SCHEDULE**

For those investigators who elect the 9/80 schedule, the Senior Investigator assigned to manage each unit shall determine investigators' regular hours of work for the 9/80 schedule with the approval of the Commander for the respective unit. All such regular hours of work (for example: 7:00 a.m. to 5:00 p.m.; 7:30 a.m. to 5:30 p.m.; 8:00 a.m. to 6:00 p.m.) shall allow for a one (1) hour unrestricted lunch period.

### **SELECTION OF 9/80 WORKDAYS**

Subject to the approval of the Senior Investigator managing his or her unit, each investigator on the 9/80 schedule may request the specific day of the week to be routinely used as his or her one regular day off (RDO) during each biweekly pay period, in addition to Saturdays and Sundays. Any conflicting RDO requests in such process shall be resolved based on investigator seniority, defined as total time on as an investigator with the bureau. In addition, subject to the approval of the Senior Investigator managing his or her unit, each investigator may request the day of the week to be routinely used as his or her one eight (8) hour workday during each biweekly pay period. Due to the need for investigators to remain available during normal court hours, the hours worked during their eight (8) hour day should not conclude prior to 5 p.m. without prior authorization from their supervisor. This may require investigators to start their eight (8) hour day no earlier than 8:00 a.m.

### **ADJUSTMENT OF WORK HOURS**



## Staffing Levels/Work Schedule

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When specific workload demands arise, such as warrant service, special operations, surveillance activities, or similar tasks. Bureau Management and/or the unit Senior Investigator may direct investigators on the 9/80 schedule to adjust their regular hours of work by altering the start time and end time of their daily shift up to a maximum of two (2) hours, either earlier or later. For example, an investigator assigned regular hours of work of 7:00 a.m. to 5:00 p.m. may be ordered to adjust his or her hours of work to 5:00 a.m. to 3:00 p.m., but no earlier, or to 9:00 a.m. to 7:00 p.m., but no later. All adjusting of hours must be completed within one workday, such that the total number of hours worked per day, are equal to the regular scheduled total hours of work for that day. In no case may adjusted time be carried from day to day. Reasonable advance notice of such compulsory adjustments shall be given to the affected investigators. Reasonable advance notice under this section is defined as no later than one (1) workday prior to the start time of the workday(s) involved.

Compulsory adjustment of work hours shall occur on no more than two workdays, whether consecutive or non-consecutive, within any two consecutive biweekly pay periods. Any adjustment of hours which exceed the parameters set forth herein, whether in excess of the two (2) hour daily adjusted time limit, in excess of two (2) work days within any two consecutive biweekly pay periods, or when reasonable advance notice is not given, shall be strictly voluntary and all rights to overtime compensation as set forth in the MOA shall apply.

### **VOLUNTARY ADJUSTMENT OF RDOs**

Should an investigator on the 9/80 schedule receive advance notice from any source that he or she will be required to appear in court for a one-day appearance on his or her RDO, the investigator may adjust his or her work schedule to change his or her RDO to another day within the biweekly pay period, subject to the approval of the Senior Investigator managing his or her unit. Any such RDO adjustment shall be strictly voluntary and all rights to overtime compensation as set forth in the MOA shall apply.

### **TEMPORARY CHANGES FROM 9/80 TO 5 AND 2 WORK SCHEDULE**

Should an investigator on the 9/80 schedule receive reasonable advance notice from any source that specific office demands or court appearances will necessitate his or her temporary return to the 5 and 2 schedule, he or she shall notify the Senior Investigator managing his or her unit, and shall return to the 5 and 2 schedule for the duration of the specific office demands or court appearances, but in no instance for less than one full biweekly pay period.

Reasonable advance notice under this section is defined to mean no later than one (1) workday prior to the start time of the work day(s) involved and/or prior to the commencement of the biweekly pay period affected by the temporary change. Any temporary changes to work schedules shall be reviewed and approved by the involved Senior Investigator for a determination of whether such changes are in the best interest of the bureau. If the temporary change is associated with a Senior Investigator's schedule, then such a review and approval would be made by the unit's commander.

The District Attorney reserves the right to terminate the 9/80 work schedule for all participating employees.

# Ventura County District Attorney's Office

Ventura County DA CA Policy Manual

## *Staffing Levels/Work Schedule*

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## Retiree Concealed Firearms

### 207.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidelines for the issuance, denial, suspension or revocation of Ventura County District Attorney's Office identification cards under the Law Enforcement Officers' Safety Act (LEOSA) and California law (18 USC § 926C; Penal Code § 25455). For the purpose of this section, the term "investigator" includes welfare investigators.

### 207.2 POLICY

It is the policy of the Ventura County District Attorney's Office to provide identification cards to qualified former or retired investigators or welfare investigators as provided in this policy.

### 207.3 LEOSA

The Chief Investigator may issue an identification card for LEOSA purposes to any qualified former investigator of this [department/office] who (18 USC § 926C(c)):

- (a) Separated from service in good standing from this [department/office] as an investigator.
- (b) Before such separation, had regular employment as a law enforcement officer for an aggregate of 10 years or more or, if employed as a law enforcement officer for less than 10 years, separated from service after completing any applicable probationary period due to a service-connected disability as determined by this [department/office].
- (c) Has not been disqualified for reasons related to mental health.
- (d) Has not entered into an agreement with this [department/office] where the investigator acknowledges that he/she is not qualified to receive a firearm qualification certificate for reasons related to mental health.
- (e) Is not prohibited by federal law from receiving or possessing a firearm.

#### 207.3.1 LEOSA IDENTIFICATION CARD FORMAT

The LEOSA identification card should contain a photograph of the former investigator and identify him/her as having been employed as an investigator.

If the Ventura County District Attorney's Office qualifies the former investigator, the LEOSA identification card or separate certification should indicate the date the former investigator was tested or otherwise found by the [Department/Office] to meet the active duty standards for qualification to carry a firearm.

#### 207.3.2 AUTHORIZATION

Any qualified former law enforcement officer, including a former investigator of this [department/office], may carry a concealed firearm under 18 USC § 926C when he/she is:

- (a) In possession of photographic identification that identifies him/her as having been employed as a law enforcement officer, and one of the following:

## *Retiree Concealed Firearms*

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1. An indication from the person's former law enforcement agency that he/she has, within the past year, been tested or otherwise found by the law enforcement agency to meet agency-established active duty standards for qualification in firearms training to carry a firearm of the same type as the concealed firearm.
2. A certification, issued by either the state in which the person resides or by a certified firearms instructor who is qualified to conduct a firearms qualification test for active duty law enforcement officers within that state, indicating that the person has, within the past year, been tested or otherwise found to meet the standards established by the state or, if not applicable, the standards of any agency in that state.
  - (b) Not under the influence of alcohol or another intoxicating or hallucinatory drug or substance.
  - (c) Not prohibited by federal law from receiving a firearm.
  - (d) Not in a location prohibited by California law or by a private person or entity on his/her property if such prohibition is permitted by California law.

### **207.4 CALIFORNIA IDENTIFICATION CARD ISSUANCE**

Any full-time sworn investigator of this [department/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 investigator who retires in lieu of termination.
- (b) No CCW Approved endorsement shall be issued to any investigator retiring because of a psychological disability (Penal Code § 26305).

#### **207.4.1 CALIFORNIA IDENTIFICATION CARD FORMAT**

The identification card issued to any qualified and honorably retired investigator 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 [department/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."

## *Retiree Concealed Firearms*

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### **207.5 FORMER INVESTIGATOR RESPONSIBILITIES**

A former investigator with a card issued under this policy shall immediately notify the Deputy Chief Investigator of his/her arrest or conviction in any jurisdiction, or that he/she is the subject of a court order.

#### **207.5.1 RESPONSIBILITIES UNDER LEOSA**

In order to obtain or retain a LEOSA identification card, the former investigator shall:

- (a) Sign a waiver of liability of the Bureau for all acts taken related to carrying a concealed firearm, acknowledging both his/her personal responsibility as a private person for all acts taken when carrying a concealed firearm as permitted by LEOSA and also that these acts were not taken as an employee or former employee of the Bureau.
- (b) Remain subject to all applicable Bureau policies and federal, state and local laws.
- (c) Demonstrate good judgment and character commensurate with carrying a loaded and concealed firearm.
- (d) Advise this office if prohibited by law from receiving or possessing a firearm.

#### **207.5.2 MAINTAINING A CALIFORNIA IDENTIFICATION CARD CCW ENDORSEMENT**

In order to maintain a CCW Approved endorsement on an identification card issued under California law, the retired investigator shall (Penal Code § 26305):

- (a) Qualify every five years with the authorized firearm at a course approved by the this Office at the retired investigator's expense.
- (b) Remain subject to all applicable federal, state and local laws.
- (c) Not engage in conduct that compromises public safety.
- (d) Only be authorized to carry a concealed firearm authorized by the Bureau.

### **207.6 DENIAL, SUSPENSION OR REVOCATION OF A LEOSA IDENTIFICATION CARD**

A LEOSA identification card may be denied or revoked upon a showing of good cause as determined by the [Department/Office]. In the event that an identification card is denied, suspended or revoked, the former investigator may request a review by the Chief Investigator. The decision of the Chief Investigator is final.

### **207.7 ADMINISTRATIVE REQUIREMENTS**

- (a) The Bureau will keep written records, signed by the retiree, verifying compliance with this policy.
- (b) The retiree shall notify the Bureau in writing within 15 days of any change of address for the purpose of complying with reporting/notification requirements.

### **207.8 DENIAL, SUSPENSION OR REVOCATION OF A CALIFORNIA CCW ENDORSEMENT CARD**

A CCW endorsement under Penal Code § 25470 for any investigator retired from this [department/office] may be denied or revoked only upon a showing of good cause. The CCW endorsement

## *Retiree Concealed Firearms*

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may be immediately and temporarily revoked by the Deputy Chief Investigator when the conduct of a retired peace officer compromises public safety.

- (a) In the event that a CCW endorsement is initially denied, the retired investigator 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 [Department/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 [Department/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 [Department/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 [Department/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 Deputy Chief Investigator as soon as practicable. The Deputy Chief Investigator 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 Deputy Chief Investigator should document the investigation, the actions taken and, if applicable, any notification made to the retiree. The memo should be forwarded to the Chief Investigator.
  3. The personal and written notification should be as follows:
    - (a) The retiree's CCW endorsement is immediately and temporarily suspended.

## *Retiree Concealed Firearms*

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- (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 Deputy Chief Investigator 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 Deputy Chief Investigator may request that a law enforcement officer from that agency act as the agent of the [Department/Office] to deliver the written notification.

### **207.9 FIREARM QUALIFICATIONS**

The Rangemaster may provide former investigators from this [department/office] an opportunity to qualify. Written evidence of the qualification and the weapons used will be provided and will contain the date of the qualification. The Rangemaster will maintain a record of the qualifications and weapons used.

## **Chapter 3 - General Operations**



## Use of Force

### 300.1 PURPOSE AND SCOPE

This policy provides guidelines on the reasonable use of force. While there is no way to specify the exact amount or type of reasonable force to be applied in any situation, every member of this Bureau 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. Investigators are involved on a daily basis in numerous and varied interactions and, when warranted, may use reasonable force in carrying out their duties.

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

The Department recognizes and respects the value of all human life and dignity without prejudice to anyone. Vesting investigators 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 investigator present and observing another investigator 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. An investigator who observes another employee use force that exceeds the degree of force permitted by law shall promptly report these observations to a supervisor.

### 300.3 USE OF FORCE

Investigators 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 investigator 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 investigator on the scene at the time of the incident. Any evaluation of reasonableness must allow for the fact that investigators are often forced to make split-second decisions about the amount of

## *Use of Force*

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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 an investigator might encounter, investigators 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 investigators reasonably believe that it would be impractical or ineffective to use any of the tools, weapons, or methods provided by the [Department/Office]. Investigators 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 an investigator 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 an investigator 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 an investigator 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 investigators or others (Penal Code § 835a).
- (b) The conduct of the individual being confronted, as reasonably perceived by the investigator at the time.
- (c) Investigator/subject factors (age, size, relative strength, skill level, injuries sustained, level of exhaustion or fatigue, the number of investigators available vs. subjects).
- (d) The conduct of the involved investigator (Penal Code § 835a).
- (e) The effects of drugs or alcohol.
- (f) The individual's apparent mental state or capacity (Penal Code § 835a).

## *Use of Force*

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- (g) The individual's apparent ability to understand and comply with investigator commands (Penal Code § 835a).
- (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 investigator.
- (m) Potential for injury to investigators, suspects, and others.
- (n) Whether the person appears to be resisting, attempting to evade arrest by flight, or is attacking the investigator.
- (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 investigator 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. Investigators may only apply those pain compliance techniques for which they have successfully completed department-approved training. Investigators 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 investigator.
- (c) Whether the person has been given sufficient opportunity to comply.

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

### 300.3.4 CAROTID CONTROL HOLD

The proper application of the carotid control hold may be effective in restraining a violent or combative individual. However, due to the potential for injury, the use of the carotid control hold is subject to the following:

- (a) The investigator shall have successfully completed department-approved training in the use and application of the carotid control hold.

## *Use of Force*

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- (b) The carotid control hold may only be used when circumstances perceived by the investigator at the time indicate that such application reasonably appears necessary to control a person in any of the following circumstances:
  - 1. The subject is violent or physically resisting.
  - 2. The subject, by words or actions, has demonstrated an intention to be violent and reasonably appears to have the potential to harm investigators, him/herself or others.
- (c) The application of a carotid control hold on the following 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 investigator, the subject or others, and the investigator reasonably believes that the need to control the individual outweighs the risk of applying a carotid control hold:
  - 1. Females who are known to be pregnant
  - 2. Elderly individuals
  - 3. Obvious juveniles
  - 4. Individuals who appear to have Down syndrome or who appear to have obvious neck deformities or malformations, or visible neck injuries
- (d) Any individual who has had the carotid control hold applied, regardless of whether he/she was rendered unconscious, shall be promptly examined by paramedics or other qualified medical personnel and should be monitored until examined by paramedics or other appropriate medical personnel.
- (e) The investigator shall inform any person receiving custody, or any person placed in a position of providing care, that the individual has been subjected to the carotid control hold and whether the subject lost consciousness as a result.
- (f) Any investigator attempting or applying the carotid control hold shall promptly notify a supervisor of the use or attempted use of such hold.
- (g) The use or attempted use of the carotid control hold shall be thoroughly documented by the investigator in any related reports.

### 300.3.5 USE OF FORCE TO SEIZE EVIDENCE

In general, investigators may use reasonable force to lawfully seize evidence and to prevent the destruction of evidence. However, investigators are discouraged from using force solely to prevent a person from swallowing evidence or contraband. In the instance when force is used, investigators should not intentionally use any technique that restricts blood flow to the head, restricts respiration or which creates a reasonable likelihood that blood flow to the head or respiration would be restricted.

## *Use of Force*

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### **300.4 DEADLY FORCE APPLICATIONS**

If an objectively reasonable investigator would consider it safe and feasible to do so under the totality of the circumstances, investigators should evaluate the use of other reasonably 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) An investigator 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 investigator or another person.
- (b) An investigator may use deadly force to apprehend a fleeing person for any felony that threatened or resulted in death or serious bodily injury, if the investigator reasonably believes that the person will cause death or serious bodily injury to another unless immediately apprehended. Where feasible, the investigator 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 investigator has objectively reasonable grounds to believe the person is aware of those facts.

Investigators shall not use deadly force against a person based on the danger that person poses to him/herself, if an objectively reasonable investigator would believe the person does not pose an imminent threat of death or serious bodily injury to the investigator 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 investigator 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 investigator or another person. An investigator’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).

#### **300.4.1 SHOOTING AT OR FROM MOVING VEHICLES**

Shots fired at or from a moving vehicle are rarely effective. Investigators should move out of the path of an approaching vehicle instead of discharging their firearm at the vehicle or any of its occupants. An investigator should only discharge a firearm at a moving vehicle or its occupants when the investigator 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 investigator or others.

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

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

Any use of force by a member of this department shall be documented promptly, completely and accurately in an appropriate report, depending on the nature of the incident. The investigator 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

## *Use of Force*

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and related purposes, the Department may require the completion of additional report forms, as specified in department policy, procedure or law.

### **300.5.1 NOTIFICATION TO SUPERVISORS**

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

- (a) The application caused a visible injury.
- (b) The application would lead a reasonable investigator 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 TASER device or 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.

### **300.5.2 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. See the Administrative Assistant policy.

### **300.6 MEDICAL CONSIDERATION**

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

Based upon the investigator'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 investigator 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 investigator 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 investigator reasonably

## *Use of Force*

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believes would be potential safety or medical risks to the subject (e.g., prolonged struggle, extreme agitation, impaired respiration).

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

### **300.7 SUPERVISOR RESPONSIBILITY**

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

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

# Ventura County District Attorney's Office

Ventura County DA CA Policy Manual

## *Use of Force*

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

### **300.7.1 DEPUTY CHIEF INVESTIGATOR RESPONSIBILITY**

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

### **300.8 TRAINING**

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



## Control Devices and Techniques

### 301.1 PURPOSE AND SCOPE

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

#### 301.1.1 WHEN DEVICES MAY BE USED

When a decision has been made to restrain or arrest a violent or threatening suspect, an approved control device may only be used when its use appears reasonable under the circumstances.

### 301.2 POLICY

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

#### 301.2.1 ISSUING, CARRYING AND USING CONTROL DEVICES

Control devices described in this policy may be carried and used by investigators only if the device has been issued by the Bureau of Investigation or approved by the Chief Investigator or the authorized designee.

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

### 301.3 ISSUING, CARRYING AND USING CONTROL DEVICES

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

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

## *Control Devices and Techniques*

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### **301.3 RESPONSIBILITIES**

#### **301.3.1 DEPUTY CHIEF INVESTIGATOR RESPONSIBILITIES**

The Deputy Chief Investigator may authorize the use of a control device by selected personnel or members of specialized units who have successfully completed the required training.

### **301.4 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 officers or the public.

#### **301.4.1 OC SPRAY**

Personnel carrying OC spray shall carry the device in its holster on the equipment belt. Undercover personnel may carry OC spray as authorized, in accordance with the needs of their assignment or at the direction of their supervisor.

#### **301.4.2 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.

### **301.5 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 investigator reasonably believes the suspect poses an imminent threat of serious bodily injury or death to the investigator or others.

A baton should be immediately available for use by investigators during their assigned duties. The baton, whether collapsible or straight stick, should be on an investigator's person or readily available in their assigned County vehicle. When carrying a baton, investigators shall carry the baton in its authorized holder on the equipment belt. Undercover investigators may carry the baton as authorized and in accordance with the needs of their assignment or at the direction of their supervisor.

### **301.5 POST-APPLICATION NOTICE**

Whenever OC has been introduced into a residence, building interior, vehicle or other enclosed area, investigators 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.

## *Control Devices and Techniques*

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### **301.6 TRAINING FOR CONTROL DEVICES**

The Training Manager shall ensure that all personnel 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 investigator's training file.
- (c) Investigators 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 an investigator cannot demonstrate proficiency with a control device or knowledge of this agency's Use of Force Policy after remedial training, the investigator will be restricted from carrying the control device and may be subject to discipline.

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

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

### **301.8 KINETIC ENERGY PROJECTILE GUIDELINES**

This Bureau is committed to reducing the potential for violent confrontations. Kinetic energy projectiles, when used properly, are less likely to result in death or serious physical injury and can be used in an attempt to de-escalate a potentially deadly situation.

#### **301.8.1 DEPLOYMENT AND USE**

Only Bureau-approved kinetic energy munitions shall be carried and deployed. Approved munitions may be used to compel an individual to cease his/her actions when such munitions present a reasonable option.

Investigators are not required or compelled to use approved munitions in lieu of other reasonable tactics if the involved investigator determines that deployment of these munitions cannot be done safely. The safety of hostages, innocent persons and investigators takes priority over the safety of subjects engaged in criminal or suicidal behavior.

Circumstances appropriate for deployment include, but are not limited to, situations in which:

- (a) The suspect is armed with a weapon and the tactical circumstances allow for the safe application of approved munitions.
- (b) The suspect has made credible threats to harm him/herself or others.
- (c) The suspect is engaged in riotous behavior or is throwing rocks, bottles or other dangerous projectiles at people and/or investigators.

## *Control Devices and Techniques*

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- (d) There is probable cause to believe that the suspect has already committed a crime of violence and is refusing to comply with lawful orders.

### 301.8.2 DEPLOYMENT CONSIDERATIONS

Before discharging projectiles, the investigator should consider such factors as:

- (a) Distance and angle to target.
- (b) Type of munitions employed.
- (c) Type and thickness of subject's clothing.
- (d) The subject's proximity to others.
- (e) The location of the subject.
- (f) Whether the subject's actions dictate the need for an immediate response and the use of control devices appears appropriate.

A verbal warning of the intended use of the device should precede its application, unless it would otherwise endanger the safety of investigators or when it is not practicable due to the circumstances. The purpose of the warning is to give the individual a reasonable opportunity to voluntarily comply and to warn other investigators and individuals that the device is being deployed.

Investigators should keep in mind the manufacturer's recommendations and their training regarding effective distances and target areas. However, investigators are not restricted solely to use according to manufacturer recommendations. Each situation must be evaluated on the totality of circumstances at the time of deployment.

The need to immediately incapacitate the subject must be weighed against the risk of causing serious injury or death. The head and neck should not be intentionally targeted, except when the investigator reasonably believes the suspect poses an imminent threat of serious bodily injury or death to the investigator or others.

## Officer-Involved Shootings and Deaths

### 302.1 PURPOSE AND SCOPE

The intent of this policy is to establish policy and procedures for the investigation of an incident in which a person is injured as the result of a police shooting and to ensure that such incidents be investigated in a fair and impartial manner.

### 302.2 INVESTIGATION RESPONSIBILITY

This Bureau of Investigation conforms to the Ventura County Law Enforcement Coordinating Committee protocol for officer/investigator involved shootings.

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

### 302.3 TYPES OF INVESTIGATIONS

An investigator involved shooting requires several separate investigations. The investigations may include:

- (a) A criminal investigation of the incident by the agency having jurisdiction where the incident occurred. The District Attorney's Office may relinquish its own criminal investigation to another outside agency with the approval of the District Attorney, Assistant District Attorney, Chief Investigator or the Deputy Chief Investigator.
- (b) A criminal investigation of the involved officer(s) conducted by an outside agency.
- (c) A civil investigation to determine potential liability conducted by the involved investigator's agency.
- (d) An administrative investigation conducted by the involved investigator's agency to determine if there were any violations of Bureau of Investigation policy.

### 302.4 JURISDICTION

Jurisdiction is determined by the location of the shooting and the agency employing the involved investigator(s). The following scenarios outline the jurisdictional responsibilities for investigating officer-involved shootings:

#### 302.4.1 WITHIN THIS JURISDICTION

The criminal investigation of the suspects actions in an investigator involved shooting will be conducted by the agency of legal jurisdiction where the shooting occurred or as determined by the District Attorney. The Ventura County District Attorney's Office is responsible for the administrative investigation.

## *Officer-Involved Shootings and Deaths*

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### 302.4.2 IN ANOTHER JURISDICTION

The agency where the incident occurred has criminal jurisdiction and is responsible for the criminal investigation of the incident. That agency may relinquish its criminal investigation of the suspect(s) to another agency. The Ventura County District Attorney's Office will conduct a timely administrative investigation.

### **302.5 THE INVESTIGATION PROCESS**

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

#### 302.5.1 DUTIES OF INITIAL ON SCENE SUPERVISOR

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

- (a) Take all reasonable steps to obtain emergency medical attention for all apparently injured individuals.
- (b) Attempt to obtain a brief overview of the situation from any non-shooter investigator(s).
  1. In the event that there are no non-shooter investigators, the supervisor should attempt to obtain a brief voluntary overview from one shooter investigator, if such information is not already obtained by the law enforcement agency of jurisdiction.
- (c) If necessary, the supervising investigator may administratively order any investigator from the Bureau of Investigation to immediately provide public safety information necessary to secure the scene and pursue suspects.
  1. Public safety information shall be limited to such things as outstanding suspect information, number and direction of shots fired, parameters of the incident scene, identity of known witnesses and similar information.
- (d) Absent a voluntary statement from any investigator(s), the initial on scene supervising investigator should not attempt to order any investigator to provide information that does not involve or contain public safety information.
- (e) Provide all available information to the Deputy Chief Investigator. If feasible, sensitive information should be communicated over secure networks.
- (f) Take command of and secure the incident scene with additional personnel until relieved by the law enforcement agency of legal jurisdiction.
- (g) As soon as practical, the investigator(s) who were the shooter(s) should respond or be transported (separately, if feasible) to the appropriated facility or office for further direction.

## *Officer-Involved Shootings and Deaths*

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1. Each involved investigator should be given an administrative order not to discuss the incident with other involved investigators pending further direction from a supervisor.
2. When an investigator's weapon is taken or left at the scene (e.g., evidence), the investigator will be provided with a comparable replacement weapon or transported to the Bureau by other investigators.

### 302.5.2 DEPUTY CHIEF INVESTIGATOR DUTIES

Upon learning of an investigator involved shooting, the Deputy Chief Investigator shall be responsible for coordinating all aspects of the incident until relieved by the Chief Investigator.

### 302.5.3 NOTIFICATIONS

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

- Chief Investigator
- Deputy Chief Investigator
- Commander
- Supervising Investigators
- Psychological/Peer support personnel
- Investigator representative (if requested) from the Ventura County Deputy Sheriffs' Association or Specialized Peace Officers' Association of Ventura County
- District Attorney
- Chief Assistant District Attorney

## **302.6 THE SHOOTING INCIDENT CRIMINAL INVESTIGATION**

### 302.6.1 DETECTIVE PERSONNEL

Once notified of an officer-involved shooting, it shall be the responsibility of the Deputy Chief Investigator(s) to assign appropriate investigative personnel to handle the Bureau's investigation of related crimes. Investigators from the Bureau of Investigation will be assigned to work with detectives/investigators from the law enforcement agency of jurisdiction where the incident occurred.

All related Bureau of Investigation reports except administrative and/or privileged reports will be forwarded to the designated supervising investigator for approval. Privileged reports shall be maintained exclusively by those personnel authorized such access. Administrative reports will be forwarded to the appropriate Deputy Chief Investigator.

## *Officer-Involved Shootings and Deaths*

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### 302.6.2 WITNESS IDENTIFICATION AND INTERVIEWS

Because potential witnesses to an officer-involved shooting or other major incident may become unavailable or the integrity of their statements compromised with the passage of time, a supervisor should take reasonable steps to promptly coordinate with criminal investigators to utilize available personnel for the following:

- (a) Identify all persons present at the scene and in the immediate area.
  1. When feasible, a recorded statement should be obtained from those persons 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, investigators 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 Bureau personnel.
  1. A written, verbal or recorded statement of consent should be obtained prior to transporting a witness in a department vehicle. When the witness is a minor, consent should be obtained from the parent or guardian, if available, prior to transportation.
- (c) Assign available personnel to promptly contact the suspect's known family and associates to obtain any available and untainted background information about the suspect's activities and state of mind prior to contact with investigators.

### 302.7 ADMINISTRATIVE INVESTIGATION

In addition to all other investigations associated with an officer-involved shooting, this Bureau will conduct an internal administrative investigation to determine conformance with Bureau and Office policies. This investigation will be conducted under the supervision of the Special Investigations Unit and will be considered a confidential peace officer personnel file.

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



## Officer-Involved Shootings and Deaths

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1. If a further interview of the investigator 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 investigator shall be provided with a copy of his or her prior statement before proceeding with any subsequent interview(s) (Government Code § 3303(g))
- (c) In the event that an involved investigator 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 investigator(s) physical and psychological needs have been addressed before commencing the interview.
  2. If requested, the investigator shall have the opportunity to select an uninvolved representative to be present during the interview (Government Code § 3303(i)). However, in order to maintain the integrity of each individual investigator's statement, involved investigators shall not consult or meet with a representative or attorney collectively or in groups prior to being interviewed.
  3. Administrative interview(s) should be recorded by the investigator (the investigator may also record the interview) (Government Code § 3303(g)).
  4. The investigator shall be informed of all constitutional *Miranda* rights (Government Code § 3303(h)) and, assuming no voluntary waiver, will then be given an administrative order to provide full and truthful answers to all questions (Government Code § 3303(e)). The investigator shall be informed, however, that the interview will be for administrative purposes only and that the statement cannot be used criminally (The *Lybarger* or *Garrity* admonishment).
  5. The administrative interview shall be considered part of the investigator's confidential personnel file.
  6. The Special Investigations Unit shall compile all relevant information and reports necessary for the Bureau to determine compliance with applicable policies.
  7. The completed administrative investigation shall be submitted to the Use of Deadly Force Review Board, comprised of the chief investigator and the office's chief deputy district attorneys or others as directed by the district attorney, which will restrict its findings as to whether there was compliance with the Bureau use of deadly force policy.
  8. Any other indications of potential policy violations shall be determined in accordance with standard disciplinary procedures.

## *Officer-Involved Shootings and Deaths*

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### **302.8 AUDIO AND VIDEO RECORDINGS**

Any investigator involved in an incident may be permitted to review available Mobile Audio Video (MAV) or other video or audio recordings prior to providing a recorded statement or completing reports.

Upon request, non-law enforcement witnesses who are able to verify their presence and their ability to contemporaneously perceive events at the scene of an incident may also be permitted to review available MAV or other video or audio recordings with approval of assigned investigators or a supervisor.

Any MAV and other known video or audio recordings of an incident should not be publicly released during an ongoing investigation without consulting the District Attorney or County Counsel's Office as appropriate.

## Firearms

### 303.1 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.

### 303.2 POLICY

The Ventura County District Attorney's Office will equip its members with firearms to address the risks posed to the public and department members by violent and sometimes well-armed persons. The Department will ensure firearms are appropriate and in good working order and that relevant training is provided as resources allow.

### 303.3 AUTHORIZED WEAPONS

Members shall only use firearms that are issued or approved by the Department 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 weapon as described by this policy. All other weapons, including but not limited to, edged weapons, chemical weapons, impact weapons or any weapons or any weapon prohibited or restricted by law or that is not covered elsewhere by Bureau policy, may not be carried by personnel in the performance of their official duty without the express written authorization of the Chief Investigator. This exclusion does not apply to the carrying of a single folding pocketknife that is not otherwise prohibited by law.

Employees who are not current or retired peace officers are not permitted to carry a concealed weapon on duty even if that employee has a valid CCW permit.

#### 303.3.1 HANDGUNS

The authorized Bureau issued handgun is the Glock Model 22 series .40 caliber handgun. Personnel working a specialized assignment that requires a weapon of size or design that does not meet the criteria in this policy may receive authorization from the Chief Investigator to carry the weapon during the assignment. After receiving authorization, the investigator must have the weapon inspected by range staff to ensure it is functioning properly. The investigator will also be required to qualify with the weapon before it is carried on duty.

#### 303.3.2 SHOTGUNS

The authorized department-issued shotgun is the Remington 870, 12 gauge. When not deployed, the shotgun shall be properly secured inside the trunk of the investigator's assigned vehicle or in a locking weapons rack or locker. Investigators shall carry only Bureau authorized ammunition. Shotgun trained investigators shall qualify with the shotgun annually.

## Firearms

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### 303.3.3 SPECIALTY WEAPONS

As deemed necessary and approved by the Chief Investigator, rifles and other specialty weapons may be assigned to investigators for special needs. Specialty weapons are defined as weapons other than the Glock .40 caliber handgun issued by the office or the optional on-duty weapons listed. After receiving authorization, range staff will inspect the specialty weapon to ensure it is functioning properly. Appropriate training, including nomenclature, maintenance and use of the specialty weapon, will be provided to each investigator authorized to use a specialty weapon. The investigator will also be required to qualify with the specialty weapon before it is assigned for field use.

### 303.3.4 AUTHORIZED ALTERNATE DUTY/BACKUP WEAPONS

Investigators desiring to carry a secondary or alternate weapon are subject to the following restrictions:

- (a) The weapon shall be of good quality and workmanship (e.g., Glock, Colt, Smith & Wesson, Browning, Sig-Sauer, Para-Ordnance or Kimber.)
- (b) The approved caliber of weapons is as follows: .380, 9mm, 10mm, .357, .38, .45 and .40.
- (c) The approved barrel lengths are between 2" and 6".
- (d) Single-action weapons are authorized provided they have a trigger pull of 4 1/2 pounds or more.
- (e) Only one secondary weapon may be carried at a time.
- (f) The purchase of the weapon and ammunition shall be the responsibility of the investigator
- (g) The weapon shall be carried out of sight at all times and in such a manner as to prevent accidental cocking, discharge, or loss of physical control.
- (h) The weapon shall be subject to inspection whenever deemed necessary by range staff.
- (i) Ammunition shall be approved by the Head Rangemaster.
- (j) Personnel shall qualify with the secondary or alternate weapon under range supervision. Investigators must demonstrate their proficiency, safe handling and serviceability of the weapon.
- (k) Personnel shall provide written notice of the make, model, color, serial number, and caliber of a secondary or alternate weapon to the Rangemaster.
- (l) The manner in which the investigator will carry their secondary or alternate weapon (holster) shall be approved by the Head Rangemaster

### 303.3.5 AUTHORIZED OFF-DUTY WEAPONS

The carrying of firearms by sworn investigators while off duty is permitted by the Chief Investigator, but may be rescinded should circumstances dictate (e.g., administrative leave). It is the intent of this section to ensure all off-duty weapons are carried in a safe and operable manner, and that the investigator is sufficiently familiar with the weapons in order to handle them in a safe and

## *Firearms*

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knowledgeable manner. Sworn investigators who choose to carry a firearm while off-duty will be required to meet the following guidelines:

- (a) The weapon shall be of good quality and workmanship (e.g., Glock, Colt, Smith & Wesson, Browning, Sig-Sauer, Para-Ordnance or Kimber.)
- (b) The approved caliber of weapons is as follows: 9mm, 10mm, .357, .38, .45, .40 and .380.
- (c) The approved barrel lengths are between 2" and 6".
- (d) Single-action weapons are authorized provided they have a trigger pull of 4 1/2 pounds or more.
- (e) The purchase of the weapon and ammunition shall be the responsibility of the investigator
- (f) The weapon shall be carried out of sight at all times in an approved holster, fanny pack or purse and in such a manner as to prevent accidental cocking, discharge, or loss of physical control
- (g) The weapon shall be subject to inspection whenever deemed necessary by range staff.
- (h) Ammunition shall be approved by the Head Rangemaster, or his/her designee.
- (i) Personnel shall qualify with their off-duty weapon under range supervision. Investigators must demonstrate their proficiency, safe handling and serviceability of the weapon.
- (j) Personnel shall provide written notice of the make, model, color, serial number, and caliber of a secondary weapon to the Range Master.
- (k) All personally owned weapons shall be registered in the investigator's name with the State of California Department of Justice.
- (l) It will be the responsibility of the investigator to submit the weapon to the Range Master during a regularly scheduled range session for a safety inspection and qualification prior to being carried off-duty.
- (m) The weapon shall be subject to inspection whenever deemed necessary.
- (n) The investigator will successfully qualify with the weapon prior to it being carried and annually thereafter. The range qualification dates will be specified by the Rangemaster.
- (o) A complete description of the weapon(s) shall be contained on the qualification record approved by the Range Master.
- (p) If any member desires to own more than one weapon utilized while off duty, he/she may do so, as long as the investigator meets all the requirements set forth in this policy for each weapon used.
- (q) When armed, whether on or off duty, investigators shall carry their badge and department identification.
- (r) All off-duty weapons will be logged in the records maintained by range staff.

## Firearms

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### 303.3.6 HOLSTERS AND ACCESSORIES

The Bureau of Investigation will issue a holster, magazine pouch, three magazines and a raid belt to each investigator for the Bureau of Investigation issued Glock pistol. Investigators who want to carry an optional duty weapon, as permitted herein, must supply their own holster and accessories for that weapon. An investigator wishing to use a holster other than the office issued holster must first receive range staff approval.

### 303.4 AMMUNITION

Members shall carry only department-authorized ammunition. Members shall be issued new duty ammunition in the specified quantity for all department-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 department issued firearms shall be responsible for obtaining new duty ammunition in accordance with the above, at their own expense.

### 303.5 AUTHORIZED FIREARMS, AMMUNITION AND OTHER WEAPONS

Members shall only use firearms that are issued or approved by the [Department/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 [department/office] range.

All other weapons not provided by the [Department/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 [department/office] policy, may not be carried by members in the performance of their official duties without the express written authorization of the member's Deputy Chief Investigator. This exclusion does not apply to the carrying of a single folding pocketknife that is not otherwise prohibited by law.

#### 303.5.1 SAFETY CONSIDERATIONS

- (a) Investigators shall not unnecessarily display or handle any firearm.
- (b) Investigators shall be governed by all rules and regulations pertaining to the use of the range and shall obey all orders issued by the range staff
- (c) Always treat your firearm as though it is loaded.
- (d) Keep your finger off the trigger and outside of the trigger guard until the firearm is pointed at the target and you have decided to fire the weapon.
- (e) Before handing a firearm to any other person be sure the magazine is removed, the slide or bolt is locked open, and visually and physically inspect the firearm to verify no ammunition remains in the chamber.
- (f) Never point the firearm at yourself or anyone else. Always point the firearm in a safe direction where no one can be injured in the event the weapon is discharged.

## Firearms

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- (g) Any member who discharges his/her weapon accidentally or intentionally, on or off duty, except during training, shall make a verbal report to his/her supervisor as soon as circumstances permit and shall file a written report with their supervising investigator prior to the end of shift or as directed by the supervisor.
- (h) Investigators shall not place or store any firearm or other weapon on the Office's premises except where the place of storage is locked. No one shall carry firearms into the jail or any part thereof when securing or processing a prisoner but shall place all firearms in a secured location.
- (i) Any weapon authorized by the Bureau of Investigation that is carried on or off duty and is found by the investigator to be malfunctioning or needing service shall not be carried. Such weapon shall be promptly presented to the Rangemaster or range staff for inspection. Any weapon determined to be in need of service or repair during an inspection by the Rangemaster or range staff will be immediately removed from service. If the weapon is the investigator's primary duty weapon, a replacement weapon will be issued to the investigator until the duty weapon is again rendered serviceable.

### 303.5.2 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 which is placed out of view, or in a locked container that is permanently affixed to the vehicle's interior and not in plain view (Penal Code § 16850; Penal Code § 25140; Penal Code § 25452). Officers are exempt from this requirement during circumstances requiring immediate aid or action in the course of official duties (Penal Code § 25140). When not on-duty, members shall remove firearms from vehicles, (e.g. trunks, safes) unless unique circumstances exist that would justify receiving authorization from the Chief Investigator not to do so. Rifles owned by the Office shall be returned to the Bureau of Investigation and secured in a gun safe after deployment.

### 303.5.3 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 department issued firearms to be handled by anyone who is not authorized by the department to do so. Members should be aware that negligent storage of a firearm could result in civil and criminal liability.(Penal Code § 25100).

### 303.5.4 PATROL RIFLES

Investigators may deploy a Bureau approved and issued Colt M4 rifle in any circumstance where the member can articulate a reasonable expectation that the rifle may be needed. Investigators may deploy their personally owned rifle with prior written approval from the Chief when specific training and inspection requirements are met. (See below Personally Owned Duty Firearms section) Examples of some general guidelines for deploying a rifle may include, but are not limited to:

## Firearms

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- (a) Situations where the investigator reasonably anticipates an armed encounter.
- (b) When an investigator is faced with a situation that may require accurate and effective fire at long range.
- (c) Situations where an investigator reasonably expects the need to meet or exceed a suspect's firepower.
- (d) When an investigator reasonably believes that there may be a need to fire on a barricaded person or a person with a hostage.
- (e) When an investigator reasonably believes that a suspect may be wearing body armor.
- (f) When authorized or requested by a supervisor.
- (g) When needed to euthanize an animal.
- (h) Witness/dignitary protection assignments which carry an increased potential of an ambush or other organized attack.
- (i) Surveillance of criminal suspects which investigators may be drawn into unexpected violent situations.
- (j) Response to incidents of civil unrest.
- (k) Assignments taking investigators to remote, isolated areas that could involve delayed responses for assistance by the local law enforcement agency.

When not deployed, the rifle shall be properly secured consistent with department training in a locking weapons rack in the vehicle or a locking weapons rack at designated Bureau buildings, inside the trunk of the investigator's Bureau issued vehicle or in a weapons locker or safe.

### 303.5.5 PERSONALLY OWNED DUTY FIREARMS

Members desiring to carry an authorized but personally owned duty firearm or rifle must receive written approval from the Chief Investigator 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 department list of approved firearms. Approved rifles for on-duty use are: Bushmaster, Rock River, Ruger, Smith & Wesson, LaRue, Sig Sauer or LWRC or any other model authorized by the Chief Investigator or his designee.
- (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 department 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.

### 303.6 FIREARMS QUALIFICATIONS



## *Firearms*

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The range will be under the exclusive control of the Rangemaster. All investigators attending will follow the directions of the Rangemaster and other range staff. The Rangemaster will maintain a roster of all members attending the range. Failure of any investigator to sign in and out with the Rangemaster may result in non-qualification.

The range shall remain operational and accessible to investigators during hours and times established by Bureau range staff.

A discharge other than on the firing line shall be immediately reported to the Rangemaster prior to leaving the range.

The Rangemaster has the responsibility of making periodic inspection of all duty weapons carried by investigators, as well as other weapons of this Bureau to verify proper operation. The Rangemaster has the authority to deem any privately owned weapon unfit for service. The investigator will be responsible for all repairs to his or her personal weapon and it will not be returned to service until inspected by the Rangemaster. All duty weapons fired at the range shall be cleaned prior to leaving the range.

All sworn personnel are required to qualify on the range as follows:

- (a) All investigators at the rank of Senior Investigator or below shall qualify with their duty and optional duty weapon-once during each two month shooting period. Shooting periods will be January-February, March-April, May-June, July-August, September-October, and November-December. The Chief Investigator, Deputy Chief Investigator and Commanders shall qualify at least twice each calendar year.
- (b) Investigators will be notified by memorandum of the specific range dates for each shooting period. The first month of each shooting period is the designated primary range qualification, the second month is the make-up date.
- (c) Secondary (Backup) and off-duty weapons once per calendar year as established by range staff.
- (d) Shotguns, patrol rifles and Specialty weapons once per calendar year or as indicated by range staff.
- (e) In order to increase and maintain proficiency with their weapons, investigators may attend range sessions in addition to the mandatory required sessions.
- (f) Investigators will be required to obtain a passing score as set forth by range staff for the qualification course of fire. Records maintained by the range staff will indicate if an investigator qualified or did not qualify.
- (g) If an investigator fails to qualify on the course of fire, range staff shall provide remedial training for the investigator.
- (h) If an investigator fails to qualify on the course of fire after three attempts, they will be required to pass the minimum qualification course of fire before leaving the range with their weapon.
- (i) The Rangemaster will determine the remedial training required for investigator(s) that fail to qualify.

## Firearms

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- (j) The Rangemaster shall notify the investigator's supervisor of any investigator(s) who fails to qualify on a course of fire or who fails to attend the required firearms training during any shooting period.

### 303.6.1 NON QUALIFICATION

Unit supervisors will be responsible to ensure their assigned investigators attend range qualifications.

Any investigator who knows that they will be unable to attend the scheduled primary range qualification date for any reason, including injury, duty status, or scheduling conflict shall, prior to that shooting period, submit a memorandum to their immediate supervisor describing why they will be unable to attend the primary scheduled or make-up range dates.

The supervisor shall determine if the investigator has a reasonable excuse for not attending the scheduled range date(s) and notify the Deputy Chief Investigator through the chain of command.

Failure to comply with the range requirements listed above will result in disciplinary action. A documented counseling memorandum will be issued to the investigator upon his/her first unexcused failure to comply. A second unexcused failure to comply within a 12-month period will result in a letter of reprimand. Personnel who fail to comply with range requirements within 12 months of receiving a letter of reprimand will be subject to progressive discipline.

Sworn investigators who shoot but fail to qualify shall be provided remedial training until proficiency is demonstrated and will be subject to the following requirements:

- (a) Additional range assignments and/or training may be required until consistent weapon proficiency is demonstrated.
- (b) Investigators shall be given credit for a range qualification after remedial training and a qualifying score is obtained.

### 303.6.2 RANGE ATTIRE AND EQUIPMENT

Investigators should qualify wearing the business attire they normally wear and carrying their weapon in the manner they normally would while working in the field. The Rangemaster will determine any variance in the attire for a particular shooting period which will be indicated on the memorandum outlining the course of fire for that shooting period. Investigators will be required to have their equipment with them as indicated by the range staff in that shooting period's course of fire. This will include body armor, duty holster, magazine pouch, magazines, eye and ear protection, etc. Shooters are required to wear body armor, unless an exemption is authorized by the Chief Investigator or his designee.

### 303.6.3 RANGE SAFETY AND PROCEDURES

The Bureau of Investigation normally uses the Ventura County Sheriff's Department Range for qualification. The range is located at the Camarillo Airport at the end of Aviation Drive.

The following procedures and safety rules will be enforced at all times during range qualifications:

## Firearms

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- (a) Upon arrival at the range facility, investigators are to keep all weapons holstered until directed to the firing line by range staff. Weapons are not to be loaded or unloaded with range ammunition until range staff has directed the shooter to do so. Magazines may be loaded or unloaded without removing the weapon from the holster.
- (b) Investigators are issued protective eye and ear equipment for use during range sessions. Investigators shall be required to bring their protective eye and ear equipment with them to all firearms training sessions and utilize this equipment while on the firing range.
- (c) No one will be allowed to discharge a weapon on the range without the proper protective equipment.
- (d) Upon completion of the course of fire, each investigator will be instructed by range staff to make their weapon safe.
- (e) After cleaning, the weapon may be reassembled at the cleaning table. Loading of the weapon must be conducted at the load/unload barrel or on the firing line. Once the weapon is loaded, it must be immediately holstered.
- (f) An investigator of the Bureau of Investigation, while acting in the capacity of Rangemaster, is in complete charge of the range, regardless of rank. Range staff will be responsible to ensure that all range rules and requirements are strictly enforced. The failure by any District Attorney staff member to comply with any range rule or requirement shall be reported, in writing, by the range staff directly to the Deputy Chief Investigator.

### 303.6.4 RANGE RECORDS

The Rangemaster shall be required to keep accurate records of bi-monthly qualifications, repairs, maintenance and training as directed by the Deputy Chief Investigator.

### 303.6.5 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 Rangemaster. 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.

### 303.7 ALCOHOL AND DRUGS

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

## *Firearms*

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### **303.8 DESTRUCTION OF ANIMALS**

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

In circumstances in which investigators have sufficient advance notice that a potentially dangerous animal may be encountered, investigators should develop reasonable contingency plans for dealing with the animal (e.g., fire extinguisher, TASER device, oleoresin capsicum (OC) spray, animal control officer). Nothing in this policy shall prohibit any investigator from shooting a dangerous animal if circumstances reasonably dictate that a contingency plan has failed or becomes impractical.

### **303.9 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 investigator reasonably believes that they appear necessary, effective and reasonably safe.

### **303.10 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 Deputy Chief Investigator 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.

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

# Ventura County District Attorney's Office

Ventura County DA CA Policy Manual

## Firearms

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- (a) Investigators 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 [Department/Office] based on the law and published TSA rules.
- (b) Investigators must carry their Ventura County District Attorney's Office identification card, bearing the investigator's name, a full-face photograph, identification number, the investigator's signature and the signature of the Chief Investigator or the official seal of the [Department/Office] and must present this identification to airline officials when requested. The investigator should also carry the standard photo identification needed for passenger screening by airline and TSA officials (e.g., driver license, passport).
- (c) The Ventura County District Attorney's Office must submit a National Law Enforcement Telecommunications System (NLETS) message prior to the investigator's travel. If approved, TSA will send the Ventura County District Attorney's Office an NLETS message containing a unique alphanumeric identifier. The investigator 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 Investigator authorizing armed travel may also accompany the investigator. The letter should outline the investigator's need to fly armed, detail his/her itinerary, and include that the investigator has completed the mandatory TSA training for a law enforcement officer flying while armed.
- (e) Investigators must have completed the mandated TSA security training covering investigators flying while armed. The training shall be given by the [department/office]-appointed instructor.
- (f) It is the investigator'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 investigator 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 investigator 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) Investigators 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) Investigators shall not consume alcoholic beverages while aboard an aircraft, or within eight hours prior to boarding an aircraft.

### **303.12 CARRYING FIREARMS OUT OF STATE**

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

## *Firearms*

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- (a) The investigator shall carry his/her Ventura County District Attorney's Office identification card whenever carrying such firearm.
- (b) The investigator is not the subject of any current disciplinary action.
- (c) The investigator may not be under the influence of alcohol or any other intoxicating or hallucinatory drug.
- (d) The investigator will remain subject to this and all other [department/office] policies (including qualifying and training).

Investigators 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 an investigator 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.

### **303.13 SECTION TITLE**

## Vehicle Pursuits

### 304.1 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 investigators 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 investigators to exhibit a high degree of common sense and sound judgment. Investigators must not forget that the immediate apprehension of a suspect is generally not more important than the safety of the public and pursuing investigators.

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 investigator or supervisor shall be criticized or disciplined for deciding not to engage in a vehicular pursuit because of the risk involved. This includes circumstances where Bureau 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.

Investigators must remember that the most important factors to the successful conclusion of a pursuit are proper self-discipline and sound professional judgment. Investigator's conduct during the course of a pursuit must be objectively reasonable; that is, what a reasonable investigator 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.

#### 304.1.1 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 an investigator's signal to stop.

### 304.2 INVESTIGATOR RESPONSIBILITIES

It shall be the policy of this Bureau of Investigation that a motor 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 investigators with guidelines for driving with due regard and caution for the safety of all persons using the highway as required by Vehicle Code § 21056.

#### 304.2.1 WHEN TO INITIATE A PURSUIT

Investigators 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.

## *Vehicle Pursuits*

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

- (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 investigators, 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 investigators 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 investigators 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 bureau unit is carrying passengers other than bureau investigators. Pursuits should not be undertaken with a prisoner in the police vehicle.

### 304.2.2 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 investigator or supervisor 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. Investigators 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



## *Vehicle Pursuits*

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of this policy, the term "terminate" shall be construed to mean discontinue or to stop chasing the fleeing vehicle.

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 investigators 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) Investigator'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, investigators should strongly consider discontinuing the pursuit and apprehending the offender at a later time.
- (g) Investigator should immediately terminate vehicle pursuit when sufficient marked patrol cars have arrived and engaged in the pursuit.
- (h) Pursuit is terminated by a supervisor.

### **304.2.3 SPEED LIMITS**

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

Should high vehicle speeds be reached during a pursuit, investigators and supervisors 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 investigator.
- (c) Pursuit speeds are beyond the capabilities of the pursuit vehicle thus making its operation unsafe.

### **304.3 PURSUIT UNITS**

Pursuit units should be limited to three vehicles (two units and a supervisor); however, the number of units involved will vary with the circumstances. An investigator or supervisor may request additional units to join a pursuit if, after assessing the factors outlined above, it appears that the number of investigators involved would be insufficient to safely arrest the suspects. All other

## *Vehicle Pursuits*

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investigators should stay out of the pursuit, but should remain alert to its progress and location. Any investigator 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.

### 304.3.1 VEHICLES WITHOUT EMERGENCY EQUIPMENT

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

### 304.3.2 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 investigator initiating the pursuit is the apprehension of the suspect(s) without unreasonable danger to themselves or other persons.

Notify the local law enforcement's Communications Center that a vehicle pursuit has been initiated, and request a marked vehicle to take over the pursuit. As soon as practical, provide law enforcement's Communications Center the 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 by a supervisor or secondary unit, the investigator 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 investigator should relinquish the responsibility of broadcasting the progress of the pursuit to a secondary unit or aircraft joining the pursuit.

### 304.3.3 SECONDARY UNITS RESPONSIBILITIES

The second investigator in the pursuit is responsible for the following:

- (a) The investigator in the secondary unit should immediately notify the dispatcher of entry into the pursuit

## *Vehicle Pursuits*

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- (b) Remain a safe distance behind the primary unit unless directed to assume the role of primary investigator, or if the primary unit is unable to continue the pursuit
- (c) The secondary investigator should be responsible for broadcasting the progress of the pursuit unless the situation indicates otherwise

### 304.3.4 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) Investigators, 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, investigators 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) Investigators 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.

### 304.3.5 TACTICS/PROCEDURES FOR UNITS NOT INVOLVED IN THE PURSUIT

There should be no paralleling of the pursuit route. Investigators are authorized to use emergency equipment at intersections along the pursuit path to clear intersections of vehicular and pedestrian traffic to protect the public. Investigators 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.

## *Vehicle Pursuits*

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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.

### **304.3.6 PURSUIT TRAILING**

In the event the initiating unit from this agency either relinquishes control of the pursuit to another unit or jurisdiction, that initiating unit may, with permission of supervisor, trail the pursuit to the termination point in order to provide necessary information and assistance for the arrest of the suspect(s).

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.

## **304.4 COMMUNICATIONS**

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

### **304.4.1 LOSS OF PURSUED VEHICLE**

When the 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.

## **304.5 INTER-JURISDICTIONAL CONSIDERATIONS**

When a pursuit enters another agency's jurisdiction, the primary investigator 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 investigator 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.

### **304.5.1 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 Ventura County District Attorney's Office Bureau of Investigation is no longer needed. Upon discontinuing the pursuit, the primary unit may proceed upon request, with or at the direction of a supervisor, to the termination point to assist in the investigation.

The role and responsibilities of investigators 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.

## *Vehicle Pursuits*

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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 Bureau, the CHP should relinquish control.

### **304.5.2 PURSUITS EXTENDING INTO THIS JURISDICTION**

The agency that initiates a pursuit shall be responsible for conducting the pursuit. Units from the Bureau of Investigation should not join a pursuit unless specifically requested to do so by the agency whose officers 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 the Bureau of Investigation may join the pursuit until sufficient units from the initiating agency join the pursuit.

When a request is made for the Bureau of Investigation to assist a pursuit from another agency that has entered this jurisdiction, the supervisor should consider these additional following 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 investigators.

As soon as practical, a supervisor or Deputy Chief Investigator should review a request for assistance from another agency. The Deputy Chief Investigator, Commander or Supervising Investigator, 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 investigators of this department will terminate at the County limits provided that the pursuing officers have sufficient assistance from other sources. Ongoing participation from this Bureau may continue only until sufficient assistance is present.

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

### **304.6 REPORTING REQUIREMENTS**

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

- (a) The primary investigator should complete appropriate crime/arrest reports or memorandums.
- (b) The respective 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 Pursuits*

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(Vehicle Code § 14602.1). The primary investigator should complete as much of the required information on the form as is known and forward the report to the respective supervisor for review and distribution.

### **304.6.1 REGULAR AND PERIODIC PURSUIT TRAINING**

In addition to initial and supplementary POST training on pursuits required by Penal Code § 13519.8, all sworn members of this Bureau will review and be familiar with 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 investigators and others. (Vehicle Code § 17004.7(d)).

### **304.6.2 POLICY REVIEW**

Each sworn member of this department 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.

### **304.7 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.

## Coordination with Other Law Enforcement Agencies

### 305.1 PURPOSE AND SCOPE

The purpose is to establish a protocol for the notification of planned events in another agency's jurisdiction and suggested procedures to follow in situations involving a field contact or confrontation between plain clothes officers and uniformed personnel.

A planned event is any action planned in advance, search or arrest warrant, a protracted surveillance, or other enforcement activity etc.

#### 305.1.1 NOTIFICATION

Prior to a planned event, investigators shall notify the local agency, in a timely manner, of the proposed event. Notification will normally be to the local agency's watch commander. Such notification should include:

- (a) The time and location of the planned event and the names of the involved persons, if applicable.
- (b) The nature of the planned event, i.e., search warrant, arrest warrant, surveillance, etc.
- (c) An assessment of the potential for problems.
- (d) What assistance, if any, is or may be requested of the local agency.

#### 305.1.2 FIELD CONTACTS/CONFRONTATIONS

Because plainclothes/undercover investigators are not readily identifiable as law enforcement members, contacts between them and uniformed personnel include the potential for confrontation. The primary responsibility for avoiding or defusing this risk lies with the non-uniformed investigator(s), whose actions when contacted by a uniformed officer are critically important. The following suggestions are intended to assist in avoiding or alleviating the tension possible in such contacts.

The plainclothes investigator should:

- (a) Carry his/her firearm well concealed.
- (b) If a weapon is carried either partially or completely exposed to view, the investigator will have identification (ie: badge) readily visible.
- (c) When stopped, identify him/herself verbally and indicate where identification and weapons are located.
- (d) Follow the instructions of the uniformed officer explicitly.
- (e) Avoid any sudden movement which could be interpreted as suspicious or threatening. Keep hands in sight and open.

# Ventura County District Attorney's Office

Ventura County DA CA Policy Manual

## *Coordination with Other Law Enforcement Agencies*

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- (f) Comply with any requests of the uniformed officer without hesitation.
- (g) Be prepared to provide the phone number and name of a supervisor or other Bureau member who may be contacted for verification as requested by the uniformed officer.

### 305.1.3 FIELD INVESTIGATIONS



## Office Security-Duty Investigator

### 306.1 PURPOSE AND SCOPE DUTY INVESTIGATOR

All District Attorney Investigator I,II and III's will be assigned responsibility as the designated Duty Officer on a rotating basis. The duty begins when the reception area opens in the morning and ends when the reception area closes, normally 8:00 a.m. to 5:00 p.m. The duty includes, but is not limited to, the following:

- (a) Office security for all District Attorney work areas within the Hall of Justice.
  
- b. Meeting and assisting members of the public and other agencies who have questions or complaints.
  
- c. Assist Deputy District Attorneys with last minute interviews, research or computer checks when needed.
  
- d. Prepare Duty Reports.
  
- e. Coordinating emergency evacuations.
  
- f. Coordinating responses to bomb threats.
  
- g. Take photos of domestic violence victims as requested by a Victim Advocate
  
- h. Accept subpoena on behalf of another employee.

The Duty Officer, while fulfilling that role, must be armed with an appropriate firearm, pepper spray and handcuffs on their person. The Duty Officer will have the Bureau's issued baton accessible.

It is permissible to trade duty days with other investigators. The investigator initiating the trade shall notify the Bureau's Legal Management Assistant and reception desk of the trade.

## Domestic Violence

### 307.1 PURPOSE AND SCOPE

The purpose of this policy is to provide the guidelines necessary to deter, prevent and reduce domestic violence through vigorous enforcement and to address domestic violence as a serious crime against society. The policy specifically addresses the commitment of this [department/office] to take enforcement action when appropriate, to provide assistance to victims and to guide investigators in the investigation of domestic violence.

#### 307.1.1 DEFINITIONS

The Ventura County District Attorney's Office "Domestic Violence" policy is drafted in compliance with guidelines established and approved by the Commission on Peace Officer Standards and Training. The following definitions are provided by Penal Code § 13700:

**Abuse** - means intentionally or recklessly causing or attempting to cause bodily injury, or placing another person in reasonable apprehension of imminent serious bodily injury.

**Domestic Violence** - is abuse committed against an adult or minor who is a spouse, former spouse, cohabitant, former cohabitant, or a person with whom the suspect has had a child or is having or has had a dating or engagement relationship.

**Cohabitant** - means two unrelated adult persons living together for a substantial period of time, resulting in some permanence of relationship. Factors that may determine whether persons are cohabiting include, but are not limited to:

- Sexual relations between the parties while sharing the same living quarters
- Sharing of income or expenses
- Joint use or ownership of property
- Whether the parties hold themselves out as husband and wife
- The continuity of the relationship
- The length of the relationship

The above definition of cohabitant is used for the application of enforcing Penal Code § 273.5. Family Code § 6209 expands the definition of cohabitant to include a person who regularly resides in the household for the application of enforcing Penal Code § 836(d).

**Officer/Deputy** - means any law enforcement officer employed by a local police department or sheriff's department, consistent with Penal Code § 830.1.

**Victim** - means a person who is a victim of domestic violence.

### 307.2 POLICY

The Ventura County District Attorney's Office's response to incidents of domestic violence and violations of related court orders shall stress enforcement of the law to protect the victim and shall

## *Domestic Violence*

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communicate the philosophy that domestic violence is criminal behavior. It is also the policy of this [department/office] to facilitate victims' and offenders' access to appropriate civil remedies and community resources whenever feasible.

### **307.3 OFFICER SAFETY**

It is the intent of the Legislature that the official response to domestic violence stresses the enforcement of the laws to protect the victim and shall communicate the attitude that violent behavior is criminal behavior and will not be tolerated. The following factors should not be used to avoid making an arrest:

- (a) Marital status of suspect and victim
- (b) Whether or not the suspect lives on the premises with the victim
- (c) Existence or lack of temporary restraining order
- (d) Potential financial consequences of arrest
- (e) Complainant's history or prior complaints
- (f) Verbal assurances that violence will cease
- (g) Complainant's emotional state
- (h) Non-visible injuries
- (i) Location of the incident (public/private)
- (j) Victim does not want to prosecute or make private person's arrest
- (k) Speculation that complainant may not follow through with the prosecution
- (l) The case may not result in a conviction

### **307.4 VICTIM ASSISTANCE**

Victims may be traumatized or confused. Investigators should:

- (a) Recognize that a victim's behavior and actions may be affected.
- (b) Provide the victim with the [department/office]'s domestic violence information handout, even if the incident may not rise to the level of a crime.
- (c) Alert the victim to any available victim advocates, shelters and community resources.
- (d) Stand by for a reasonable amount of time when an involved person requests law enforcement assistance while removing essential items of personal property.
- (e) Seek medical assistance as soon as practicable for the victim if he/she has sustained injury or complains of pain.
- (f) Ask the victim whether he/she has a safe place to stay. Assist in arranging to transport the victim to an alternate shelter if the victim expresses a concern for his/her safety or if the investigator determines that a need exists.

## *Domestic Violence*

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- (g) Make reasonable efforts to ensure that children or dependent adults who are under the supervision of the suspect or victim are being properly cared for.
- (h) Seek or assist the victim in obtaining an emergency order if appropriate.

An investigator shall advise an individual protected by a Canadian domestic violence protection order of available local victim services (Family Code § 6452).

### **307.5 FOREIGN COURT ORDERS**

Various types of orders may be issued in domestic violence cases. Any foreign court order properly issued by a court of another state, Indian tribe, or territory shall be enforced by investigators as if it were the order of a court in this state. An order should be considered properly issued when it reasonably appears that the issuing court has jurisdiction over the parties and reasonable notice and opportunity to respond was given to the party against whom the order was issued (18 USC § 2265). An otherwise valid out-of-state court or foreign order shall be enforced, regardless of whether the order has been properly registered with this state (Family Code § 6403).

Canadian domestic violence protection orders shall also be enforced in the same manner as if issued in this state (Family Code § 6452).

### **307.6 VERIFICATION OF COURT ORDERS**

Determining the validity of a court order, particularly an order from another jurisdiction, can be challenging. Therefore, in determining whether there is probable cause to make an arrest for a violation of any court order, investigators should carefully review the actual order when available, and where appropriate and practicable:

- (a) Ask the subject of the order about his/her notice or receipt of the order, his/her knowledge of its terms and efforts to respond to the order.
  - 1. If a determination is made that a valid foreign order cannot be enforced because the subject has not been notified or served the order, the investigator shall inform the subject of the order, make a reasonable effort to serve the order upon the subject, and allow the subject a reasonable opportunity to comply with the order before enforcing the order. Verbal notice of the terms of the order is sufficient notice (Family Code § 6403).
- (b) Check available records or databases that may show the status or conditions of the order.
  - 1. Registration or filing of an order in California is not required for the enforcement of a valid foreign order (Family Code § 6403).
- (c) Contact the issuing court to verify the validity of the order.
- (d) Contact a law enforcement official from the jurisdiction where the order was issued to verify information.

Investigators should document in an appropriate report their efforts to verify the validity of an order, regardless of whether an arrest is made. Investigators should contact a supervisor for clarification when needed.

## *Domestic Violence*

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### **307.7 LEGAL MANDATES AND RELEVANT LAWS**

California law provides for the following:

#### **307.7.1 STANDARDS FOR ARRESTS**

Investigators investigating a domestic violence report should consider the following:

- (a) An arrest should be made when there is probable cause to believe that a felony or misdemeanor domestic violence offense has been committed (Penal Code § 13701). Any decision to not arrest an adult when there is probable cause to do so requires supervisor approval.
  - 1. Investigators are only authorized to make an arrest without a warrant for a misdemeanor domestic violence offense if the investigator makes the arrest as soon as probable cause arises (Penal Code § 836).
- (b) An investigator responding to a domestic violence call who cannot make an arrest will advise the victim of his/her right to make a private person's arrest. The advisement should be made out of the presence of the suspect and shall include advising the victim how to safely execute the arrest. Investigators shall not dissuade victims from making a lawful private person's arrest. Investigators should refer to the provisions in the Private Persons Arrests Policy for options regarding the disposition of private person's arrests (Penal Code § 836(b)).
- (c) Investigators shall not cite and release a person for the following offenses (Penal Code § 853.6(a)(3)):
  - 1. Penal Code § 243(e)(1) (battery against spouse, cohabitant)
  - 2. Penal Code § 273.5 (corporal injury on spouse, cohabitant, fiancé/fiancée, person of a previous dating or engagement relationship, mother/father of the offender's child)
  - 3. Penal Code § 273.6 (violation of protective order) if violence or threats of violence have occurred or the suspect has gone to the workplace or residence of the protected party
  - 4. Penal Code § 646.9 (stalking)
  - 5. Other serious or violent felonies specified in Penal Code § 1270.1
- (d) In responding to domestic violence incidents, including mutual protective order violations, investigators should generally be reluctant to make dual arrests. Investigators shall make reasonable efforts to identify the dominant aggressor in any incident. The dominant aggressor is the person who has been determined to be the most significant, rather than the first, aggressor (Penal Code § 13701). In identifying the dominant aggressor, an investigator shall consider:
  - 1. The intent of the law to protect victims of domestic violence from continuing abuse.
  - 2. The threats creating fear of physical injury.
  - 3. The history of domestic violence between the persons involved.

## *Domestic Violence*

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4. Whether either person acted in self-defense.
- (e) An arrest shall be made when there is probable cause to believe that a violation of a domestic violence court order has been committed (Penal Code § 13701; Penal Code § 836), regardless of whether the offense was committed in the investigator's presence. After arrest, the investigator shall confirm that a copy of the order has been registered, unless the victim provides a copy (Penal Code § 836).

### 307.7.2 COURT ORDERS

- (a) An investigator who obtains an emergency protective order from the court shall serve it on the restrained person if the person can be reasonably located, and shall provide the person protected or the person's parent/guardian with a copy of the order. The investigator shall file a copy with the court as soon as practicable and shall have the order entered into the computer database system for protective and restraining orders maintained by the Department of Justice (Family Code § 6271; Penal Code § 646.91).
- (b) At the request of the petitioner, an investigator at the scene of a reported domestic violence incident shall serve a court order on a restrained person (Family Code § 6383; Penal Code § 13710).
- (c) Any investigator serving a protective order that indicates that the respondent possesses weapons or ammunition shall request that the firearm/ammunition be immediately surrendered (Family Code § 6389(c)(2)).
- (d) During the service of a protective order any firearm discovered in plain view or pursuant to consent or other lawful search shall be taken into temporary custody (Penal Code § 18250).
- (e) If a valid Canadian order cannot be enforced because the person subject to the order has not been notified or served with the order, the investigator shall notify the protected individual that reasonable efforts shall be made to contact the person subject to the order. The investigator shall make a reasonable effort to inform the person subject to the order of the existence and terms of the order and provide him/her with a record of the order, if available, and shall allow the person a reasonable opportunity to comply with the order before taking enforcement action (Family Code § 6452).

### 307.7.3 PUBLIC ACCESS TO POLICY

A copy of this domestic violence policy will be provided to members of the public upon request (Penal Code § 13701).

### 307.7.4 REPORTS AND RECORDS

- (a) A written report shall be completed on all incidents of domestic violence. All such reports should be documented on the appropriate form, which includes information and notations specific to domestic violence incidents as required by Penal Code § 13730.
- (b) Reporting investigators should provide the victim with the case number of the report. The case number may be placed in the space provided on the domestic violence victim information handout provided to the victim. If the case number is not immediately

## *Domestic Violence*

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available, an explanation should be given regarding how the victim can obtain the information at a later time.

- (c) Investigators who seize any firearm or other deadly weapon in a domestic violence incident shall issue the individual possessing such weapon a receipt that includes the name and residential mailing address of the owner or person who possessed the weapon and notice of where the weapon may be recovered, along with the applicable time limit for recovery (Penal Code § 18250; Penal Code § 18255; Penal Code § 33800; Family Code § 6389(c)(2)).

### 307.7.5 DECLARATION IN SUPPORT OF BAIL INCREASE

Any investigator who makes a warrantless arrest for a felony or misdemeanor violation of a domestic violence restraining order shall evaluate the totality of the circumstances to determine whether reasonable cause exists to seek an increased bail amount. If there is reasonable cause to believe that the scheduled bail amount is insufficient to assure the arrestee's appearance or to protect the victim or family member of a victim, the investigator shall prepare a declaration in support of increased bail (Penal Code § 1269c).

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

### 308.2 POLICY

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

The Department will provide relevant and current training to investigators 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 the Bureau 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, investigators are encouraged to contact a deputy district attorney or supervisor to resolve questions regarding search and seizure issues prior to electing a course of action.



## *Search and Seizure*

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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) Investigators will strive to conduct searches with dignity and courtesy.
- (b) Investigators 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 investigator, a reasonable effort should be made to summon an investigator of the same sex as the subject to conduct the search. When it is not practicable to summon an investigator of the same sex as the subject, the following guidelines should be followed:
  1. Another investigator or a supervisor should witness the search.
  2. The investigator 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**

Investigators 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 an investigator of the same sex as the person being searched and the identification of any witness investigator

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

## 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 Ventura 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 an investigator 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 [department/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.

## *Temporary Custody of Juveniles*

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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 Ventura 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 Ventura 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 Ventura 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 Deputy Chief Investigator. 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

Investigators 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 Ventura County District Attorney's Office unless they have been evaluated by a qualified medical and/or mental health professional (15 CCR 1142).

## *Temporary Custody of Juveniles*

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If the investigator 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 Deputy Chief Investigator shall be notified of the need for medical attention for the juvenile. [Department/Office] members should administer first aid as applicable (15 CCR 1142).

### **309.4 CUSTODY OF JUVENILES**

Investigators should take custody of a juvenile and temporarily hold the juvenile at the Ventura 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 Ventura County District Attorney's Office without authorization of the arresting investigator's supervisor or the Deputy Chief Investigator. 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 Ventura 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 Ventura 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.

#### **309.4.2 CUSTODY OF JUVENILE OFFENDERS**

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

## *Temporary Custody of Juveniles*

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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 [Department/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 investigator 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 investigator 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**

Investigators 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).

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

## *Temporary Custody of Juveniles*

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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 [Department/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 Ventura County District Attorney's Office (15 CCR 1150).
- (c) Deputy Chief Investigator 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 Deputy Chief Investigator 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 [Department/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.

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 Ventura 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).

## *Temporary Custody of Juveniles*

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### **309.8 USE OF RESTRAINT DEVICES**

A juvenile offender may be handcuffed at the Ventura 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 the Deputy Chief Investigator. 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).

### **309.9 PERSONAL PROPERTY**

The investigator taking custody of a juvenile offender or status offender at the Ventura 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 Ventura County District Attorney's Office.

### **309.10 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). Deputy Chief Investigator 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
- (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 [department/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

## *Temporary Custody of Juveniles*

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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 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, an investigator 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.

#### **309.11.1 MANDATORY RECORDINGS OF JUVENILES**

Any interrogation of an individual under 18 years of age who is in custody and suspected of committing murder shall be audio and video recorded when the interview takes place at a [department/office] facility, jail, detention facility, or other fixed place of detention. The recording shall include the entire interview and a *Miranda* advisement preceding the interrogation (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 individual 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.



## *Temporary Custody of Juveniles*

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- (e) The interrogation would disclose the identity of a confidential informant or would jeopardize the safety of an investigator, 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.

These recordings shall be retained until a conviction is final and all direct and habeas corpus appeals are exhausted, a court no longer has any jurisdiction over the individual, or the prosecution for that offense is barred (Penal Code § 859.5; Welfare and Institutions Code § 626.8).

### **309.12 FORMAL BOOKING**

No juvenile offender shall be formally booked without the authorization of the arresting investigator's supervisor, or in his/her absence, the Deputy Chief Investigator.

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 the Deputy Chief Investigator or Bureau of Investigation supervisor, giving due consideration to the following:

- (a) The gravity of the offense
- (b) The past record of the offender
- (c) The age of the offender

### **309.13 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 [department/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 Ventura 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 Staff Services Manager and the appropriate Bureau of Investigation supervisors to ensure that personnel of those bureaus act within legal guidelines.

*Temporary Custody of Juveniles*

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**309.14 RELIGIOUS ACCOMMODATION**

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

## Discriminatory Harassment

### 310.1 PURPOSE AND SCOPE

The purpose of this policy is to prevent [department/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.

### 310.2 POLICY

The Ventura 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 [Department/Office] will not tolerate discrimination against a member in hiring, promotion, discharge, compensation, fringe benefits and other privileges of employment. The [Department/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 [Department/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.

### 310.3 DEFINITIONS

Definitions related to this policy include:

#### 310.3.1 DISCRIMINATION

The [Department/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 the 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 other classifications protected by law.

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

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

## *Discriminatory Harassment*

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### 310.3.2 SEXUAL HARASSMENT

The [Department/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.

### 310.3.3 ADDITIONAL CONSIDERATIONS

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

- (a) Acts or omission of acts based solely upon bona fide occupational qualifications under 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 a member improve his/her work quality or output, that the member report to the job site on time, that the member comply with County or [department/office] rules or regulations, or any other appropriate work-related communication between supervisor and member.

### 310.3.4 RETALIATION

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

## **310.4 RESPONSIBILITIES**

This policy applies to all [department/office] personnel. All members shall follow the intent of these guidelines in a manner that reflects [department/office] policy, professional law enforcement standards and the best interest of the [Department/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 his/her immediate supervisor may bypass the chain of command and make the report to a higher-ranking supervisor or manager. Complaints may also be filed with the Chief Investigator, the Staff Services Manager or the County Executive.

## *Discriminatory Harassment*

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

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

### 310.4.1 SUPERVISOR RESPONSIBILITIES

The responsibilities of each supervisor and manager 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 Investigator or Staff Services Manager in writing of the circumstances surrounding any reported allegations or observed acts of discrimination, harassment or retaliation no later than the next business day.

### 310.4.2 SUPERVISOR'S ROLE

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

- (a) Behavior of supervisors and managers should represent the values of the [Department/Office] and professional law enforcement standards.
- (b) False or mistaken accusations of discrimination, harassment or retaliation can have negative effects on the careers of innocent members.

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.

### 310.4.3 QUESTIONS OR CLARIFICATION

Members with questions regarding what constitutes discrimination, sexual harassment, or retaliation are encouraged to contact a supervisor, a manager, the Chief Investigator, the Staff

## *Discriminatory Harassment*

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Services Manager, the County Executive, or the California Department of Fair Employment and Housing (DFEH) for further information, direction, or clarification (Government Code § 12950).

### **310.5 INVESTIGATION OF COMPLAINTS**

Various methods of resolution exist. During the pendency of any such investigation, the supervisor of the involved member should take prompt and reasonable steps to mitigate or eliminate any continuing abusive or hostile work environment. It is the policy of the [Department/Office] that all complaints of discrimination, retaliation or harassment shall be fully documented and promptly and thoroughly investigated.

#### **310.5.1 SUPERVISORY RESOLUTION**

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

#### **310.5.2 FORMAL INVESTIGATION**

If the complaint cannot be satisfactorily resolved through the process described above, 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 any 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 Investigator, Staff Services Manager or the County Executive.

#### **310.5.3 ALTERNATIVE COMPLAINT PROCESS**

No provision of this policy shall be construed to prevent any member from seeking legal redress outside the [Department/Office]. Members who believe that they have been harassed, discriminated 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.

## *Discriminatory Harassment*

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### **310.6 DOCUMENTATION OF COMPLAINTS**

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

- Approved by the Chief Investigator, the County Executive or the Staff Services Manager, depending on the ranks of the involved parties.
- Maintained in accordance with the [department/office]'s established records retention schedule.

#### **310.6.1 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.

### **310.7 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 he/she has been advised of this policy, is aware of and understands its contents and agrees to abide by its provisions during his/her term with the [Department/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.

#### **310.7.1 STATE-REQUIRED TRAINING**

The Training Manager 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 Training Manager should ensure that employees are provided the link or website address to the training course (Government Code § 12950).

#### **310.7.2 TRAINING RECORDS**

The Training Manager 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).

## *Discriminatory Harassment*

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### **310.8 WORKING CONDITIONS**

The Deputy Chief Investigator 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).

### **310.9 REQUIRED POSTERS**

The [Department/Office] shall display the required posters regarding discrimination, harassment and transgender rights in a prominent and accessible location for members (Government Code § 12950).



## Child Abuse

### 311.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidelines for the investigation of suspected child abuse. This policy also addresses when Ventura County District Attorney's Office members are required to notify the county Child Protective Services (CPS) of suspected child abuse.

#### 311.1.1 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).

### 311.2 POLICY

The Ventura County District Attorney's Office will investigate all reported incidents of alleged criminal child abuse and ensure CPS is notified as required by law.

### 311.3 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 this department. Reports only involving neglect by a person, who has the care or custody of a child, to provide adequate food, clothing, shelter, medical care or supervision where no physical injury to the child has occurred should not be reported to the District Attorney (Penal Code § 11166).

When the abuse or neglect occurs at a licensed facility or is alleged to have resulted from the actions of a person who is required to have a state license (e.g., foster homes, group homes, day care), notification shall also be made to the California Department of Social Services or other applicable licensing authority (Penal Code 11166.1; Penal Code 11166.2).

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);

## *Child Abuse*

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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.

### **311.4 INVESTIGATIONS AND REPORTING**

In all reported or suspected cases of child abuse, a memorandum will be written. Investigators shall write a memorandum 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 investigator in all circumstances where a suspected child abuse victim was contacted.
- (b) The exigent circumstances that existed if investigators 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).

#### **311.4.1 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, Bureau members shall ensure that the caller is immediately transferred to the agency with proper jurisdiction for the investigation of the case. If the caller

## *Child Abuse*

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cannot be successfully transferred to the appropriate agency, a memorandum shall be taken and immediately referred by telephone, fax or electronic transfer to the agency with proper jurisdiction (Penal Code 11165.9).

### **311.5 PROTECTIVE CUSTODY**

Before taking any child into protective custody, the investigator 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 department 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 investigator 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 in abduction. If this is not a reasonable option, the investigator shall ensure that the child is delivered to CPS.

Whenever practicable, the investigator should inform a supervisor of the circumstances prior to taking a child into protective custody. If prior notification is not practicable, investigators 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 investigator 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 investigator 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 investigator 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 investigator 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.

## *Child Abuse*

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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.

### **311.5.1 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-surrender site, such as a hospital or fire department (Penal Code § 271.5). The law requires the surrender site to notify CPS.

## **311.6 INTERVIEWS**

### **311.6.1 PRELIMINARY INTERVIEWS**

Absent extenuating circumstances or impracticality, investigators should record the preliminary interview with suspected child abuse victims. Investigators should avoid multiple interviews with a child victim and should attempt to gather only the information necessary to begin an investigation. When practicable, investigating investigators 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.

### **311.6.2 DETAINING SUSPECTED CHILD ABUSE VICTIMS FOR AN INTERVIEW**

An investigator 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.

## *Child Abuse*

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### 311.6.3 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).

### **311.7 MEDICAL EXAMINATIONS**

If the child has been the victim of abuse that requires a medical examination, the investigating investigator should obtain consent for such examination from the appropriate parent, guardian or agency having legal custody of the child. The investigator 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, investigators should notify a supervisor before proceeding. If exigent circumstances do not exist or if state law does not provide for investigators to take the child for a medical examination, the notified supervisor should consider obtaining a court order for such an examination.

## **Victim and Witness Assistance**

### **312.1 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.

### **312.2 POLICY**

The Ventura County District Attorney's Office is committed to providing guidance and assistance to the victims and witnesses of crime. The members of the Ventura 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.

#### **312.2.1 VICTIM DEFINED**

"Victim" shall mean a California resident or military person who is:

- (a) A person who sustains injury or death as a direct result of a crime
- (b) Legally dependent for support upon a person who sustains injury or death as a direct result of a crime
- (c) A family member or any person in close relationship to a victim who was present during the commission of the crime and whose treatment or presence during treatment of the victim is required for successful medical treatment
- (d) Any individual who legally assumes the obligation, or who voluntarily pays the medical or burial expenses incurred as a direct result of a death caused by a crime

### **312.3 CRIME VICTIM LIAISON**

The Chief Investigator shall appoint a member of the [Department/Office] to serve as the crime victim liaison (2 CCR 649.36). The crime victim liaison will be the point of contact for individuals requiring further assistance or information from the Ventura County District Attorney's Office regarding benefits from crime victim resources. This person shall also be responsible for maintaining compliance with all legal mandates related to crime victims and/or witnesses.

### **312.4 CRIME VICTIMS**

Investigators should provide all victims with the applicable victim information handouts if the victims have not yet been given such handouts. These handouts are located on the District Attorney's Website.

Investigators 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. Investigators should never guarantee that a person qualifies as a victim for the purpose of compensation or restitution but may direct him/her to the proper written department material or available victim resources.

## *Victim and Witness Assistance*

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### 312.4.1 VICTIMS OF HUMAN TRAFFICKING

Investigators investigating or receiving a report involving a victim of human trafficking 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).

### 312.5 VICTIM INFORMATION

The Administrative 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 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 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 investigator'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.

# Ventura County District Attorney's Office

Ventura County DA CA Policy Manual

## *Victim and Witness Assistance*

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- (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).



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## Standards of Conduct

### 313.1 PURPOSE AND SCOPE

This policy establishes standards of conduct that are consistent with the values and mission of the Ventura County District Attorney's Office and are expected of all department 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 department or a member's supervisors.

### 313.2 POLICY

The continued employment or appointment of every member of the Ventura County District Attorney's Office 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.

### 313.3 DIRECTIVES AND ORDERS

Members shall comply with lawful directives and orders from any department supervisor or person in a position of authority, absent a reasonable and bona fide justification.

#### 313.3.1 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 department 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, department 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.

## *Standards of Conduct*

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The person countermanning the original order shall notify, in writing, the person issuing the original order, indicating the action taken and the reason.

### **313.3.2 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.

### **313.4 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.

## Report Preparation

### 314.1 PURPOSE AND SCOPE

Report/memorandum preparation is a major part of each investigator's job. The purpose of reports is to document sufficient information to refresh the investigator'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.

#### 314.1.1 REPORT PREPARATION

It is the primary responsibility of the assigned investigator to ensure that memorandums are fully prepared or that supervisory approval has been obtained. The preparing investigator must determine whether the memorandums will be available in time for appropriate action to be taken, such as investigative leads or a suspect is in custody.

Investigators who dictate memorandums by any means shall use appropriate grammar, as content is not the responsibility of the typist. Investigators who generate memorandums on computers are subject to all requirements of this policy.

All memorandums 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 repress, conceal or distort the facts of any reported incident, nor shall any employee make a false memorandums orally or in writing.

### 314.2 REQUIRED REPORTING

Written reports are required in all of the following situations on the appropriate [department/office] approved form unless otherwise approved by a supervisor.

### 314.3 GENERAL POLICY OF EXPEDITIOUS REPORTING

In general, all investigators 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.

### 314.4 REPORT CORRECTIONS

Supervisors shall review reports for content and accuracy. If a correction is necessary, the reviewing supervisor should identify the correction(s) and return the report to the reporting employee. It shall be the responsibility of the originating employee to ensure that any report returned for correction is processed in a timely manner.

### 314.5 REPORT CHANGES OR ALTERATIONS

Reports that have been approved by a supervisor shall not be modified or altered except by way of a supplemental report.

## Subpoenas and Court Appearances

### 315.1 PURPOSE AND SCOPE

This policy establishes the guidelines for department members who must appear in court. It will allow the Ventura County District Attorney's Office to cover any related work absences and keep the Department informed about relevant legal matters.

### 315.2 POLICY

Ventura County District Attorney's Office members will respond appropriately to all subpoenas and any other court-ordered appearances.

### 315.3 SUBPOENAS

Only department members authorized to receive a subpoena on behalf of this department or any of its members may do so. This may be accomplished by personal service to the investigator or by delivery of two copies of the subpoena to the investigator's supervisor or other authorized departmental agent (Government Code § 68097.1; Penal Code § 1328(c)).

The party that issues a civil subpoena to an investigator to testify as a witness must tender the statutory fee of \$275 with the subpoena for each day that an appearance is required before service is accepted of the subpoena (Government Code § 68097.2).

An immediate supervisor or authorized individual may refuse to accept service for a criminal subpoena if (Penal Code § 1328(d)(e)):

- (a) He/she knows that he/she will be unable to deliver a copy of the subpoena to the named investigator within sufficient time for the named investigator to comply with the subpoena.
- (b) It is less than five working days prior to the date listed for an appearance and he/she is not reasonably certain that service can be completed.

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

#### 315.3.1 SPECIAL NOTIFICATION REQUIREMENTS

Any member who is subpoenaed to testify, agrees to testify or provides information on behalf of or at the request of any party other than the County Counsel or the prosecutor shall notify his/her immediate supervisor without delay regarding:

- (a) Any civil case where the County or one of its members, as a result of his/her official capacity, is a party.

## *Subpoenas and Court Appearances*

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- (b) Any civil case where any other city, county, state or federal unit of government or a member of any such unit of government, as a result of his/her official capacity, is a party.
- (c) Any criminal proceeding where the member is called to testify or provide information on behalf of the defense.
- (d) Any civil action stemming from the member's on-duty activity or because of his/her association with the Ventura County District Attorney's Office.
- (e) Any personnel or disciplinary matter when called to testify or to provide information by a government entity other than the Ventura County District Attorney's Office.

The supervisor will then notify the Chief Investigator and the appropriate prosecuting attorney as may be indicated by the case. The Chief Investigator should determine if additional legal support is necessary.

No member shall be retaliated against for testifying in any matter.

### **315.3.2 CIVIL SUBPOENA**

The Department 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.

The Department should seek reimbursement for the member's compensation through the civil attorney of record who subpoenaed the member.

### **315.3.3 OFF-DUTY RELATED SUBPOENAS**

Members receiving valid subpoenas for off-duty actions not related to their employment or appointment will not be compensated for their appearance. Arrangements for time off shall be coordinated through their immediate supervisors.

### **315.4 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.

### **315.5 STANDBY**

To facilitate standby agreements, members are required to provide and maintain current information on their addresses and contact telephone numbers with the Department.

If a member on standby changes his/her location during the day, the member shall notify the designated department 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.

### **315.6 COURTROOM PROTOCOL**

When appearing in court, members shall:

## *Subpoenas and Court Appearances*

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- (a) Be punctual and prepared to proceed immediately with the case for which they are scheduled to appear.
- (b) Dress in business attire as further described in this manual.
- (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.

### **315.6.1 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.

### **315.7 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.

## Outside Agency Assistance

### 316.1 PURPOSE AND SCOPE

The District Attorney's Office-Bureau of Investigation may be requested to assist other agencies. This Bureau may also request an outside agency to provide assistance. Our policy is to provide assistance whenever possible, consistent with the applicable laws of arrest and policies of this Bureau.

#### 316.1.1 ASSISTING OUTSIDE AGENCIES

Generally, calls for assistance from other agencies are routed to the Deputy Chief Investigator for approval.

#### 316.1.2 REQUESTING ASSISTANCE FROM OUTSIDE AGENCIES

If assistance is needed from another agency, the employee requesting assistance shall first notify a supervisor of his/her intentions.

This does not apply in emergency situations.

## Media Relations

### 317.1 PURPOSE AND SCOPE

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

### 317.2 RESPONSIBILITIES

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

#### 317.2.1 MEDIA REQUEST

Any media request for information or access to a law enforcement situation shall be referred to the Chief Assistant District Attorney, Chief Deputy District Attorney of the affected division, or if unavailable the Chief Investigator. Prior to releasing any information to the media, employees shall consider the following:

- (a) No information relating to a pending case or any other Office matter will be discussed with any member of the media by a member of the Bureau of Investigation except with prior approval of the Chief Assistant District Attorney or Chief Investigator.
- (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 Bureau make any comment(s) to the media regarding any law enforcement incident not involving the Bureau without prior approval of the Chief Investigator.

### 317.3 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



## Media Relations

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criminal investigation operations. All information released to the media should be coordinated through the office Chief Assistant District Attorney 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 field supervisor should consider requesting a Temporary Flight Restriction (TFR). All requests for a TFR should be routed through the Deputy Chief Investigator. 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 Bureau who is under investigation shall be subjected to media visits or interviews without the consent of the involved employee (Government Code § 3303(e)).
  - (d) Media interviews with individuals who are in custody should not be permitted without the approval of the Chief Investigator 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. Bureau 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 Assistant District Attorney or his/her designee.

## Major Incident Notification

### 318.1 PURPOSE AND SCOPE

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

### 318.2 MINIMUM CRITERIA FOR NOTIFICATION

Most situations where the media show a strong interest are also of interest to the District Attorney and Chief Investigator. The following list of incident types is provided as a guide for notification and is not intended to be all-inclusive:

- (a) Investigator involved shooting - on or off duty;
- (b) In-custody deaths;
- (c) Significant injury or death to employee - on or off duty;
- (d) Arrest of any office employee; and
- (e) Any event that would attract media attention related to the District Attorney's Office.

### 318.3 MANAGEMENT NOTIFICATION

In the event an incident occurs as described in this policy manual, the Chief Investigator shall be notified via chain of command as soon as practically possible. The Chief Investigator shall be responsible for notifying the Chief Assistant District Attorney and the District Attorney.

## Limited English Proficiency Services

### 319.1 PURPOSE AND SCOPE

This policy provides guidance to members when communicating with individuals with limited English proficiency (LEP) (42 USC § 2000d).

#### 319.1.1 DEFINITIONS

Definitions related to this policy include:

**Authorized interpreter** - A person who has been screened and authorized by the Bureau to act as an interpreter and/or translator for others.

**Interpret or interpretation** - The act of listening to a communication in one language (source language) and orally converting it to another language (target language), while retaining the same meaning.

**Limited English proficient (LEP)** - Any individual whose primary language is not English and who has a limited ability to read, write, speak or understand English. These individuals may be competent in certain types of communication (e.g., speaking or understanding) but still be LEP for other purposes (e.g., reading or writing). Similarly, LEP designations are context-specific; an individual may possess sufficient English language skills to function in one setting but these skills may be insufficient in other situations.

**Qualified bilingual member** - A member of the Ventura County District Attorney's Office, designated by the Bureau, who has passed a bilingual proficiency exam demonstrating their ability to communicate fluently, directly and accurately in both English and another language. Bilingual members may be fluent enough to communicate in a non-English language but may not be sufficiently fluent to interpret or translate from one language into another.

**Translate or translation** - The replacement of written text from one language (source language) into an equivalent written text (target language).

### 319.2 POLICY

It is the policy of the Bureau of Investigation to reasonably ensure that LEP individuals have meaningful access to law enforcement services, programs and activities, while not imposing undue burdens on its members.

The Bureau will not discriminate against or deny any individual access to services, rights or programs based upon national origin or any other protected interest or right.

### 319.3 FOUR-FACTOR ANALYSIS

Since there are many different languages that members could encounter, the Department will utilize the four-factor analysis outlined in the U.S. Department of Justice (DOJ) Guidance to Federal Financial Assistance Recipients, available at the DOJ website, to determine which measures will provide meaningful access to its services and programs. It is recognized that law

## *Limited English Proficiency Services*

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enforcement contacts and circumstances will vary considerably. This analysis, therefore, must remain flexible and will require an ongoing balance of four factors, which are:

- (a) The number or proportion of LEP individuals eligible to be served or likely to be encountered by department members, or who may benefit from programs or services within the jurisdiction of the Department or a particular geographic area.
- (b) The frequency with which LEP individuals are likely to come in contact with department members, programs or services.
- (c) The nature and importance of the contact, program, information or service provided.
- (d) The cost of providing LEP assistance and the resources available.

### **319.4 TYPES OF LEP ASSISTANCE AVAILABLE**

Ventura County District Attorney's Office members should never refuse service to an LEP individual who is requesting assistance, nor should they require an LEP individual to furnish an interpreter as a condition for receiving assistance. The Department will make every reasonable effort to provide meaningful and timely assistance to LEP individuals through a variety of services.

The Department will utilize all reasonably available tools, such as language identification cards, when attempting to determine an LEP individual's primary language.

LEP individuals may choose to accept department-provided LEP services at no cost or they may choose to provide their own.

Department-provided LEP services may include, but are not limited to, the assistance methods described in this policy.

### **319.5 WRITTEN FORMS AND GUIDELINES**

Vital documents or those that are frequently used should be translated into languages most likely to be encountered.

### **319.6 AUTHORIZED INTERPRETERS**

Any person designated by the Bureau to act as an authorized interpreter and/or translator must have demonstrated competence in both English and the involved non-English language by passing a County bilingual Proficiency Exam, must have an understanding of the functions of an interpreter that allows for correct and effective translation, and should not be a person with an interest in the department case or investigation involving the LEP individual. A person providing interpretation or translation services may be required to establish the accuracy and trustworthiness of the interpretation or translation in a court proceeding.

Authorized interpreters must pass a bilingual exam established by the County of Ventura.

## *Limited English Proficiency Services*

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### 319.6.1 SOURCES OF AUTHORIZED INTERPRETERS

The Department may contract with authorized interpreters who are available over the telephone. Members may use these services with the approval of a supervisor and in compliance with established procedures.

Other sources may include:

- Qualified bilingual members of this department or personnel from other County departments.
- Individuals employed exclusively to perform interpretation services.
- Contracted in-person interpreters, such as state or federal court interpreters, among others.
- Interpreters from other agencies who have been qualified as interpreters by this department, and with whom the Department has a resource-sharing or other arrangement that they will interpret according to department guidelines.

### 319.6.2 COMMUNITY VOLUNTEERS AND OTHER SOURCES OF LANGUAGE ASSISTANCE

Language assistance may be available from community volunteers who have demonstrated competence in either monolingual (direct) communication and/or in interpretation or translation (as noted in above), and have been approved by the Department to communicate with LEP individuals.

Where qualified bilingual members or other authorized interpreters are unavailable to assist, approved community volunteers who have demonstrated competence may be called upon when appropriate. However, department members must carefully consider the nature of the contact and the relationship between the LEP individual and the volunteer to ensure that the volunteer can provide neutral and unbiased assistance.

While family or friends of an LEP individual may offer to assist with communication or interpretation, members should carefully consider the circumstances before relying on such individuals. For example, children should not be relied upon except in exigent or very informal and non-confrontational situations.

### **319.7 CONTACT AND REPORTING**

While all law enforcement contacts, services and individual rights are important, this department will utilize the four-factor analysis to prioritize service to LEP individuals so that such services may be targeted where they are most needed, according to the nature and importance of the particular law enforcement activity involved.

Whenever any member of this department is required to complete a report or other documentation, and interpretation services are provided to any involved LEP individual, such services should be noted in the related report. Members should document the type of interpretation services utilized and whether the individual elected to use services provided by the Department or some other identified source.

## Limited English Proficiency Services

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### **319.8 RECEIVING AND RESPONDING TO REQUESTS FOR ASSISTANCE**

The Ventura County District Attorney's Office will take reasonable steps and will work with the Department of Human Resources to develop in-house language capacity by hiring or appointing qualified members proficient in languages representative of the community being served.

### **319.9 FIELD ENFORCEMENT**

Field enforcement will generally include such contacts as traffic stops, pedestrian stops, serving warrants and restraining orders, crowd/traffic control and other routine field contacts that may involve LEP individuals. The scope and nature of these activities and contacts will inevitably vary. Members and/or supervisors must assess each situation to determine the need and availability of language assistance to all involved LEP individuals and utilize the methods outlined in this policy to provide such assistance.

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 request consent to search if the investigator is unable to effectively communicate with an LEP individual.

If available, investigators should obtain the assistance of a qualified bilingual member or an authorized interpreter before placing an LEP individual under arrest.

### **319.10 INVESTIGATIVE FIELD INTERVIEWS**

In any situation where an interview may reveal information that could be used as the basis for arrest or prosecution of an LEP individual and a qualified bilingual member is unavailable or lacks the skills to directly communicate with the LEP individual, an authorized interpreter should be used. This includes interviews conducted during an investigation with victims, witnesses and suspects. In such situations, audio recordings of the interviews should be made when reasonably possible. Identification and contact information for the interpreter (e.g., name, address) should be documented so that the person can be subpoenaed for trial if necessary.

If an authorized interpreter is needed, investigators should consider calling for an authorized interpreter in the following order:

- An authorized department member or allied agency interpreter
- An authorized telephone interpreter
- Any other authorized interpreter

Any *Miranda* warnings shall be provided to suspects in their primary language by an authorized interpreter or, if the suspect is literate, by providing a translated *Miranda* warning card.

The use of an LEP individual's bilingual friends, family members, children, neighbors or bystanders may be used only when a qualified bilingual member or authorized interpreter is unavailable and there is an immediate need to interview an LEP individual.

## *Limited English Proficiency Services*

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### **319.11 CUSTODIAL INTERROGATIONS**

Miscommunication during custodial interrogations may have a substantial impact on the evidence presented in a criminal prosecution. Only qualified bilingual members or, if none is available or appropriate, authorized interpreters shall be used during custodial interrogations. *Miranda* warnings shall be provided to suspects in their primary language by the qualified bilingual member or an authorized interpreter.

In order to ensure that translations during custodial interrogations are accurately documented and are admissible as evidence, interrogations should be recorded whenever reasonably possible.

### **319.12 BOOKINGS**

When gathering information during the booking process, members should remain alert to the impediments that language barriers can create. 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. Members should seek the assistance of a qualified bilingual member whenever there is concern that accurate information cannot be obtained or that booking instructions may not be properly understood by an LEP individual.

### **319.13 COMPLAINTS**

The Department shall ensure that LEP individuals who wish to file a complaint regarding members of this department are able to do so. The Department may provide an authorized interpreter or translated forms, as appropriate. Complaints will be referred to the Chief Investigator.

Investigations into such complaints shall be handled in accordance with the Personnel Complaints Policy. Authorized interpreters used for any interview with an LEP individual during an investigation should not be members of this department.

Any notice required to be sent to an LEP individual as a complaining party pursuant to the Personnel Complaints Policy should be translated or otherwise communicated in a language-accessible manner.

### **319.14 TRAINING**

In an effort to ensure that all employees in public contact positions (or having contact with those in custody) are properly trained, this Bureau will provide periodic training in the following areas:

- a) Employee awareness of LEP policies, procedures, forms and available resources.
- b) Employees having contact with the public (or those in custody) are trained to work effectively with in-person and telephonic interpreters.
- c) Training for management staff, even if they may not interact regularly with LEP individuals, in order that they remain fully aware of, and understand this policy, so they can reinforce its importance and ensure its implementation by staff.

## Communications with Persons with Disabilities

### 320.1 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.

#### 320.1.1 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.

### 320.2 POLICY

It is the policy of the Ventura 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 Department will not discriminate against or deny any individual access to services, rights or programs based upon disabilities.

### 320.3 AMERICANS WITH DISABILITIES (ADA) COORDINATOR

The Chief Investigator shall delegate certain responsibilities to an ADA Coordinator (28 CFR 35.107). The ADA Coordinator shall be appointed by, and directly responsible, to the Deputy Chief Investigator or the authorized designee.

The responsibilities of the ADA Coordinator shall include, but not be limited to:

- (a) Working with the County ADA coordinator regarding the Ventura 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.



## *Communications with Persons with Disabilities*

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- (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 the Deputy Chief Investigator. 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.

### **320.4 FACTORS TO CONSIDER**

Because the nature of any law enforcement contact may vary substantially from one situation to the next, members of this department 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.

### **320.5 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.

## *Communications with Persons with Disabilities*

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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 Ventura 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.

### **320.6 TYPES OF ASSISTANCE AVAILABLE**

Ventura County District Attorney's Office members shall never refuse to assist an individual with disabilities who is requesting assistance. The Department 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 Department 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 department-provided auxiliary aids or services or they may choose to provide their own.

Department-provided auxiliary aids or services may include, but are not limited to, the assistance methods described in this policy.

## *Communications with Persons with Disabilities*

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### **320.7 AUDIO RECORDINGS AND ENLARGED PRINT**

The Department 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.

### **320.8 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 department-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).

### **320.9 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 Department 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).

Note that relay services translate verbatim, so the conversation must be conducted as if speaking directly to the caller.

## *Communications with Persons with Disabilities*

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### **320.10 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 Department 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, department 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.

### **320.11 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.

### **320.12 REPORTING**

Whenever any member of this department 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 Department 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.

### **320.13 FIELD ENFORCEMENT**

Field enforcement will generally include such contacts as traffic stops, pedestrian stops, serving warrants and restraining orders, crowd/traffic control and other routine field contacts that may involve individuals with disabilities. The scope and nature of these activities and contacts will inevitably vary.

## *Communications with Persons with Disabilities*

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The Department recognizes that it would be virtually impossible to provide immediate access to complete communication services to every member of this department. Members and/or supervisors 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 investigator is unable to effectively communicate with an individual who is deaf or hard of hearing and requires communications assistance.

If available, investigators 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.

### **320.13.1 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 speechread 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.

### **320.14 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 department 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 who are deaf or hard of hearing by a qualified interpreter or by providing a written *Miranda* warning card.

## *Communications with Persons with Disabilities*

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In order to ensure that communications during custodial investigations are accurately documented and are admissible as evidence, interrogations should be recorded whenever reasonably possible.

### **320.15 ARREST AND BOOKINGS**

If an individual with speech or hearing disabilities is arrested, the arresting investigator shall use department-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 investigator 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.

### **320.16 COMPLAINTS**

The Department shall ensure that individuals with disabilities who wish to file a complaint regarding members of this department are able to do so. The Department may provide a qualified interpreter or forms in enlarged print, as appropriate. Complaints will be referred to the department 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 Department.

### **320.17 TRAINING**

To ensure that all members who may have contact with individuals who are disabled are properly trained, the Department will provide periodic training that should include:

- (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 Training Manager shall be responsible for ensuring new members receive training related to interacting with individuals who have disabilities, including individuals who are deaf, hard of

# Ventura County District Attorney's Office

Ventura County DA CA Policy Manual

## *Communications with Persons with Disabilities*

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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 Training Manager 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.

## Mandatory Employer Notification

### 321.1 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 by an investigator under certain circumstances.

### 321.2 MANDATORY SCHOOL EMPLOYEE ARREST REPORTING

In the event a school employee is arrested for any offense enumerated below, the Chief Investigator or his/her designee is required to report the arrest as follows.

#### 321.2.1 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 § 11590 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 Investigator 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).

#### 321.2.2 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 § 11590 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 Investigator 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).

#### 321.2.3 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 § 11590 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 Investigator or his/her designee is mandated to immediately notify by telephone the private school authority employing the teacher 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).



## *Mandatory Employer Notification*

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### **321.2.4 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 § 11590 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 Investigator 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).

### **321.3 POLICY**

The Ventura County District Attorney's Office will meet the reporting requirements of California law to minimize the risks to children and others.

### **321.4 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).

## Off-Duty Law Enforcement Actions

### 322.1 PURPOSE AND SCOPE

The decision to become involved in a law enforcement action when off-duty can place an investigator as well as others at great risk and must be done with careful consideration. This policy is intended to provide guidelines for investigators of the Ventura County District Attorney's Office with respect to taking law enforcement action while off-duty.

### 322.2 POLICY

Initiating law enforcement action while off-duty is generally discouraged. Investigators 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.

Investigators 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, investigators should first consider reporting and monitoring the activity and only take direct action as a last resort.

### 322.3 FIREARMS

Investigators of this Bureau 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 Bureau Firearms and Qualification Policy. When carrying firearms while off-duty investigators shall also carry their department-issued badge and identification.

Investigators 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 investigator 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 investigator's senses or judgment.

### 322.4 DECISION TO INTERVENE

There is no legal requirement for off-duty investigators to take law enforcement action. However, should investigators 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.

## *Off-Duty Law Enforcement Actions*

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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 investigator were to intervene.
- (f) Unfamiliarity with the surroundings.
- (g) The potential for the off-duty investigator to be misidentified by other peace officers or members of the public.

Investigators should consider waiting for on-duty uniformed investigators to arrive, and gather as much accurate intelligence as possible instead of immediately intervening.

### **322.4.1 INTERVENTION PROCEDURE**

If involvement is reasonably necessary the investigator 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 investigator is on-scene and should be provided a description of the officer if possible.

Whenever practicable, the investigator should loudly and repeatedly identify him/herself as an Ventura County District Attorney's Office investigator until acknowledged. Official identification should also be displayed.

### **322.4.2 INCIDENTS OF PERSONAL INTEREST**

Investigators should refrain from handling incidents of personal interest, (e.g., family or neighbor disputes) and should remain neutral. In such circumstances investigators should call the responsible agency to handle the matter.

### **322.4.3 NON-SWORN 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.

## **322.5 REPORTING**

Any off-duty investigator who engages in any law enforcement activity, regardless of jurisdiction, shall notify the Deputy Chief Investigator through the chain-of-command as soon as practicable. The Deputy Chief Investigator shall determine whether a memorandum should be filed by the employee.

Investigators should cooperate fully with the agency having jurisdiction in providing statements or reports as requested or as appropriate.

## Adult Abuse

### 323.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidelines for the investigation and reporting of suspected abuse of certain adults who may be more vulnerable than others. This policy also addresses mandatory notification for Ventura County District Attorney's Office members as required by law.

#### 323.1.1 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).

### 323.2 POLICY

The Ventura County District Attorney's Office will ensure all reported incidents of alleged adult abuse are investigated. These reported incidents may be referred to the appropriate law enforcement agency where the alleged incident occurred, or it may be determined the investigation will be conducted by this agency.

### 323.3 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 investigator 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.

## Adult Abuse

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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.

### **323.4 QUALIFIED INVESTIGATORS**

Qualified investigators should be available to investigate cases of adult abuse. These investigators 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).

## *Adult Abuse*

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### **323.5 MANDATORY NOTIFICATION**

Members of the Ventura 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 [Department/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.

## Adult Abuse

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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 [Department/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 [Department/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 Bureau of Investigation 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).

### 323.5.1 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.

## *Adult Abuse*

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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.

### **323.6 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 investigator 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, members of this [department/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 investigator 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 investigator shall ensure that the adult is delivered to APS.

Whenever practicable, the investigator should inform a supervisor of the circumstances prior to taking an adult abuse victim into protective custody. If prior notification is not practicable, investigators 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.

#### **323.6.1 EMERGENCY PROTECTIVE ORDERS**

In any situation which an investigator 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 investigator may seek an emergency protective order against the person alleged to have committed or threatened such abuse (Family Code § 6250(d)).

### **323.7 INTERVIEWS**

#### **323.7.1 PRELIMINARY INTERVIEWS**

Absent extenuating circumstances or impracticality, investigators should audio record the preliminary interview with a suspected adult abuse victim. Investigators should avoid multiple interviews with the victim and should attempt to gather only the information necessary to begin an



## *Adult Abuse*

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investigation. When practicable, investigating investigators should defer interviews until a person who is specially trained in such interviews is available.

### **323.7.2 DETAINING VICTIMS FOR INTERVIEWS**

An investigator 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.

### **323.8 MEDICAL EXAMINATIONS**

When an adult abuse investigation requires a medical examination, the investigating investigator should obtain consent for such examination from the victim, guardian, agency or entity having legal custody of the adult. The investigator 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, investigators should notify a supervisor before proceeding. If exigent circumstances do not exist or if state law does not provide for investigators to take the adult for a medical examination, the supervisor should consider other government agencies or services that may obtain a court order for such an examination.

### **323.9 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.

#### **323.9.1 SUPERVISOR RESPONSIBILITIES**

The Bureau of Investigation 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 abuse victims endangered by exposure to methamphetamine labs or the manufacture and trafficking of other drugs.
- (b) Activate any available interagency response when an investigator notifies the Bureau of Investigation supervisor that he/she has responded to a drug lab or other narcotics

## *Adult Abuse*

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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 investigators respond to drug labs or other narcotics crime scenes. The checklist will help investigators document the environmental, medical, social and other conditions that may affect the adult.

### **323.9.2 INVESTIGATOR RESPONSIBILITIES**

Investigators 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 Bureau of Investigation supervisor so an interagency response can begin.

### **323.9.3 SUPERVISOR RESPONSIBILITIES**

The Bureau of Investigation 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 abuse victims endangered by exposure to methamphetamine labs or the manufacture and trafficking of other drugs.
- (b) Activate any available interagency response when an investigator notifies the Bureau of Investigation 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 investigators respond to drug labs or other narcotics crime scenes. The checklist will help investigators document the environmental, medical, social and other conditions that may affect the adult.

### **323.10 JURISDICTION**

The Ventura 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 [department/office] will retain responsibility for the criminal investigations (Penal Code § 368.5).

### **323.11 RELEVANT STATUTES**

#### **Penal Code § 368 (c)**

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

## *Adult Abuse*

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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.

(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,

*Adult Abuse*

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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:

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

*Adult Abuse*

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(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.

(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.

*Adult Abuse*

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

## Bureau Computer Use

### 326.1 PURPOSE AND SCOPE

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

The County of Ventura has an established policy concerning computer and electronic technology usage that each employee will be familiar with and they will also understand the policy in this manual.

#### 326.1.1 PRIVACY POLICY

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

### 326.2 DEFINITIONS

The following definitions relate to terms used within this policy:

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

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

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

**Temporary File or Permanent File or File** - Shall mean any electronic stored information (ESI) or data residing on or located within the system.

### 326.3 SYSTEM INSPECTION OR REVIEW

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

When requested by a the Chief Investigator, or during the course of regular duties requiring such information, a member(s) of the Office's information systems staff may extract, download,

## *Bureau Computer Use*

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or otherwise obtain any and all electronically stored information (ESI) residing or located in or on the system.

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

### **326.4 AGENCY PROPERTY**

All information, data, documents, communications, and other entries initiated on, sent to or from, or accessed on any County of Ventura computer, or through the County of Ventura computer system on any other computer, whether downloaded or transferred from the original County of Ventura's computer, shall remain the exclusive property of the County of Ventura. No electronically stored information (ESI) belonging to the County of Ventura, including photographs, may be accessed, copied, or otherwise taken away or removed from the County computer system upon the separation of a Bureau member. County property as described above, and any ESI, including photographs, in the possession of a Bureau member, or obtained while the member was discharging his/her duties, must be surrendered to the County upon the separation of the Bureau Member.

### **326.5 UNAUTHORIZED USE OF SOFTWARE**

Employees shall not copy or duplicate any copyrighted or licensed software. To reduce the risk of computer virus or malware infection, non-IT employees shall not install any unlicensed or unauthorized software on any Office computer. Employees shall not install personal copies of any software onto any County computer. Any files or software that an employee finds necessary to upload onto a Bureau computer or network shall be done so only with the approval of the Office IT specialist and only after being properly scanned for malicious attachments.

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

### **326.6 PROHIBITED AND INAPPROPRIATE USE**

All members are responsible for understanding and adhering to the policies described in the following policies. Refer to these specific policies for further details:

- County of Ventura Internet Access & Use Policy;
- County of Ventura Employee Technology Use Policy; and
- County of Ventura Electronic Mail Policy.



## *Bureau Computer Use*

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Certain exceptions may be permitted with the approval the Deputy Chief Investigator as a function of an assignment.

### 326.6.1 SMART PHONES

In order to increase efficiency within the Bureau of Investigation, the office equips investigators with "smart phones" such as the Apple® iPhone that is currently utilized by Bureau staff. As such, these smart phones are to be used for work-related purposes only. However, pursuant to applicable Ventura County policies, "limited personal use" of the smart phone is permissible, as described in the below listed policies. Since the smart phone is considered a computer and a telephone, it is governed by the following policies:

Electronic Mail Use Policy (located on the Intranet);

Internet Access and Use Policy (located on the Intranet);

Technology Use Policy (located on the intranet);

Cellular Device Policy (located on the intranet);

Mobile Device Management Policy (located at [http://vcweb/policies/policystandard\\_pdf/84.pdf](http://vcweb/policies/policystandard_pdf/84.pdf)); and

Lexipol Policy, titled "Personal Communication Devices," regarding cellular phone usage continues to apply.

Furthermore, the following directives apply:

Smart phones are permitted to be connected by individually-owned personal computers to application store personal accounts, such as the "iTunes® App Store";

Users may download applications solely for business use;

The County will not reimburse users for applications purchased by the user;

the County is not responsible for technical issues resulting from the downloading of applications nor the support of the application itself;

No operating or other system upgrades to smart phones shall be installed without a directive from Bureau management;

No games shall be downloaded onto smart phones;

No music or videos shall be downloaded onto smart phones, except as they relate to an open investigation;

No other modifications or firmware upgrades shall be made to smart phones without prior written approval from the Chief Investigator;

Office-issued protective cases shall be used at all times; and

Application downloads will be monitored by a computer software program to ensure users are in compliance with this policy.

## *Bureau Computer Use*

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

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

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

## Gun Violence Restraining Orders

### 327.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidelines for petitioning and serving gun violence restraining orders and accounting for the firearms obtained pursuant to those orders.

#### 327.1.1 DEFINITIONS

Definitions related to this policy include:

**Gun violence restraining order** - Civil restraining order prohibiting a named person from controlling, owning, purchasing, possessing, receiving or otherwise having custody of any firearms or ammunition (Penal Code § 18100).

### 327.2 POLICY

It is the policy of the Ventura County District Attorney's Office to petition and serve gun violence restraining orders in compliance with state law and to properly account for firearms and ammunition obtained by the Department pursuant to such orders.

### 327.3 GUN VIOLENCE RESTRAINING ORDERS

An investigator who reasonably believes a person is a present danger to him/herself or another person by controlling, owning, purchasing, possessing, receiving or otherwise having custody of a firearm may request permission from his/her supervisor to petition the court for a gun violence restraining order.

Investigators petitioning the court should use the forms established by the Judicial Council (Penal Code § 18105). The petition should describe the number, types and locations of any firearms and ammunition that the investigator believes to be possessed or controlled by the person (Penal Code § 18107). The petition should also describe why less-restrictive alternatives are ineffective or inadequate for the circumstances (Penal Code § 18125; Penal Code § 18150; Penal Code § 18175).

If it is not practical under the circumstances to submit a written petition, an investigator may orally request an order using the procedures for obtaining an oral search warrant and preparing the order using the appropriate Judicial Council form (Penal Code § 18140; Penal Code § 18145).

### 327.4 SERVICE OF GUN VIOLENCE RESTRAINING ORDERS

An investigator serving any gun violence restraining order shall:

- (a) Request that any firearms or ammunition be immediately surrendered and issue a receipt for the surrendered items (Penal Code § 18120).
- (b) Take into temporary custody any firearm or other deadly weapon discovered in plain view or pursuant to consent or other lawful search (Penal Code § 18250).
- (c) Inform the restrained person of any scheduled hearing regarding the order (Penal Code § 18160).

## *Gun Violence Restraining Orders*

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- (d) Transmit the original proof of service form to the issuing court as soon as practicable but within one business day (Penal Code § 18115).
- (e) As soon as practicable, but by the end of his/her shift, submit proof of service to the Staff Services Manager for prompt entry into the California Restraining and Protective Order System (Penal Code § 18115).

The investigator should also inform the restrained person that he/she is required, within 24 hours, to surrender to a law enforcement agency any other firearms and ammunition he/she owns or that are in his/her custody or control or sell them to a firearms dealer. This notification should be documented.

All firearms and ammunition collected shall be handled and booked in accordance with the Property and Evidence Policy.

### **327.4.1 SERVICE OF ORAL GUN VIOLENCE RESTRAINING ORDERS**

If a gun violence restraining order is obtained orally, the investigator shall (Penal Code § 18140):

- (a) Serve the order on the restrained person in the manner outlined above, if the restrained person can reasonably be located.
- (b) File a copy of the order with the court as soon as practicable after issuance.
- (c) Ensure the order is provided to the Administrative Assistant for entry into the computer database system for protective and restraining orders maintained by the Department of Justice.

### **327.5 SEARCH WARRANTS**

If a person who has been served with a gun violence restraining order refuses to surrender any firearm or ammunition, the investigator should consider whether to seek a search warrant. If a search warrant is to be obtained, the preparation and service of the search warrant shall be done in accordance with the Warrant Service Policy. Additionally, (Penal Code § 1542.5):

- (a) The investigator serving the warrant shall take custody of any firearm or ammunition that is controlled, possessed or owned by the person who is the subject of the gun violence restraining order, including any discovered pursuant to the warrant, a consensual search or other lawful search.
- (b) If the location being searched is jointly occupied and the firearm or ammunition is owned by a person other than the restrained person, the firearm or ammunition should not be seized if the following conditions are met:
  - 1. The firearm or ammunition can be stored in a manner that does not allow the restrained person to have control or access.
  - 2. There is no evidence that the owner unlawfully possesses the firearm or ammunition.
- (c) If a locked gun safe belonging to someone other than the subject of a gun violence restraining order is discovered, the investigator shall not search the contents of the safe unless the owner consents or there is a valid search warrant for the safe. Any search of the safe must be done in the owner's presence.

*Gun Violence Restraining Orders*

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**327.6 STAFF SERVICES MANAGER RESPONSIBILITIES**

The Staff Services Manager is responsible for ensuring:

- (a) Proof of service of any gun violence restraining order served by an investigator or received from the clerk of the court is entered in the computer database system for protective and restraining orders maintained by the Department of Justice within one business day of service if served by an investigator, or within one business day of receipt of proof of service if served by a person other than a law enforcement officer (Penal Code § 18115).
- (b) Oral orders are entered into the California Restraining and Protective Order System (Penal Code § 18140).
- (c) Copies of receipts of surrendered firearms or ammunition issued by other agencies for gun violence restraining orders issued by the Department are properly maintained (Penal Code § 18120).

**327.7 COURT-ORDERED FIREARMS AND AMMUNITION SURRENDERS**

Authorized members shall accept firearms and ammunition from any individual who is the subject of a gun violence restraining order. The member receiving any firearm or ammunition shall:

- (a) Record the individual's name, address and telephone number.
- (b) Record the serial number of the firearm.
- (c) Prepare an incident report and property report.
- (d) Provide a property receipt to the individual who surrendered the firearms and ammunition.
- (e) Package and submit the firearms and ammunition in accordance with the Property and Evidence Policy.

**327.8 RELEASE OF FIREARMS AND AMMUNITION**

Firearms and ammunition that were taken into temporary custody or surrendered pursuant to a gun violence restraining order shall be returned to the restrained person upon the expiration of the order and in accordance with Penal Code § 18120 and the Property and Evidence Policy.

# Native American Graves Protection and Repatriation

## 328.1 PURPOSE AND SCOPE

This policy is intended ensure the protection and security of ancient or historic grave sites, including notification of personnel responsible for cultural items, in compliance with the Native American Graves Protection and Repatriation Act (NAGPRA) (25 USC § 3001 et seq.).

### 328.1.1 DEFINITIONS

Definitions related to this policy include (43 CFR 10.2):

**Funerary objects and associated funerary objects** - Objects that, as part of the death rite or ceremony of a culture, are reasonably believed to have been placed intentionally at the time of death or later with or near individual human remains, or that were made exclusively for burial purposes or to contain human remains.

**Native American human remains** - The physical remains of the body of a person of Native American ancestry.

**Objects of cultural patrimony** - Objects having ongoing historical, traditional or cultural importance that is central to the Native American group or culture itself and therefore cannot be appropriated or conveyed by any individual, including members of the Native American group or Native Hawaiian organization. Such objects must have been considered inalienable by the Native American group at the time the object was separated from the group.

**Sacred objects** - Specific ceremonial objects needed by traditional Native American religious leaders for the practice of traditional Native American religions.

## 328.2 POLICY

It is the policy of the Ventura County District Attorney's Office that the protection of Native American human remains, funerary objects, associated funerary objects, sacred objects or objects of cultural patrimony is the responsibility of all members. Such protection includes minimizing destruction, contamination, inadvertent disruption or complicated custody transfer processes.

## 328.3 COMPLIANCE WITH THE NATIVE AMERICAN GRAVES PROTECTION AND REPATRIATION ACT

Upon discovery or arrival upon a scene where it reasonably appears that a Native American grave, human remains, funerary objects, associated funerary objects, sacred objects or objects of cultural patrimony are exposed or otherwise unsecured, members shall secure the site in the same manner as a crime scene. All activity at the scene other than scene preservation activity must cease (43 CFR 10.4).

No photography or video recording may be permitted by the media or any group or individual who may wish to exhibit the remains.

## *Native American Graves Protection and Repatriation*

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Without delay, the appropriate agency or group shall be notified to respond and take control of the scene. These include the following (43 CFR 10.4):

- Federal land - Appropriate agency at the U.S. Department of the Interior or U.S. Department of Agriculture
- State land/Private land - [Medical Examiner/JOP], when appropriate (Health and Safety Code § 7050.5)
- Tribal land - Responsible Indian tribal official

### **328.4 EVIDENCE AND PROPERTY**

If the location has been investigated as a possible homicide scene prior to identification as a NAGPRA site, investigators shall work with other appropriate agencies and individuals to ensure the proper transfer and repatriation of any material collected. Members shall ensure that any remains or artifacts located at the site are expediently processed (43 CFR 10.6).

## Handcuffing and Restraints

### 329.1 PURPOSE AND SCOPE

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

### 329.2 POLICY

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

### 329.3 USE OF RESTRAINTS

Only members who have successfully completed Ventura 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, investigators 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.

#### 329.3.1 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 investigators and others. When deciding whether to remove restraints from a detainee, investigators should continuously weigh the safety interests at hand against the continuing intrusion upon the detainee.

#### 329.3.2 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 investigator has a reasonable suspicion that the person may resist, attempt escape, injure self or others, or damage property.



## *Handcuffing and Restraints*

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

### **329.3.3 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 investigator has a reasonable suspicion that the juvenile may resist, attempt escape, injure him/herself, injure the investigator, or damage property.

### **329.3.4 NOTIFICATIONS**

Whenever an investigator transports a person with the use of restraints other than handcuffs, the investigator shall inform the jail staff upon arrival at the jail that restraints were used. This notification should include information regarding any other circumstances the investigator 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.

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

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

Although recommended for most arrest situations, handcuffing is discretionary and not an absolute requirement of the [Department/Office]. Investigators should consider handcuffing any person they reasonably believe warrants that degree of restraint. However, investigators 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, investigators 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.

### **329.5 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.

Spit hoods may be placed upon persons in custody when the investigator 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.

## *Handcuffing and Restraints*

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Investigators 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. Investigators should provide assistance during the movement of a restrained person due to the potential for impairing or distorting that person's vision. Investigators 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.

### **329.6 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 [department/office]-authorized devices may be used. Any person in auxiliary restraints should be monitored as reasonably appears necessary.

### **329.7 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 [Department/Office] shall be used.

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

- (a) Whether the investigator 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 patrol vehicle, running away from the arresting investigator while handcuffed, kicking at objects or investigators).
- (c) Whether it is reasonably necessary to avoid damage to property (e.g., kicking at windows of the patrol vehicle).

#### **329.7.1 GUIDELINES FOR USE OF LEG RESTRAINTS**

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

- (a) If practicable, investigators 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.

## *Handcuffing and Restraints*

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- (b) Once applied, absent a medical or other emergency, restraints should remain in place until the investigator 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 an investigator while in the leg restraint. The investigator should ensure that the person does not roll onto and remain on his/her stomach.
- (e) The investigator 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 an investigator when requested by medical personnel. The transporting investigator should describe to medical personnel any unusual behaviors or other circumstances the investigator reasonably believes would be potential safety or medical risks to the person (e.g., prolonged struggle, extreme agitation, impaired respiration).

### **329.8 REQUIRED DOCUMENTATION**

If a person is restrained and released without an arrest, the investigator 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.

Investigators 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.

### **329.9 TRAINING**

Subject to available resources, the Training Manager should ensure that investigators 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 [Department/Office].
- (b) Response to complaints of pain by restrained persons.

## *Handcuffing and Restraints*

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- (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.

## **Chapter 4 - Patrol Operations**

## Cite and Release Policy

### **400.1 PURPOSE AND SCOPE**

This policy provides guidance on when to release adults who are arrested for a criminal misdemeanor offense on a written notice to appear (citation) and when to hold for court or bail.

### **400.2 POLICY**

It is the policy of the Ventura County District Attorney's Office to release all persons arrested on misdemeanor or other qualifying charges on a citation with certain exceptions (Penal Code § 853.6).

If there is a reason for non-release, the [Department/Office]'s mission to protect the community will be the primary consideration when determining whether to release any individual in lieu of holding for court or bail.

### **400.3 OFFICE PROCEDURE**

The following procedure will be followed to comply with this law.

#### **400.3.1 FIELD CITATIONS**

In most cases an adult arrested for a misdemeanor offense may be released in the field on a citation in lieu of physical arrest when booking and fingerprinting is not practicable or immediately required provided the individual can be satisfactorily identified, there is no outstanding arrest warrant for the individual and none of the below described disqualifying circumstances are present (Penal Code § 853.6; Penal Code § 1270.1). In such cases the arresting investigator should check the booking required box on the citation form to indicate that the person will be photographed and fingerprinted at a later time when ordered by the court.

When a booking photo or fingerprints are needed for the furtherance of any investigation, the person should be released on citation after booking instead of on a field citation.

### **400.4 REQUESTING CASE NUMBERS**

Many cases involving a criminal citation release can be handled without requesting a case number. Traffic situations and local code violations can be documented on the reverse side of the records copy of the citation. Most Penal Code sections will require a case number to document the incident properly in a report. This section does not preclude an investigator from requesting a case number if he/she feels the situation should be documented more thoroughly in a case report.

# Foreign Diplomatic and Consular Representatives

## 401.1 PURPOSE AND SCOPE

This policy provides guidelines to ensure that members of the Ventura County District Attorney's Office extend appropriate privileges and immunities to foreign diplomatic and consular representatives in accordance with international law.

## 401.2 POLICY

The Ventura 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.

All foreign diplomatic and consular representatives shall be treated with respect and courtesy, regardless of any privileges or immunities afforded them.

## 401.3 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.

## *Foreign Diplomatic and Consular Representatives*

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### **401.4 ENFORCEMENT**

If the DOS is not immediately available for consultation regarding law enforcement action, members shall be aware of the following:

- (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 an investigator arrests and incarcerates, or detains for investigation for over two hours, a person with diplomatic and consular privileges and immunities, the investigator 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 investigator shall begin the notification process.



## *Foreign Diplomatic and Consular Representatives*

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### **401.5 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.

## Rapid Response and Deployment

### 402.1 PURPOSE AND SCOPE

Violence that is committed in schools, workplaces and other locations by individuals or a group of individuals who are determined to target and kill persons and to create mass casualties presents a difficult situation for law enforcement. The purpose of this policy is to identify guidelines and factors that will assist responding investigators in situations that call for rapid response and deployment.

### 402.2 POLICY

The Ventura County District Attorney's Office will endeavor to plan for rapid response to crisis situations, and to coordinate response planning with other emergency services as well as with those that are responsible for operating sites that may be the target of a critical incident.

Nothing in this policy shall preclude the use of reasonable force, deadly or otherwise, by members of the Department in protecting themselves or others from death or serious injury.

### 402.3 FIRST RESPONSE

If there is a reasonable belief that acts or threats by a suspect are placing lives in imminent danger, first responding investigators should consider reasonable options to reduce, prevent or eliminate the threat. Investigators must decide, often under a multitude of difficult and rapidly evolving circumstances, whether to advance on the suspect, take other actions to deal with the threat or wait for additional resources.

If a suspect is actively engaged in the infliction of serious bodily harm or other life-threatening activity toward others, investigators should take immediate action, if reasonably practicable, while requesting additional assistance.

Investigators should remain aware of the possibility that an incident may be part of a coordinated multi-location attack that may require some capacity to respond to other incidents at other locations.

When deciding on a course of action investigators should consider:

- (a) Whether to advance on or engage a suspect who is still a possible or perceived threat to others. Any advance or engagement should be based on information known or received at the time.
- (b) Whether to wait for additional resources or personnel. This does not preclude an individual investigator from taking immediate action.
- (c) Whether individuals who are under imminent threat can be moved or evacuated with reasonable safety.
- (d) Whether the suspect can be contained or denied access to victims.
- (e) Whether the investigators have the ability to effectively communicate with other personnel or resources.

## *Rapid Response and Deployment*

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- (f) Whether planned tactics can be effectively deployed.
- (g) The availability of rifles, shotguns, shields, breaching tools, control devices and any other appropriate tools, and whether the deployment of these tools will provide a tactical advantage.

In a case of a barricaded suspect with no hostages and no immediate threat to others, investigators should consider summoning and waiting for additional assistance (special tactics and/or hostage negotiation team response).

### **402.4 CONSIDERATIONS**

When dealing with a crisis situation members should:

- (a) Assess the immediate situation and take reasonable steps to maintain operative control of the incident.
- (b) Obtain, explore and analyze sources of intelligence and known information regarding the circumstances, location and suspect involved in the incident.
- (c) Attempt to attain a tactical advantage over the suspect by reducing, preventing or eliminating any known or perceived threat.
- (d) Attempt, if feasible and based upon the suspect's actions and danger to others, a negotiated surrender of the suspect and release of the hostages.

### **402.5 PLANNING**

The Deputy Chief Investigator should coordinate critical incident planning. Planning efforts should consider:

- (a) Identification of likely critical incident target sites, such as schools, shopping centers, entertainment and sporting event venues.
- (b) Availability of building plans and venue schematics of likely critical incident target sites.
- (c) Communications interoperability with other law enforcement and emergency service agencies.
- (d) Training opportunities in critical incident target sites, including joint training with site occupants.
- (e) Evacuation routes in critical incident target sites.
- (f) Patrol first-response training.
- (g) Response coordination and resources of emergency medical and fire services.
- (h) Equipment needs.
- (i) Mutual aid agreements with other agencies.
- (j) Coordination with private security providers in critical incident target sites.

## *Rapid Response and Deployment*

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### **402.6 TRAINING**

The Training Manager should include rapid response to critical incidents in the training plan. This training should address:

- (a) Orientation to likely critical incident target sites, such as schools, shopping centers, entertainment and sporting event venues.
- (b) Communications interoperability with other law enforcement and emergency service agencies.
- (c) Patrol first-response training, including patrol rifle, shotgun, breaching tool and control device training.
  - 1. This should include the POST terrorism incident training required for investigators assigned to field duties (Penal Code § 13519.12).
- (d) First aid, including gunshot trauma.
- (e) Reality-based scenario training (e.g., active shooter, disgruntled violent worker).

## Threat Assessment

### **403.1 PURPOSE AND SCOPE**

The District Attorney's Office, through the resources of the Bureau of Investigation, shall provide assistance, support and necessary personal protection to any employee who is the subject of direct or indirect threats of physical harm, or who believes that their personal safety and/or the safety of their family may be at risk.

The Special Investigations Unit (SIU) will investigate all threats against the District Attorney personnel from initial inquiry to final disposition. The SIU will utilize the Special Response Team, to conduct all threat investigations. It is the responsibility of the Special Response Team to complete an initial assessment of the threat.

### **425.11 RESPONSIBILITY**

In most cases, District Attorney personnel who have become the target of actual or implied threats will contact their immediate supervisor and/or a Bureau supervisor to report the incident and request assistance. All supervisors shall become familiar with these procedures and shall give immediate attention and assistance as required when any incident of threats, intimidation or harassment of an office employee comes to their attention.

### **425.12 THREAT ASSESSMENT**

The Bureau of Investigation will conduct a threat assessment investigation, develop an action plan and make other recommendations to the Chief Investigator to ensure the personal safety of any office employee who is the subject of actual or implied threats of physical harm or other forms of intimidation whether it be against the employee, their family, or their personal property.

### **425.13 SPECIAL RESPONSE TEAM**

The Special Response Team will complete the following:

- a) Immediate contact will be made to the Deputy Chief Investigator or Chief Investigator advising the nature and circumstances of the threat upon the employee.
- b) The initial assessment of the incident to include an interview with the threatened employee, any witnesses, or other parties (other than the suspect).
- c) The initial assessment will be documented in a memorandum that will be forwarded to the Chief Investigator immediately following the assessment.
- d) If the threat warrants a criminal investigation, the Special Response Team will complete the criminal investigation.
- e) The Deputy Chief Investigator will be kept apprised of the status and direction of the investigation

### **425.14 SPECIAL RESPONSE TEAM RESPONSIBILITIES:**

- a) Conduct a criminal history check on the suspect.

## *Threat Assessment*

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- b) If a credible threat is determined, the Bureau's Special Response Team may be activated to assist in the protection detail.
- c) All threats will be recorded in an automated computer database accessible to SRT staff, including threats that fall short of the requirement for a "credible threat."
- e) Recommendations are made to the victim, outlining possible security precautions that could be implemented as result of the perceived threat. The Special Response Team will conduct a residential security assessment of the employee's home, if requested. DMV and voter registration confidentiality status should be verified for eligible personnel.
- f) A recommendation that family bills and correspondence be routed to a post office box will be suggested.
- g) An investigator may be asked to escort the employee to and from the parking area. Alternate parking arrangements may need to be made.
- h) The assigned Special Response Team member or supervisor will make recommendations concerning the need for additional security or precautions based on individual circumstances. The Chief of the Bureau of Investigation shall give final approval of all decisions regarding utilization of Bureau personnel and allocation of investigative resources.
- i) If additional action is needed that relates to the protection of the employee, the Special Response Team will handle this function.
- j) The Special Response Team will make contact, if applicable, with the suspect. During a simultaneous criminal investigation, the Special Response Team will coordinate with the criminal investigator before contact is made with the suspect.

### **425.15 THREAT ASSESSMENT WORKSHEET**

A special Threat Assessment Worksheet has been developed to assist investigators in evaluating the threat, and obtaining necessary information to develop an action plan and properly allocate resources to the investigation. The assigned investigator will provide the threatened employee this worksheet to ensure that the form is completed.

### **425.16 ASSESSMENT**

Determining the probability that a threat may be carried out is not an exact science. It is done by investigating the known background and history of the person(s) making the threat, to include:

- a) A demonstrated propensity for violence
- b) Previous criminal history, history of violent acts, or history of taking action to carry out a threat
- c) The accessibility of weapons
- d) Any information that would help determine the probability or possibility that the stated or intended action may actually be carried out

## *Threat Assessment*

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In some cases, the person(s) making the threat may be contacted interviewed, and admonished by bureau investigators, arrest or search warrants may be served, or they may be taken into custody if probable cause exists to make an arrest for a crime, such as stalking (646.9 PC), making criminal threats (422 PC), or making threats against district attorney staff (76 PC).

### **425.17 FILING CONSIDERATION**

If the elements of a crime exist for any threat or act of harassment or intimidation against an employee, the Bureau will complete a thorough criminal investigation, prepare a memorandum, and submit the memorandum to a filing deputy district attorney for legal review. In all cases, regardless of whether a criminal complaint is filed or not, a Bureau report number shall be drawn and the original report shall be maintained in Bureau files.

The Special Response Team will serve any arrest or search warrant resulting from an investigation and criminal complaint involving threats against District Attorney personnel. Arrest or search warrants that are determined to be "high risk" in nature may be referred to a local law enforcement agency for tactical consideration.

### **425.18 PROTECTION**

In the case of clearly defined threats with a high probability the person making the threat or others may act and the safety of District Attorney personnel is at risk, the Bureau, with the approval of and in coordination with attorney management or executive staff, may take immediate steps to provide the highest level of safety and protection for the employee and their family, to include 24 hour personal protection, temporary relocation, or whatever measure(s) necessary to ensure the immediate safety of the employee and their family. This level of protection will be coordinated by the Special Response Team. In any case where District Attorney personnel and/or their family must be relocated or afforded 24 hour protection by Bureau investigators, the following shall be immediately notified, via the chain of command:

- (1) The employee's immediate supervisor
- (2) The chief investigator, via chain of command

In the case of indirect or non-specific threats, it is generally not feasible to provide the employee with personal protection. However, the bureau will conduct a threat assessment, develop an action plan, and make recommendations to the District Attorney.

### **425.19 SECURITY HANDBOOK**

A Security Handbook is available that contains general information about how to protect themselves and their families.

In all cases where a threat report and Threat Assessment Worksheet have been received and an evaluation conducted, the Bureau's Special Response Team supervising investigator receiving the report shall establish a file in the name of the affected employee(s) containing all pertinent information about the case. While the case is active the file shall be maintained by the assigned investigator.

## *Threat Assessment*

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The Bureau of Investigation shall provide managers and supervisors with specialized training in the area of threat assessment review and preparation of action plans and recommendations.

### **425.20 REPORTING REQUIREMENTS**

The Special Response Team supervising investigator shall also comply with the reporting requirements of Penal Code Sections 76(a) and (b). For threats against elected public officials and members of their staff or immediate family, a copy of all reports shall be forwarded to the California Department of Justice, Criminal Intelligence Unit, P.O. Box 163029, Sacramento, California 95816-5446, ATTN: Special Agent in Charge.

For threats against state public officials, the information should be reported to the CHP Communications Center in the area where the division receiving the information is located. A CHP Officer will be requested to conduct a preliminary investigation as necessary. All information will then be referred to the Office of Dignitary Protection (ODP), Special Investigations Unit (SIB), in Los Angeles or Sacramento. The ODP-SIU can be contacted during normal business hours in Sacramento at (916) 327-5451, or Los Angeles at (213) 897-4564.

### **425.21 OTHER SAFETY MEASURES**

Other Safety Measures:

a) Pepper Spray.

The Bureau of Investigation may provide pepper spray to non-peace officer employees upon request of the employee and the approval of the Chief Investigator. In every case, a certified chemical instructor will provide the employee with an orientation and personal training on the proper use of this defensive weapon.

b) Other Safety Equipment.

The Bureau of Investigation may provide non-peace officer personnel with other kinds of personal safety equipment, such as bullet proof vests as needed or requested by the employee upon approval of the chief investigator.

c) Other Safety Measures.

When necessary, the Bureau may arrange temporary safe and secure parking for an employee at the work site while a threat assessment is being conducted, and an action plan is being formed. The Bureau should contact the watch commander of the local law enforcement agency where the employee lives. The watch commander should be briefed regarding the problem so they are fully aware of potential for calls for assistance at the employee's address. "Extra patrol" checks at the employee's neighborhood should be requested.

In some cases, the bureau may designate an investigator(s) to escort the employee for a time from their home to the office, from their office to court and back, from the office to their home, and/or provide them with 24 hour protection or a cell phone number where they can obtain immediate assistance from an investigator should they require it.



## *Threat Assessment*

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### **425.22 COUNSELING SERVICES/EMPLOYEE ASSISTANCE PROGRAM**

With the approval of the District Attorney or designee, and in the absence of other paid insurance plans or benefits available to the employee, the office may refer employees to counseling professionals (private psychologist) who can help them and/or their family deal with the fear, anxiety, and apprehension that often accompanies incidents of threats and intimidation in the workplace. A peer counseling group consisting of employees who have themselves been the subject of past threats is available to assist any employee who has been threatened. Requests for peer counseling should be coordinated through the District Attorney or designee.

The Victim Services Division is available to provide referrals for short term counseling. They can also help employees who may be eligible for the Victim of Crime Compensation Program to apply for out of pocket counseling expenses. The Employee Assistance Program (EAP) is available as a referral resource to an employee negatively affected by threats of physical harm to themselves and their families. An EAP appointment can be made by calling (805) 654-4327.

## Reporting Police Activity Outside of Jurisdiction

### 404.1 PURPOSE AND SCOPE

This policy provides general guidelines for reporting police activity while on or off-duty and occurring outside the jurisdiction of the District Attorney's Office.

#### 404.1.1 ASSISTANCE TO AGENCIES OUTSIDE THE COUNTY

When an investigator is on-duty and is requested by an allied agency to participate in law enforcement activity in another jurisdiction, he/she shall obtain prior approval from the immediate supervisor or the Deputy Chief Investigator or Chief Investigator. If the request is of an emergency nature, the investigator shall notify a supervisor as soon as practical.

#### 404.1.2 LAW ENFORCEMENT ACTIVITY OUTSIDE THE COUNTY

Any on-duty investigator, who engages in law enforcement activities of any type outside the immediate jurisdiction of the District Attorney's Office shall notify his or her supervisor or the Deputy Chief Investigator at the earliest possible opportunity. Any off-duty investigator who engages in any law enforcement activities, regardless of jurisdiction shall notify his or her supervisor or the Deputy Chief Investigator as soon as practical.

The supervisor shall determine if a memorandum or other documentation of the investigator's activity is required. The memorandum or other documentation shall be forwarded to the Deputy Chief Investigator.

## Immigration Violations

### 405.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidelines to members of the Ventura County District Attorney's Office relating to immigration and interacting with federal immigration officials.

#### 405.1.1 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.

**Judicial warrant** - An arrest warrant for a violation of federal criminal immigration law and issued by a federal judge or a federal magistrate judge.

### 405.2 POLICY

It is the policy of the Ventura 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 [department/office] in protecting and serving the entire community and recognizing the dignity of all persons, regardless of their national origin or immigration status.

### 405.3 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 without regard to race, ethnicity, or national origin in any way that would violate the United States or California constitutions.

### 405.4 IMMIGRATION INQUIRIES PROHIBITED

Investigators shall not inquire into an individual's immigration status for immigration enforcement purposes (Government Code § 7284.6).

### 405.5 DETENTIONS AND ARRESTS

An investigator 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).

An investigator 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 USC § 1326(b)(2), may detain the person for a reasonable period of time to contact federal immigration

## *Immigration Violations*

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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 investigator 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).

An investigator shall not detain any individual, for any length of time, for any other criminal immigration violation of federal immigration laws (Government Code § 7284.6).

An investigator should notify a supervisor as soon as practicable whenever an individual is arrested for violation of 8 USC § 1326(a).

### **405.5.1 SUPERVISOR RESPONSIBILITIES**

When notified that an investigator 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.

### **405.6 FEDERAL REQUESTS FOR ASSISTANCE**

Absent an urgent issue of officer safety or other emergency circumstances, requests by federal immigration officials for assistance from this [department/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.).

### **405.7 INFORMATION SHARING**

No member of this [department/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 [department/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.

#### **405.7.1 IMMIGRATION DETAINERS**

No individual should be held based solely on a federal immigration detainer under 8 CFR 287.7 (Government Code § 7284.6).

## *Immigration Violations*

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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.

### 405.7.2 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 Ventura County District Attorney's Office intends to comply with the request (Government Code § 7283.1).

If the Ventura 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).

### 405.7.3 ICE INTERVIEWS

Before any interview regarding civil immigration violations takes place between ICE personnel and an individual in the custody of the Ventura County District Attorney's Office Bureau of Investigation, we 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.

### 405.7.4 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.

## *Immigration Violations*

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- (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.

### **405.7.5 REPORTING TO CALIFORNIA DEPARTMENT OF JUSTICE**

The Bureau of Investigation 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 Staff Services Manager for required reporting to the DOJ (Government Code § 7284.6(c)(2)(see the Administrative Assistant Policy).

### **405.8 TRAINING**

The Training Manager should ensure that all appropriate members receive training on immigration issues.

Training should include:

- (a) Identifying civil versus criminal immigration violations.
- (b) Factors that may be considered in determining whether a criminal immigration violation has been committed.
- (c) Prohibitions contained in the California Values Act (Government Code § 7284 et seq.).

### **405.9 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 Bureau of Investigation supervisor assigned to oversee the handling of any related case. The Bureau of Investigation 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.
  - 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

## *Immigration Violations*

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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.

### 405.9.1 TIME FRAMES FOR COMPLETION

Investigators 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).

Investigators 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 90 days of a request from the victim or victim's family related to one of their assigned cases. If the victim is in removal proceedings, the certification shall be processed within 14 days of the request.

## Obtaining Helicopter Assistance

### 406.1 PURPOSE AND SCOPE

The use of the Ventura County Sheriff's Department helicopter can be invaluable in certain situations. This policy specifies potential situations where the use of a helicopter may be requested and the responsibilities for making a request.

### 406.2 REQUEST FOR HELICOPTER ASSISTANCE

If a supervisor or investigator in charge of an incident determines that the use of a helicopter would be beneficial, a request to obtain helicopter assistance may be made.

#### 406.2.1 REQUEST FOR ASSISTANCE FROM ANOTHER AGENCY

After consideration and approval of the request for a helicopter, the Deputy Chief Investigator, or his/her designee, will call the closest agency having helicopter support available. The Deputy Chief Investigator on duty will apprise that agency of the specific details of the incident prompting the request.

#### 406.2.2 CIRCUMSTANCES UNDER WHICH AID MAY BE REQUESTED

Police helicopters may be requested under any of the following conditions:

- (a) When the helicopter is activated under existing mutual aid agreements
- (b) Whenever the safety of law enforcement personnel is in jeopardy and the presence of the helicopters may reduce such hazard
- (c) When the use of the helicopters will aid in the capture of a suspected fleeing felon whose continued freedom represents an ongoing threat to the community
- (d) When a helicopter is needed to locate a person who has strayed or is lost and whose continued absence constitutes a serious health or safety hazard
- (e) Vehicle pursuits

While it is recognized that the availability of helicopter support will generally provide valuable assistance to ground personnel, the presence of a helicopter will rarely replace the need for investigators on the ground.



## Contacts and Temporary Detentions

### 407.1 PURPOSE AND SCOPE

The purpose of this policy is to establish guidelines for conducting field interviews (FI) and pat-down searches, and the taking and retention of photographs of persons detained in the field but not arrested. Due to a variety of situations confronting the investigator, the decision to FI or photograph a field detainee shall be left to the discretion of the involved investigator based on the totality of the circumstances available to them at the time of the detention.

#### 407.1.1 DEFINITIONS

Definitions related to this policy include:

**Consensual encounter** - When an investigator 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 investigator 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 investigator'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 investigators 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 investigator, the detainee, or others.

**Reasonable suspicion** - When, under the totality of the circumstances, an investigator has articulable facts that criminal activity may be afoot and a particular person is connected with that possible criminal activity.

**Temporary detention** - When an investigator 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 an investigator actually restrains a person's freedom of movement.

### 407.2 POLICY

The Ventura 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 investigator, the decision to temporarily detain a person and complete a field interview (FI), pat-down search, or field photograph shall be left to the investigator based on the totality of the circumstances, officer safety considerations, and constitutional safeguards.

## *Contacts and Temporary Detentions*

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### **407.3 FIELD INTERVIEWS**

Based on observance of suspicious circumstances or upon information from investigation, an investigator 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 investigator's suspicion.

Nothing in this policy is intended to discourage consensual contacts. Frequent casual contact with consenting individuals is encouraged by the Ventura County District Attorney's Office to strengthen community involvement, community awareness, and problem identification.

#### **407.3.1 INITIATING A FIELD INTERVIEW**

When initiating the stop, the investigator 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 investigator

### **407.4 PAT-DOWN SEARCHES**

Once a valid stop has been made, and consistent with the investigator's training and experience, an investigator may pat a suspect's outer clothing for weapons if the investigator 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 investigator 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 investigator.
- (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.

## *Contacts and Temporary Detentions*

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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 investigator. A cover investigator should be positioned to ensure safety and should not be involved in the search.

### **407.5 FIELD PHOTOGRAPHS**

Before photographing any field detainee, the investigator shall carefully consider, among other things, the factors listed below.

#### **407.5.1 FIELD PHOTOGRAPHS TAKEN WITH CONSENT**

Field photographs may be taken when the subject of the photograph knowingly and voluntarily gives consent.

#### **407.5.2 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 investigator 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 investigator'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.

#### **407.5.3 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.

## Criminal Organizations

### 408.1 PURPOSE AND SCOPE

The purpose of this policy is to ensure that the Ventura County District Attorney's Office appropriately utilizes criminal intelligence systems and temporary information files to support investigations of criminal organizations and enterprises.

#### 408.1.1 DEFINITIONS

Definitions related to this policy include:

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

### 408.2 POLICY

The Ventura County District Attorney's Office recognizes that certain criminal activities, including but not limited to gang crimes and drug trafficking, often involve some degree of regular coordination and may involve a large number of participants over a broad geographical area.

It is the policy of this [department/office] to collect and share relevant information while respecting the privacy and legal rights of the public.

### 408.3 CRIMINAL INTELLIGENCE SYSTEMS

No [department/office] member may create, submit to or obtain information from a criminal intelligence system unless the Chief Investigator has approved the system for [department/office] use.

Any criminal intelligence system approved for [department/office] use should meet or exceed the standards of 28 CFR 23.20.

A designated supervisor will be responsible for maintaining each criminal intelligence system that has been approved for [department/office] use. The supervisor or the authorized designee should ensure the following:

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

#### 408.3.1 SYSTEM ENTRIES

It is the designated supervisor's responsibility to approve the entry of any information from a report, field interview (FI), photo or other relevant document into an authorized criminal intelligence system. If entries are made based upon information that is not on file with this [department/office], such as open or public source documents or documents that are on file at another

## *Criminal Organizations*

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agency, the designated supervisor should ensure copies of those documents are retained by the Administrative Assistant. Any supporting documentation for an entry shall be retained by the Administrative Assistant in accordance with the established records retention schedule and for at least as long as the entry is maintained in the system.

The designated supervisor should ensure that any documents retained by the Administrative Assistant are appropriately marked as intelligence information. The Staff Services Manager may not purge such documents without the approval of the designated supervisor.

### 408.3.2 GANG DATABASES

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

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

The person, an attorney working on his/her behalf or his/her parent or guardian (if the person is under 18 years of age) may request, in writing, information as to whether the person is designated as a suspected gang member, associate or affiliate in a shared gang database accessible by the [department/office], the basis for that designation and the name of the agency that made the designation. The [department/office] shall respond to a valid request in writing within 30 days, and shall provide the information requested unless doing so would compromise an active investigation or compromise the health and safety of the person if he/she is under 18 years of age (Penal Code § 186.34).

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

The gang unit supervisor should forward reports or FIs to the Administrative Assistant after appropriate database entries are made. The supervisor should clearly mark the report/FI as gang intelligence information.

## *Criminal Organizations*

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

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

### **408.4 TEMPORARY INFORMATION FILE**

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

#### **408.4.1 FILE CONTENTS**

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

Information and documents contained in a temporary information file:

- (a) Must only be included upon documented authorization of the responsible department supervisor.
- (b) Should not be originals that would ordinarily be retained by the Administrative Unit or Property and Evidence Room, but should be copies of, or references to, retained documents such as copies of reports, field interview (FI) forms or booking forms.
- (c) Shall not include opinions. No person, organization or enterprise shall be labeled as being involved in crime beyond what is already in the document or information.
- (d) May include information collected from publicly available sources or references to documents on file with another government agency. Attribution identifying the source should be retained with the information.

#### **408.4.2 FILE REVIEW AND PURGING**

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

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

## *Criminal Organizations*

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### **408.5 INFORMATION RECOGNITION**

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

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

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

### **408.6 RELEASE OF INFORMATION**

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

Information from a temporary information file may only be furnished to [department/office] members and other law enforcement agencies on a need-to-know basis and consistent with the Records Maintenance and Release Policy.

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

### **408.7 CRIMINAL STREET GANGS**

The Major Crimes supervisor should ensure that there are an appropriate number of department members who can:

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

## *Criminal Organizations*

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

### **408.8 TRAINING**

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

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



## Tactical Operations

### 409.1 PURPOSE AND SCOPE

The purpose of this policy is to provide a protocol for all planned tactical events, such as the execution of search warrants, undercover operations, surveillance and the deployment of electronic surveillance equipment.

#### 409.1.1 POLICY

Investigators shall complete a Bureau of Investigation Operational Plan for all planned tactical events. The Operational Plan will be forwarded to the Deputy Chief Investigator through the chain of command. The Operational Plan will be complete and contain all known information. No such planned event will be conducted without first obtaining Deputy Chief Investigator approval. If the Deputy Chief Investigator is unavailable, approval will be sought from the Chief Investigator. In the event the Deputy Chief and Chief Investigators are unavailable, the Operational Plan will be reviewed and approved by a Commander.

#### 409.1.2 SEARCH WARRANT-OPERATION PROCEDURES

Prior to the deployment of any search warrant, an Operational Plan and Search Warrant Checklist will be completed and forwarded, through the chain of command, to the Deputy Chief Investigator. No search warrant will be executed without first obtaining Deputy Chief Approval.

The following information are guidelines to be considered when contemplating the execution of a search warrant.

Case Agent or Designee 1. Responsible for entire operation. 2. Responsible for developing operation plan. 3. Responsible for discussing the case. 4. Responsible for discussing the type of evidence to be seized. 5. Needs to be available to answer any question regarding case or designate another investigator to do so. 6. Responsible for notifying local agency and trying to get assistance of uniform officer/ deputy.

Team Leader Responsibilities 1. Establish the goals a. Primary goal is officer safety. b. Secondary goal is proper seizure of evidence. 2. Speak with resident(s) to inform them of search warrant and to answer questions. a. This should be recorded. 3. Speak with resident(s) to ascertain if cash, weapons, drugs or valuable jewelry are in the location to be searched. a. This should be recorded. 4. Case agent and team leader should be different people. 5. Label Assigned areas for searching. a. Only rooms with evidence will be assigned a number. 6. Assign Searcher(s) to specific areas. 7. Assign Searchers to research other areas (i.e., Double search) 8. Direct operational personnel. 9. Team leader is responsible for search scene/coordination a. Assigning areas to be searched. b. Investigator(s) to provide security. c. Investigator(s) to conduct interviews. 10. Team Leader will ensure that all evidence has been removed from the premises, along with all items brought by the search team. 11. To conduct walk through with resident or occupant. 12. A copy of the search warrant order will be given to the resident/occupant/owner at the scene, along with both the Evidence Property inventory seized and the Notice of Service form.

## *Tactical Operations*

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Sketcher/ Photo/ Video Person's Responsibilities 1. Responsible for making sure video recorder is operational and taken to the scene. 2. Responsible for ensuring digital camera(s) is operational and for additional batteries. 3. Pre-Search Warrant video, if possible. 4. Post- Search Warrant video (sticker on door to ID room from which evidence is seized). 5. Responsible for completing the sketch of the residence/ business/ facility prior to end of search.

Searchers Responsibilities 1. Know the type of property to be seized. 2. Know buildings/outbuilding to be searched. 3. Locate evidence. 4. Photograph evidence. 5. Seize evidence. 6. Package evidence. 7. Label evidence. 8. Document on Evidence Property Report. a. Identify "Finder." b. Identify "Seizer." c. Identify "Location." 9. Place into appropriate container (i.e., evidence envelope or bag) 10. Place case number and item number on evidence container / package. a. Note: Case agent is responsible for marking evident and/or completing the remainder of the info on the envelopes as they see fit. 11. Have different Investigator(s) re-search the area to ensure completeness and act as a double check and inform the team leader. 12. Inform Team Leader of evidence seized and/or when search of the assigned area is complete.

Investigative Assistant's Responsibilities 1. Prepare Search Warrant materials for documenting and storing evidence. a. Envelopes b. Bags c. Gloves d. Camera e. Pens f. Sticky pads 2. Gather evidence items from each searcher upon the completion of their search 3. Check to assure that evidence containers (i.e., envelopes, bags, boxes, etc) have contents as listed on both the Evidence Property as well as the correct item number.

Evidence Documentation 1. The evidence item label and container as well as the Evidence Property document shall have the following: a. Number = Location (i.e., residence or business) b. Letter = Room from where evidence item was seized. c. Number = A number for each evidentiary item seized. 2. This method can be expanded to include subcategories for areas within a room by labeling furniture or other locations as needed (i.e.; 1-A-1-a-i).

## Portable Audio/Video Recorders

### 410.1 PURPOSE AND SCOPE

This policy provides guidelines for the use of portable audio/video recording devices by members of this department 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 Ventura County District Attorney's Office facility, authorized undercover operations, wiretaps or eavesdropping (concealed listening devices).

### 410.2 POLICY

The Ventura 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 Department by accurately capturing contacts between members of the Department and the public.

### 410.3 MEMBER PRIVACY EXPECTATION

All recordings made by members on any department-issued device at any time, and any recording made while acting in an official capacity for this department, regardless of ownership of the device it was made on, shall remain the property of the Department. Members shall have no expectation of privacy or ownership interest in the content of these recordings.

### 410.4 MEMBER RESPONSIBILITIES

Each member will be responsible for making sure that he/ she is equipped with a portable recorder issued by the Department, and that the recorder is in good working order. If the recorder is not in working order or the member becomes aware of a malfunction at any time, the member shall promptly report the failure to his/her supervisor and obtain a functioning device as soon as reasonably practicable.

Any member may carry an approved portable recorder at any time the member believes that such a device may be useful.

When using a portable recorder, the assigned member should record his/her name, VCDA identification number and the current date and time at the beginning of use. This procedure is not required when the recording device and related software captures the user's unique identification and the date and time of each 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.

## *Portable Audio/Video Recorders*

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### 410.4.1 SUPERVISOR RESPONSIBILITIES

Supervisors should take custody of a portable audio/video recording device as soon as practicable when the device may have captured an incident involving the use of force, an officer-involved shooting or death or other serious incident, and ensure the data is downloaded (Penal Code § 832.18).

### **410.5 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.

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.

Except in an emergency, no attorney suspects may be the subject of a surreptitious recording without the written authorization of the District Attorney. When an unauthorized recording of an attorney is made in an emergency, it shall be immediately reported, in writing, to the District Attorney, via the chain of command.

At no time is a member expected to jeopardize his/her safety in order to activate a portable recorder or change the recording media. However, the recorder should be activated in situations described above as soon as reasonably practicable.

### 410.5.1 SURREPTITIOUS USE OF THE PORTABLE RECORDER

Members of the Department 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 department member without a court order unless lawfully authorized by the Chief Investigator or the authorized designee.

### 410.5.2 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.

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).

## *Portable Audio/Video Recorders*

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### 410.5.3 EXPLOSIVE DEVICE

Many portable recorders, including body-worn cameras and audio/video transmitters, emit radio waves that could trigger an explosive device. Therefore, these devices should not be used where an explosive device may be present.

### **410.6 PROHIBITED USE OF PORTABLE RECORDERS**

Members are prohibited from using bureau 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 bureau issued or personally owned recorders. Members shall not duplicate or distribute such recordings, except for authorized legitimate bureau business purposes. All such recordings shall be retained at the Bureau.

Any member who uses a personally owned recorder for department-related activities shall comply with the provisions of this policy, including retention and release requirements.

Recordings shall not be used by any member for the purpose of embarrassment, harassment or ridicule.

### **410.7 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.

### **410.8 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

## *Portable Audio/Video Recorders*

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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 Department 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.
- (c) By media personnel with permission of the Chief Investigator 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 Chief Investigator or his designee 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.

### **410.9 RETENTION OF RECORDINGS**

Recordings of the following should be retained for a minimum of two years (Penal Code § 832.18):

- (a) Incident involving use of force by an investigator
- (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 an investigator or the Ventura 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).

## *Portable Audio/Video Recorders*

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### 410.9.1 RELEASE OF AUDIO/VIDEO RECORDINGS

Requests for the release of audio/video recordings shall be processed in accordance with the Records Maintenance and Release Policy.

## Non-English Translations

### 411.1 PURPOSE AND SCOPE

The District Attorney's Office-Bureau of Investigation is continually called upon to have recorded interviews and documents translated for prosecution and investigation.

Each law enforcement agency is responsible for translation of recorded interviews and documents used for prosecution. The Bureau of Investigation is available to provide referrals for translations/transcribers. Only in extreme emergencies can we provide the resources needed to accomplish the task.

#### 411.1.1 REQUEST FOR TRANSLATION

The supervising investigator of the involved unit will oversee the handling of any request for translation of recorded interviews or documents in such emergencies as set out below:

- (a) Ascertain if the translation can be accomplished by the Bureau's in-house resources.
- (b) If translation work needs to be sent to an outside contractor, obtain the approval of the involved unit's supervising investigator.
- (c) The supervising investigator will provide the investigator with the name of a Bureau approved translator/transcriber.
- (d) The Investigator will contact the translator/transcriber and verify the rate to be charged for translation, e.g., per page, by the hour, etc. This information will be outlined in an Expenditure Request Form (ERF) and routed according to ERF procedures.
- (e) The District Attorney evidence envelope containing a copy of audio recording(s), documents or reports to be translated will reflect the case name, district attorney file number or special assignment number, police case number, and the name of the district attorney investigator and deputy district attorney assigned to the case.
- (f) The final bill for translation/transcription will contain the above information as well as the name of the translator, the rate of charge, i.e. per page, by the hour, etc. The bill will have a taxpayer identification number or a social security number.
- (g) The final bill will be initialed and dated by the deputy district attorney or district attorney investigator.
- (h) The supervising investigator will date and initial the bill and note "okay to pay."
- (i) The district attorney investigator will make a copy of the final bill for the district attorney case file and the investigative file.
- (j) The district attorney investigator will then forward the bill to the Fiscal/Admin Unit for payment.



## Public Recording of Law Enforcement Activity

### 412.1 PURPOSE AND SCOPE

This policy provides guidelines for handling situations in which members of the public photograph or audio/video record law enforcement actions and other public activities that involve members of this department. In addition, this policy provides guidelines for situations where the recordings may be evidence.

### 412.2 POLICY

The Bureau of Investigation recognizes the right of persons to lawfully record members of this Bureau who are performing their official duties. Members of this Bureau will not prohibit or intentionally interfere with such lawful recordings. Any recordings that are deemed to be evidence of a crime or relevant to an investigation will only be collected or seized lawfully.

Investigators should exercise restraint and should not resort to highly discretionary arrests for offenses such as interference, failure to comply or disorderly conduct as a means of preventing someone from exercising the right to record members performing their official duties.

### 412.3 RECORDING LAW ENFORCEMENT ACTIVITY

Members of the public who wish to record law enforcement activities are limited only in certain aspects.

- (a) Recordings may be made from any public place or any private property where the individual has the legal right to be present (Penal Code § 69; Penal Code § 148).
- (b) Beyond the act of photographing or recording, individuals may not interfere with the law enforcement activity. Examples of interference include, but are not limited to:
  1. Tampering with a witness or suspect.
  2. Inciting others to violate the law.
  3. Being so close to the activity as to present a clear safety hazard to the investigators.
  4. Being so close to the activity as to interfere with an investigator's effective communication with a suspect or witness.
- (c) The individual may not present an undue safety risk to the investigators, him/herself or others.

### 412.4 INVESTIGATOR RESPONSE

Investigators should promptly request that a supervisor respond to the scene whenever it appears that anyone recording activities may be interfering with an investigation or it is believed that the recording may be evidence. If practicable, investigators should wait for the supervisor to arrive before taking enforcement action or seizing any cameras or recording media.

## *Public Recording of Law Enforcement Activity*

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Whenever practicable, investigators or supervisors should give clear and concise warnings to individuals who are conducting themselves in a manner that would cause their recording or behavior to be unlawful. Accompanying the warnings should be clear directions on what an individual can do to be compliant; directions should be specific enough to allow compliance. For example, rather than directing an individual to clear the area, an investigator could advise the person that he/she may continue observing and recording from the sidewalk across the street.

If an arrest or other significant enforcement activity is taken as the result of a recording that interferes with law enforcement activity, investigators shall document in a report the nature and extent of the interference or other unlawful behavior and the warnings that were issued.

### **412.5 SUPERVISOR RESPONSIBILITIES**

A supervisor should respond to the scene when requested or any time the circumstances indicate a likelihood of interference or other unlawful behavior.

The supervisor should review the situation with the investigator and:

- (a) Request any additional assistance as needed to ensure a safe environment.
- (b) Take a lead role in communicating with individuals who are observing or recording regarding any appropriate limitations on their location or behavior. When practical, the encounter should be recorded.
- (c) When practicable, allow adequate time for individuals to respond to requests for a change of location or behavior.
- (d) Ensure that any enforcement, seizure or other actions are consistent with this policy and constitutional and state law.
- (e) Explain alternatives for individuals who wish to express concern about the conduct of Department members, such as how and where to file a complaint.

### **412.6 SEIZING RECORDINGS AS EVIDENCE**

Investigators should not seize recording devices or media unless (42 USC § 2000aa):

- (a) There is probable cause to believe the person recording has committed or is committing a crime to which the recording relates, and the recording is reasonably necessary for prosecution of the person.
  1. Absent exigency or consent, a warrant should be sought before seizing or viewing such recordings. Reasonable steps may be taken to prevent erasure of the recording.
- (b) There is reason to believe that the immediate seizure of such recordings is necessary to prevent serious bodily injury or death of any person.
- (c) The person consents.
  1. To ensure that the consent is voluntary, the request should not be made in a threatening or coercive manner.

## *Public Recording of Law Enforcement Activity*

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2. If the original recording is provided, a copy of the recording should be provided to the recording party, if practicable. The recording party should be permitted to be present while the copy is being made, if feasible. Another way to obtain the evidence is to transmit a copy of the recording from a device to a department-owned device.

Recording devices and media that are seized will be submitted within the guidelines of the Property and Evidence Policy.

## First Amendment Assemblies

### 413.1 PURPOSE AND SCOPE

This policy provides guidance for responding to public assemblies or demonstrations.

### 413.2 POLICY

The Ventura County District Attorney's Office respects the rights of people to peaceably assemble. It is the policy of this department not to unreasonably interfere with, harass, intimidate or discriminate against persons engaged in the lawful exercise of their rights, while also preserving the peace, protecting life and preventing the destruction of property.

### 413.3 GENERAL CONSIDERATIONS

Individuals or groups present on the public way, such as public facilities, streets or walkways, generally have the right to assemble, rally, demonstrate, protest or otherwise express their views and opinions through varying forms of communication, including the distribution of printed matter. These rights may be limited by laws or ordinances regulating such matters as the obstruction of individual or vehicle access or egress, trespass, noise, picketing, distribution of handbills and leafleting, and loitering. However, investigators shall not take action or fail to take action based on the opinions being expressed.

Participant behavior during a demonstration or other public assembly can vary. This may include, but is not limited to:

- Lawful, constitutionally protected actions and speech.
- Civil disobedience (typically involving minor criminal acts).
- Rioting.

All of these behaviors may be present during the same event. Therefore, it is imperative that law enforcement actions are measured and appropriate for the behaviors investigators may encounter. This is particularly critical if force is being used. Adaptable strategies and tactics are essential. The purpose of a law enforcement presence at the scene of public assemblies and demonstrations should be to preserve the peace, to protect life and prevent the destruction of property.

Investigators should not:

- (a) Engage in assembly or demonstration-related discussion with participants.
- (b) Harass, confront or intimidate participants.
- (c) Seize the cameras, cell phones or materials of participants or observers unless an investigator is placing a person under lawful arrest.

Supervisors should continually observe department members under their commands to ensure that members' interaction with participants and their response to crowd dynamics is appropriate.

## *First Amendment Assemblies*

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### 413.3.1 PHOTOGRAPHS AND VIDEO RECORDINGS

Photographs and video recording, when appropriate, can serve a number of purposes, including support of criminal prosecutions by documenting criminal acts; assistance in evaluating department performance; serving as training material; recording the use of dispersal orders; and facilitating a response to allegations of improper law enforcement conduct.

Photographs and videos will not be used or retained for the sole purpose of collecting or maintaining information about the political, religious or social views of associations, or the activities of any individual, group, association, organization, corporation, business or partnership, unless such information directly relates to an investigation of criminal activities and there is reasonable suspicion that the subject of the information is involved in criminal conduct.

### 413.4 UNPLANNED EVENTS

When responding to an unplanned or spontaneous public gathering, the first responding investigator should conduct an assessment of conditions, including, but not limited to, the following:

- Location
- Number of participants
- Apparent purpose of the event
- Leadership (whether it is apparent and/or whether it is effective)
- Any initial indicators of unlawful or disruptive activity
- Indicators that lawful use of public facilities, streets or walkways will be impacted
- Ability and/or need to continue monitoring the incident

Initial assessment information should be promptly communicated to the SRT Commander and the agency of jurisdiction, and the assignment of a supervisor should be requested. Additional resources should be requested as appropriate. The responding supervisor shall assume command of the incident until command is expressly assumed by the agency of jurisdiction, and the assumption of command is communicated to the involved members. A clearly defined command structure that is consistent with the Incident Command System (ICS) should be established as resources are deployed.

### 413.5 PLANNED EVENT PREPARATION

For planned events, comprehensive, incident-specific operational plans should be developed.

#### 413.5.1 INFORMATION GATHERING AND ASSESSMENT

In order to properly assess the potential impact of a public assembly or demonstration on public safety and order, relevant information should be collected and vetted. This may include:

- Information obtained from outreach to group organizers or leaders.

## *First Amendment Assemblies*

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- Information about past and potential unlawful conduct associated with the event or similar events.
- The potential time, duration, scope and type of planned activities.
- Any other information related to the goal of providing a balanced response to criminal activity and the protection of public safety interests.

Information should be obtained in a transparent manner, and the sources documented. Relevant information should be communicated to the appropriate parties in a timely manner.

Information will be obtained in a lawful manner and will not be based solely on the purpose or content of the assembly or demonstration, or the race, ethnicity, national origin or religion of the participants (or any other characteristic that is unrelated to criminal conduct or the identification of a criminal subject).

### 413.5.2 OPERATIONAL PLANS

An operational planning team with responsibility for event planning and management should be established. The planning team should develop an operational plan for the event.

The operational plan will minimally provide for:

- (a) Command assignments, chain of command structure, roles and responsibilities.
- (b) Staffing and resource allocation.
- (c) Management of criminal investigations.
- (d) Designation of uniform of the day and related safety equipment (e.g., helmets, shields).
- (e) Deployment of specialized resources.
- (f) Event communications and interoperability in a multijurisdictional event.
- (g) Liaison with demonstration leaders and external agencies.
- (h) Liaison with County government and legal staff.
- (i) Media relations.
- (j) Logistics: food, fuel, replacement equipment, duty hours, relief and transportation.
- (k) Traffic management plans.
- (l) First aid and emergency medical service provider availability.
- (m) Prisoner transport and detention.
- (n) Review of policies regarding public assemblies and use of force in crowd control.
- (o) Parameters for declaring an unlawful assembly.
- (p) Arrest protocol, including management of mass arrests.
- (q) Protocol for recording information flow and decisions.
- (r) Rules of engagement, including rules of conduct, protocols for field force extraction and arrests, and any authorization required for the use of force.

## *First Amendment Assemblies*

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- (s) Protocol for handling complaints during the event.
- (t) Parameters for the use of body-worn cameras and other portable recording devices.

### **413.5.3 MUTUAL AID AND EXTERNAL RESOURCES**

The magnitude and anticipated duration of an event may necessitate interagency cooperation and coordination. The assigned Incident Commander should ensure that any required memorandums of understanding or other agreements are properly executed, and that any anticipated mutual aid is requested and facilitated (see the Mutual Aid and Outside Agency Assistance Policy).

### **413.6 UNLAWFUL ASSEMBLY DISPERSAL ORDERS**

If a public gathering or demonstration remains peaceful and nonviolent, and there is no reasonably imminent threat to persons or property, the Incident Commander should generally authorize continued monitoring of the event.

Should the Incident Commander make a determination that public safety is presently or is about to be jeopardized, he/she or the authorized designee should attempt to verbally persuade event organizers or participants to disperse of their own accord. Warnings and advisements may be communicated through established communications links with leaders and/or participants or to the group.

When initial attempts at verbal persuasion are unsuccessful, the Incident Commander or the authorized designee should make a clear standardized announcement to the gathering that the event is an unlawful assembly, and should order the dispersal of the participants. The announcement should be communicated by whatever methods are reasonably available to ensure that the content of the message is clear and that it has been heard by the participants. The announcement should be amplified, made in different languages as appropriate, made from multiple locations in the affected area and documented by audio and video. The announcement should provide information about what law enforcement actions will take place if illegal behavior continues and should identify routes for egress. A reasonable time to disperse should be allowed following a dispersal order.

### **413.7 USE OF FORCE**

Use of force is governed by current department policy and applicable law (see the Use of Force, Handcuffing and Restraints, Control Devices and Techniques policies).

Individuals refusing to comply with lawful orders (e.g., nonviolent refusal to disperse) should be given a clear verbal warning and a reasonable opportunity to comply. If an individual refuses to comply with lawful orders, the Incident Commander shall evaluate the type of resistance and adopt a reasonable response in order to accomplish the law enforcement mission (such as dispersal or arrest of those acting in violation of the law). Control devices and TASER® devices should be considered only when the participants' conduct reasonably appears to present the potential to harm investigators, themselves or others, or will result in substantial property loss or damage (see the Control Devices and Techniques policies).

## *First Amendment Assemblies*

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Force or control devices, including oleoresin capsaicin (OC), should be directed toward individuals and not toward groups or crowds, unless specific individuals cannot reasonably be targeted due to extreme circumstances, such as a riotous crowd.

Any use of force by a member of this department shall be documented promptly, completely and accurately in an appropriate report. The type of report required may depend on the nature of the incident.

### **413.8 ARRESTS**

The Ventura County District Attorney's Office should respond to unlawful behavior in a manner that is consistent with the operational plan. If practicable, warnings or advisements should be communicated prior to arrest.

Mass arrests should be employed only when alternate tactics and strategies have been, or reasonably appear likely to be, unsuccessful. Mass arrests shall only be undertaken upon the order of the Incident Commander or the authorized designee. There must be probable cause for each arrest.

If employed, mass arrest protocols should fully integrate:

- (a) Reasonable measures to address the safety of investigators and arrestees.
- (b) Dedicated arrest, booking and report writing teams.
- (c) Timely access to medical care.
- (d) Timely access to legal resources.
- (e) Timely processing of arrestees.
- (f) Full accountability for arrestees and evidence.
- (g) Coordination and cooperation with the prosecuting authority, jail and courts (see the Cite and Release Policy).

### **413.9 MEDIA RELATIONS**

The Chief Assistant District Attorney should use all available avenues of communication, including press releases, briefings, press conferences and social media to maintain open channels of communication with media representatives and the public about the status and progress of the event, taking all opportunities to reassure the public about the professional management of the event (see the News Media Relations Policy).

### **413.10 DEMOBILIZATION**

When appropriate, the Incident Commander or the authorized designee should implement a phased and orderly withdrawal of law enforcement resources. All relieved personnel should promptly complete any required reports, including use of force reports, and account for all issued equipment and vehicles to their supervisors prior to returning to normal operational duties.



## *First Amendment Assemblies*

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### **413.11 POST EVENT**

The Incident Commander should designate a member to assemble full documentation of the event, to include the following:

- (a) Operational plan
- (b) Any incident logs
- (c) Any assignment logs
- (d) Vehicle, fuel, equipment and supply records
- (e) Incident, arrest, use of force, injury and property damage reports
- (f) Photographs, audio/video recordings, the Communications Center records/tapes
- (g) Media accounts (print and broadcast media)

#### **413.11.1 AFTER-ACTION REPORTING**

The Incident Commander should work with County legal counsel, as appropriate, to prepare a comprehensive after-action report of the event, explaining all incidents where force was used including the following:

- (a) Date, time and description of the event
- (b) Actions taken and outcomes (e.g., injuries, property damage, arrests)
- (c) Problems identified
- (d) Significant events
- (e) Recommendations for improvement; opportunities for training should be documented in a generic manner, without identifying individuals or specific incidents, facts or circumstances.

### **413.12 TRAINING**

Department members should receive periodic training regarding this policy, as well as the dynamics of crowd control and incident management (Penal Code § 13514.5). The Department should, when practicable, train with its external and mutual aid partners.

## Medical Aid and Response

### 414.1 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.

### 414.2 POLICY

It is the policy of the Ventura County District Attorney's Office that all investigators and other designated members be trained to provide emergency medical aid and to facilitate an emergency medical response.

### 414.3 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 the Communications Center 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 the Communications Center 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.

## *Medical Aid and Response*

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### **414.4 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.

Investigators should search any person who is in custody before releasing that person to EMS for transport.

An investigator 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.

### **414.5 PERSONS REFUSING EMS CARE**

If a person who is not in custody refuses EMS care or refuses to be transported to a medical facility, an investigator 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 investigator should consider proceeding with a 72-hour treatment and evaluation commitment (5150 commitment) process in accordance with the Mental Illness Commitments Policy.

If an investigator 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 investigator 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 investigator will require the person to be transported to the nearest medical facility. In such cases, the investigator should consult with a supervisor prior to the transport.

Members shall not sign refusal-for-treatment forms or forms accepting financial responsibility for treatment.

### **414.6 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, Control Devices and Techniques policies.

### **414.7 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.

## *Medical Aid and Response*

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The Deputy Chief Investigator should develop guidelines for air ambulance landings or enter into local operating agreements for the use of air ambulances, as applicable. In creating those guidelines, the [Department/Office] should identify:

- Responsibility and authority for designating a landing zone and determining the size of the landing zone.
- Responsibility for securing the area and maintaining that security once the landing zone is identified.
- Consideration of the air ambulance provider's minimum standards for proximity to vertical obstructions and surface composition (e.g., dirt, gravel, pavement, concrete, grass).
- Consideration of the air ambulance provider's minimum standards for horizontal clearance from structures, fences, power poles, antennas or roadways.
- Responsibility for notifying the appropriate highway or transportation agencies if a roadway is selected as a landing zone.
- Procedures for ground personnel to communicate with flight personnel during the operation.

One [department/office] member at the scene should be designated as the air ambulance communications contact. Headlights, spotlights and flashlights should not be aimed upward at the air ambulance. Members should direct vehicle and pedestrian traffic away from the landing zone.

Members should follow these cautions when near an air ambulance:

- Never approach the aircraft until signaled by the flight crew.
- Always approach the aircraft from the front.
- Avoid the aircraft's tail rotor area.
- Wear eye protection during landing and take-off.
- Do not carry or hold items, such as IV bags, above the head.
- Ensure that no one smokes near the aircraft.

### **414.8 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).

#### **414.8.1 AED USER RESPONSIBILITY**

Members who are issued AEDs for use in [department/office] vehicles should check the AED at the beginning of the shift to ensure it is properly charged and functioning. Any AED that is not functioning properly will be taken out of service and given to the Training Manager who is responsible for ensuring appropriate maintenance.

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.

## *Medical Aid and Response*

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Any member who uses an AED should contact the Communications Center as soon as possible and request response by EMS.

### **414.8.2 AED REPORTING**

Any member using an AED will complete an incident report detailing its use.

### **414.8.3 AED TRAINING AND MAINTENANCE**

The Training Manager 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).

### **414.9 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 investigator has reason to believe the arrestee is feigning injury or illness, the investigator 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 investigator 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. Investigators shall not transport an arrestee to a hospital without a supervisor's approval.

Nothing in this section should delay an investigator 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 investigator's training.

### **414.10 FIRST AID TRAINING**

The Training Manager should ensure investigators receive initial first aid training within one year of employment and refresher training every two years thereafter (22 CCR 100016; 22 CCR 100022).

## Automated License Plate Readers (ALPRs)

### 415.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidance for the capture, storage and use of digital data obtained through the use of Automated License Plate Reader (ALPR) technology.

### 415.2 ADMINISTRATION

The ALPR technology, also known as License Plate Recognition (LPR), allows for the automated detection of license plates. It is used by the Ventura County District Attorney's Office to convert data associated with vehicle license plates for official law enforcement purposes, including identifying stolen or wanted vehicles, stolen license plates and missing persons. It may also be used to gather information related to active warrants, homeland security, electronic surveillance, suspect interdiction and stolen property recovery.

All installation and maintenance of ALPR equipment, as well as ALPR data retention and access, shall be managed by the Ventura County Sheriff's Office. The Patrol Services Assistant Sheriff will assign members under his/her command to administer the day-to-day operation of the ALPR equipment and data.

#### 415.2.1 ALPR ADMINISTRATOR

The Ventura County Sheriff's Office shall be responsible for developing guidelines and procedures to comply with the requirements of Civil Code § 1798.90.5 et seq. This includes, but is not limited to (Civil Code § 1798.90.51; Civil Code § 1798.90.53):

- (a) A description of the job title or other designation of the members and independent contractors who are authorized to use or access the ALPR system or to collect ALPR information.
- (b) Training requirements for authorized users.
- (c) A description of how the ALPR system will be monitored to ensure the security of the information and compliance with applicable privacy laws.
- (d) Procedures for system operators to maintain records of access in compliance with Civil Code § 1798.90.52.
- (e) The title and name of the current designee in overseeing the ALPR operation.
- (f) Working with the Custodian of Records on the retention and destruction of ALPR data.
- (g) Ensuring this policy and related procedures are conspicuously posted on the department's website.

### 415.3 OPERATIONS

Use of an ALPR is restricted to the purposes outlined below. Department members shall not use, or allow others to use the equipment or database records for any unauthorized purpose (Civil Code § 1798.90.51; Civil Code § 1798.90.53).

- (a) An ALPR shall only be used for official law enforcement business.

## *Automated License Plate Readers (ALPRs)*

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- (b) An ALPR may be used in conjunction with any routine patrol operation or criminal investigation. Reasonable suspicion or probable cause is not required before using an ALPR.
- (c) While an ALPR may be used to canvass license plates around any crime scene, particular consideration should be given to using ALPR-equipped cars to canvass areas around homicides, shootings and other major incidents. Partial license plates reported during major crimes should be entered into the ALPR system in an attempt to identify suspect vehicles.
- (d) No member of this department shall operate ALPR equipment or access ALPR data without first completing department-approved training.
- (e) No ALPR operator may access department, state or federal data unless otherwise authorized to do so.
- (f) If practicable, the investigator should verify an ALPR response through the California Law Enforcement Telecommunications System (CLETS) before taking enforcement action that is based solely on an ALPR alert.

### **415.4 DATA COLLECTION AND RETENTION**

The Ventura County Sheriff's Office is responsible for ensuring systems and processes are in place for the proper collection and retention of ALPR data. Data will be transferred from vehicles to the designated storage in accordance with department procedures.

All ALPR data downloaded to the server should be stored for a minimum of one year (Government Code § 34090.6) and in accordance with the established records retention schedule. Thereafter, ALPR data should be purged unless it has become, or it is reasonable to believe it will become, evidence in a criminal or civil action or is subject to a discovery request or other lawful action to produce records. In those circumstances the applicable data should be downloaded from the server onto portable media and booked into evidence.

### **415.5 ACCOUNTABILITY**

All data will be closely safeguarded and protected by both procedural and technological means. The Ventura County District Attorney's Office will observe the following safeguards regarding access to and use of stored data (Civil Code § 1798.90.51; Civil Code § 1798.90.53):

- (a) All ALPR data downloaded to the mobile workstation and in storage shall be accessible only through a login/password-protected system capable of documenting all access of information by name, date and time (Civil Code § 1798.90.52).
- (b) Members approved to access ALPR data under these guidelines are permitted to access the data for legitimate law enforcement purposes only, such as when the data relate to a specific criminal investigation or department-related civil or administrative action.

## *Automated License Plate Readers (ALPRs)*

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- (c) ALPR system audits should be conducted on a regular basis.

For security or data breaches, see the Records Release and Maintenance Policy.

### **415.6 POLICY**

The policy of the Ventura County District Attorney's Office is to utilize ALPR technology to capture and store digital license plate data and images while recognizing the established privacy rights of the public.

All data and images gathered by the ALPR are for the official use of this department. Because such data may contain confidential information, it is not open to public review.

### **415.7 RELEASING ALPR DATA**

The ALPR data may be shared only with other law enforcement or prosecutorial agencies for official law enforcement purposes or as otherwise permitted by law, using the following procedures:

- (a) The agency makes a written request for the ALPR data that includes:
  1. The name of the agency.
  2. The name of the person requesting.
  3. The intended purpose of obtaining the information.
- (b) The request is reviewed by the Ventura County Sheriff's Office, Patrol Services Assistant Sheriff or the authorized designee and approved before the request is fulfilled.
- (c) The approved request is retained on file with the Sheriff's Office.

Requests for ALPR data by non-law enforcement or non-prosecutorial agencies will be processed as provided in the Records Maintenance and Release Policy (Civil Code § 1798.90.55).

### **415.8 TRAINING**

The Training Manager should ensure that members receive department-approved training for those authorized to use or access the ALPR system (Civil Code § 1798.90.51; Civil Code § 1798.90.53).



## **Chapter 6 - Investigation Operations**

## Informant Interview Policy

### 600.1 PURPOSE AND SCOPE

Investigators are constantly under close scrutiny regarding conduct with informants and witnesses. As a matter of general procedure, all Bureau of Investigation personnel should avoid "one-on-one" interviews with informants, defendant-informants or witnesses with questionable motives or backgrounds.

#### 600.1.1 PROCEDURE

Investigators should be cognizant of the need to be prepared to testify in court and corroborate an informant's statement and contact information. To corroborate any information or statements received from the informant, it is preferable to audio or video record the informant's contact/interview, if possible. It is also preferable to have a second investigator present to witness the informant's statements and demeanor. A written record of the contact interview shall be completed by the investigator.

It is the policy of the Bureau of Investigation that when possible and feasible:

- (a) Informants or questionable witnesses should normally be handled by two investigators.
- (b) Where practical, an audio or video recording should be made of the contact, whether one or two investigators are present for the interview/contact.
- (c) Memos, investigative reports, intelligence reports, or other notes shall be written by the investigator to document the interview/contact.
- (d) All contacts with informants will follow the Ventura County District Attorney's Legal Policies Manual as listed in Article 1, section 1.02, chapter 2, subsection O.

This policy does not preclude the day-to-day, "one-on-one" witness contact that is necessary to perform more routine duties, but is intended to cover the more difficult or unusual situations.

## Asset Forfeiture

### 601.1 PURPOSE AND SCOPE

This policy describes the authority and procedure for the seizure, forfeiture and liquidation of property associated with designated offenses.

#### 601.1.1 DEFINITIONS

Definitions related to this policy include:

**Fiscal agent** - The person designated by the Chief Investigator to be responsible for securing and maintaining seized assets and distributing any proceeds realized from any forfeiture proceedings. This includes any time the Ventura County District Attorney's Office seizes property for forfeiture or when the Ventura County District Attorney's Office is acting as the fiscal agent pursuant to a multi-agency agreement.

**Forfeiture** - The process by which legal ownership of an asset is transferred to a government or other authority.

**Forfeiture reviewer** - The department member assigned by the Chief Investigator who is responsible for reviewing all forfeiture cases and for acting as the liaison between the Department and the assigned attorney.

**Property subject to forfeiture** - The following may be subject to forfeiture:

- (a) Property related to a narcotics offense, which includes (Health and Safety Code § 11470; Health and Safety Code § 11470.1):
  1. Property (not including real property or vehicles) used, or intended for use, as a container for controlled substances, materials to manufacture controlled substances, etc.
  2. Interest in a vehicle (car, boat, airplane, other vehicle) used to facilitate the manufacture, possession for sale or sale of specified quantities of controlled substances.
  3. Money, negotiable instruments, securities or other things of value furnished or intended to be furnished by any person in exchange for a controlled substance, proceeds traceable to an exchange, etc.
  4. Real property when the owner is convicted of violating Health and Safety Code § 11366, Health and Safety Code § 11366.5 or Health and Safety Code § 11366.6 (drug houses) when the property was not used as a family residence or for other lawful purposes, or property owned by two or more persons, one of whom had no knowledge of its unlawful use.
  5. The expenses of seizing, eradicating, destroying or taking remedial action with respect to any controlled substance or its precursors upon conviction for the unlawful manufacture or cultivation of any controlled substance or its precursors.

## *Asset Forfeiture*

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- (b) Property related to criminal profiteering (may include gang crimes), to include (Penal Code § 186.2; Penal Code § 186.3):
  - 1. Any property interest, whether tangible or intangible, acquired through a pattern of criminal profiteering activity.
  - 2. All proceeds acquired through a pattern of criminal profiteering activity, including all things of value that may have been received in exchange for the proceeds immediately derived from the pattern of criminal profiteering activity.

**Seizure** - The act of law enforcement officials taking property, cash or assets that have been used in connection with or acquired by specified illegal activities.

### **601.2 POLICY**

The Ventura County District Attorney's Office recognizes that appropriately applied forfeiture laws are helpful to enforce the law, deter crime and reduce the economic incentive of crime. However, the potential for revenue should never compromise the effective investigation of criminal offenses, officer safety or any person's due process rights.

It is the policy of the Ventura County District Attorney's Office that all members, including those assigned to internal or external law enforcement task force operations, shall comply with all state and federal laws pertaining to forfeiture.

### **601.3 ASSET SEIZURE**

Property may be seized for forfeiture as provided in this policy.

#### **601.3.1 PROPERTY SUBJECT TO SEIZURE**

The following may be seized upon review and approval of a supervisor and in coordination with the forfeiture reviewer:

- (a) Property subject to forfeiture authorized for seizure under the authority of a search warrant or court order.
- (b) Property subject to forfeiture not authorized for seizure under the authority of a search warrant or court order when any of the following apply (Health and Safety Code § 11471; Health and Safety Code § 11488):
  - 1. The property subject to forfeiture is legally seized incident to an arrest.
  - 2. There is probable cause to believe that the property was used or is intended to be used in a violation of the Uniform Controlled Substances Act and the seizing investigator can articulate a nexus between the property and the controlled substance offense that would lead to the item being property subject for forfeiture.

## *Asset Forfeiture*

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Investigators aware of assets that may be forfeitable as a result of criminal profiteering or human trafficking should consider contacting the district attorney regarding a court order to protect the assets (Penal Code § 186.6; Penal Code § 236.6).

Whenever practicable, a search warrant or court order for seizure prior to making a seizure is the preferred method.

A large amount of money standing alone is insufficient to establish the probable cause required to make a seizure.

### **601.3.2 PROPERTY NOT SUBJECT TO SEIZURE**

The following property should not be seized for forfeiture:

- (a) Cash and property that does not meet the forfeiture counsel's current minimum forfeiture thresholds should not be seized.
- (b) Real property is not subject to seizure, absent exigent circumstances, without a court order (Health and Safety Code § 11471).
- (c) A vehicle which may be lawfully driven on the highway if there is a community property interest in the vehicle by a person other than the suspect and the vehicle is the sole vehicle available to the suspect's immediate family (Health and Safety Code § 11470).
- (d) Vehicles, boats or airplanes owned by an "innocent owner," such as a common carrier with no knowledge of the suspected offense (Health and Safety Code § 11490).
- (e) Any property when the associated activity involves the possession of marijuana or related paraphernalia that is permissible under the Control, Regulate and Tax Adult Use of Marijuana Act (Health and Safety Code § 11362.1).

### **601.4 PROCESSING SEIZED PROPERTY FOR FORFEITURE PROCEEDINGS**

When property or cash subject to this policy is seized, the investigator making the seizure should ensure compliance with the following:

- (a) Complete applicable seizure forms and present the appropriate copy to the person from whom the property is seized. If cash or property is seized from more than one person, a separate copy must be provided to each person, specifying the items seized. When property is seized and no one claims an interest in the property, the investigator must leave the copy in the place where the property was found, if it is reasonable to do so.
- (b) Complete and submit a report and original seizure forms within 24 hours of the seizure, if practicable.
- (c) Forward the original seizure forms and related reports to the forfeiture reviewer within two days of seizure.

The investigator will book seized property as evidence with the notation in the comment section of the property form, "Seized Subject to Forfeiture." Property seized subject to forfeiture should

## *Asset Forfeiture*

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be booked on a separate property form. No other evidence from the case should be booked on this form.

Photographs should be taken of items seized, particularly cash, jewelry and other valuable items.

Investigators who suspect property may be subject to seizure but are not able to seize the property (e.g., the property is located elsewhere, the whereabouts of the property is unknown, it is real estate, bank accounts, non-tangible assets) should document and forward the information in the appropriate report to the forfeiture reviewer.

### **601.5 MAINTAINING SEIZED PROPERTY**

The Property and Evidence Room Supervisor is responsible for ensuring compliance with the following:

- (a) All property received for forfeiture is reasonably secured and properly stored to prevent waste and preserve its condition.
- (b) All property received for forfeiture is checked to determine if the property has been stolen.
- (c) All property received for forfeiture is retained in the same manner as evidence until forfeiture is finalized or the property is returned to the claimant or the person with an ownership interest.
- (d) Property received for forfeiture is not used unless the forfeiture action has been completed.

### **601.6 FORFEITURE REVIEWER**

The Chief Investigator will appoint an investigator as the forfeiture reviewer. Prior to assuming duties, or as soon as practicable thereafter, the forfeiture reviewer should attend a department-approved course on asset forfeiture.

The responsibilities of the forfeiture reviewer include:

- (a) Remaining familiar with forfeiture laws, particularly Health and Safety Code § 11469 et seq. and Penal Code § 186.2 et seq. and the forfeiture policies of the forfeiture counsel.
- (b) Serving as the liaison between the Department and the forfeiture counsel and ensuring prompt legal review of all seizures.
- (c) Making reasonable efforts to obtain annual training that includes best practices in pursuing, seizing and tracking forfeitures.
- (d) Ensuring that property seized under state law is not referred or otherwise transferred to a federal agency seeking the property for federal forfeiture as prohibited by Health and Safety Code § 11471.2.

## *Asset Forfeiture*

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- (e) Ensuring that responsibilities, including the designation of a fiscal agent, are clearly established whenever multiple agencies are cooperating in a forfeiture case.
- (f) Ensuring that seizure forms are available and appropriate for department use. These should include notice forms, a receipt form and a checklist that provides relevant guidance to investigators. The forms should be available in languages appropriate for the region and should contain spaces for:
  - 1. Names and contact information for all relevant persons and law enforcement officers involved.
  - 2. Information as to how ownership or other property interests may have been determined (e.g., verbal claims of ownership, titles, public records).
  - 3. A space for the signature of the person from whom cash or property is being seized.
  - 4. A tear-off portion or copy, which should be given to the person from whom cash or property is being seized, that includes the legal authority for the seizure, information regarding the process to contest the seizure and a detailed description of the items seized.
- (g) Ensuring that investigators who may be involved in asset forfeiture receive training in the proper use of the seizure forms and the forfeiture process. The training should be developed in consultation with the appropriate legal counsel and may be accomplished through traditional classroom education, electronic media, Daily Training Bulletins (DTBs) or Department Directives. The training should cover this policy and address any relevant statutory changes and court decisions.
- (h) Reviewing each asset forfeiture case to ensure that:
  - 1. Written documentation of the seizure and the items seized is in the case file.
  - 2. Independent legal review of the circumstances and propriety of the seizure is made in a timely manner.
  - 3. Notice of seizure has been given in a timely manner to those who hold an interest in the seized property (Health and Safety Code § 11488.4).
  - 4. Property is promptly released to those entitled to its return (Health and Safety Code § 11488.2).
  - 5. All changes to forfeiture status are forwarded to any supervisor who initiates a forfeiture case.
  - 6. Any cash received is deposited with the fiscal agent.
  - 7. Assistance with the resolution of ownership claims and the release of property to those entitled is provided.

## *Asset Forfeiture*

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8. Current minimum forfeiture thresholds are communicated appropriately to investigators.
9. This policy and any related policies are periodically reviewed and updated to reflect current federal and state statutes and case law.
  - (i) Ensuring that a written plan that enables the Chief Investigator to address any extended absence of the forfeiture reviewer, thereby ensuring that contact information for other law enforcement officers and attorneys who may assist in these matters is available.
  - (j) Ensuring that the process of selling or adding forfeited property to the department's regular inventory is in accordance with all applicable laws and consistent with the department's use and disposition of similar property.
  - (k) Keeping a manual that details the statutory grounds for forfeitures and department procedures related to asset forfeiture, including procedures for prompt notice to interest holders, the expeditious release of seized property, where appropriate, and the prompt resolution of claims of innocent ownership (Heath and Safety Code § 11469).
  - (l) Providing copies of seized business records to the person or business from whom such records were seized, when requested (Heath and Safety Code §11471).
  - (m) Notifying the California Franchise Tax Board when there is reasonable cause to believe that the value of seized property exceeds \$5,000.00 (Health and Safety Code § 11471.5).

Forfeiture proceeds should be maintained in a separate fund or account subject to appropriate accounting control, with regular reviews or audits of all deposits and expenditures.

Forfeiture reporting and expenditures should be completed in the manner prescribed by the law and County financial directives (Health and Safety Code § 11495).

### **601.7 DISPOSITION OF FORFEITED PROPERTY**

Forfeited funds distributed under Health and Safety Code § 11489 et seq. shall only be used for purposes allowed by law, but in no case shall a peace officer's employment or salary depend upon the level of seizures or forfeitures he/she achieves (Heath and Safety Code § 11469).

The Department may request a court order so that certain uncontaminated science equipment is relinquished to a school or school district for science classroom education in lieu of destruction (Health and Safety Code § 11473; Health and Safety Code § 11473.5).

#### **601.7.1 RECEIVING EQUITABLE SHARES**

When participating in a joint investigation with a federal agency, the Ventura County District Attorney's Office shall not receive an equitable share from the federal agency of all or a portion of the forfeiture proceeds absent either a required conviction under Health and Safety Code §



## *Asset Forfeiture*

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11471.2 or the flight, death or willful failure to appear of the defendant. This does not apply to forfeited cash or negotiable instruments of \$40,000 or more.

### **601.8 CLAIM INVESTIGATIONS**

An investigation shall be made as to any claimant of a vehicle, boat or airplane whose right, title, interest or lien is on the record in the Department of Motor Vehicles or in an appropriate federal agency. If investigation reveals that any person, other than the registered owner, is the legal owner, and that ownership did not arise subsequent to the date and time of arrest or notification of the forfeiture proceedings or seizure of the vehicle, boat or airplane, notice shall be made to the legal owner at his/her address appearing on the records of the Department of Motor Vehicles or the appropriate federal agency (Health and Safety Code § 11488.4).

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# Ventura County District Attorney's Office

Ventura County DA CA Policy Manual

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## Undercover Credit Cards

### 603.1 PURPOSE AND SCOPE

**PURPOSE:** To establish guidelines for the proper utilization and accountability for the use of all undercover credit cards utilized by the Bureau of Investigation.

#### 603.1.1 OBTAINING UNDERCOVER CREDIT CARDS

Undercover Credit Cards are typically obtained by the Bureau of Investigation Deputy Chief Investigator working with the security division of banking institutions. When obtaining undercover credit cards, the Deputy Chief Investigator will work with the director of the Fiscal/Administrative/Legislative Services Division. When obtaining undercover credit cards, every effort will be made to obtain the most cost-effective cards. It is preferred that the cards obtained not have any access fees whenever possible. Once undercover credit cards have been obtained, the Fiscal Section of the Fiscal/Administrative/Legislative Services Division will provide the credit card information to the Auditor-Controller's Office to include the agreement, credit limit, etc. The Auditor-Controller's Office will consider this information confidential and will not disseminate this information.

#### 603.1.2 RESPONSIBILITY AND REVIEW

- (a) Undercover Credit Cards authorized by the District Attorney may be used by the Bureau of Investigation staff during investigative operations when the normal methods of requesting funds from the Fiscal/Administrative/Legislative Services Division are not feasible due to the nature of the investigation. The District Attorney has ultimate control and responsibility for the use of these undercover credit cards. These undercover credit cards may only be used as directed herein. To ensure that the undercover credit cards are used in the appropriate fashion, the District Attorney has directed the Fiscal Section of the Fiscal/Administrative/Legislative Services Division to audit the use of all Bureau of Investigation undercover credit cards annually.
- (b) The fiscal manager of the Fiscal/Administrative/Legislative Services Division shall put in place a monthly review of all expenditures made using undercover credit cards. These expenditures will be documented in writing and verified for accuracy by the director of the Fiscal/Administrative/Legislative Services Division or his designee. The original documents shall be maintained in the Fiscal/Administrative/Legislative Services Division for use in any internal or external audits.
- (c) All records kept in accordance with the use of an undercover credit card shall be made available for review or audit by the Auditor-Controller's Office upon request.
- (d) The deputy chief investigator of the Bureau of Investigation shall be provided with a report documenting the review of expenditures by the Fiscal Section of the Fiscal/Administrative/Legislative Services Division on a quarterly basis.

#### 603.1.3 PROCEDURES FOR REQUESTING THE USE OF UNDERCOVER CREDIT CARDS

## *Undercover Credit Cards*

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- (a) The Bureau of Investigation shall maintain a safe on-site in which a sign-out ledger, sign-out log and all undercover credit cards are held for use. The chief investigator and deputy chief investigator shall be the only individuals to have access to this safe.
- (b) Undercover credit cards may be utilized, at the direction of the chief investigator or the deputy chief investigator of the Bureau of Investigation, in circumstances where the use of normal expenditure procedures could jeopardize an investigation.
- (c) When the need arises for the use of undercover credit cards, an Expenditure Request Form (ERF) will be completed and approved prior to the release of any undercover credit card(s). The ERF shall be submitted to the fiscal manager of the Fiscal/Administrative/Legislative Services Division, who will review and approve the ERF and any supporting documentation for the use of the undercover credit card(s). Final approval of the ERF will be made by the chief investigator or a deputy chief investigator.

### 603.1.4 PROCEDURES FOR THE RELEASE OF UNDERCOVER CREDIT CARDS

Disbursement from the Bureau of Investigation safe.

- (a) Upon the need for an undercover credit card, a deputy chief investigator or chief investigator should first determine that there is an appropriate need.
- (b) The release of the undercover credit card shall be noted in the sign-out ledger and log, including the specific date and time of the release. This ledger and log shall also reflect the specific undercover credit card released and the name of the person to whom it was released. A copy of the approved ERF shall be attached to the ledger.
- (c) The sign-out ledger and log shall also reflect the purpose for which the funds are to be used. The deputy chief investigator or chief investigator disbursing the undercover credit card and the person receiving it shall both sign the ledger.
- (d) The person receiving the undercover credit card will sign the log, be given a copy of the BOI Undercover Credit Cards policy for their files and the Confidential Fictitious Credit/Debit Card Agreement to sign.

### 603.1.5 VALID EXPENDITURES

- (a) Due to the diverse nature of investigative situations that may arise, a specific list of valid uses cannot be made. It should, however, always be understood that even the appearance of impropriety when handling these undercover credit cards might jeopardize a criminal prosecution or bring discredit to the office. Therefore, proper documentation of all uses should always be maintained. A simple rule of thumb when deciding whether or not to use undercover credit cards: under no circumstances should these undercover credit cards be used for personal use. Undercover credit cards should only be used for official bureau operations.

## *Undercover Credit Cards*

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- (b) The following represents a sample of acceptable expenditures: 1. The undercover purchase of goods or services as part of an official investigation. 2. Establishing an Internet account for an undercover operation. 3. Paying for fictitious medical or legal services. 4. Purchase of illicit or illegal products.
- (c) The undercover credit card(s) shall not be utilized for any personal or personnel expenses such as food, beverage or gasoline, unless the nature of the operation calls for such expenditures.
- (d) Any receipts or documentation associated with an expenditure where undercover credit card(s) have been used will be submitted to the Fiscal Section of the Fiscal/Administrative/Legislative Services Division via the Bureau of Investigation chain of command within five working days of the transaction.
- (e) When the credit card bill is received, it will be submitted to the Fiscal Section of the Fiscal/Administrative/Legislative Services Division via the Bureau of Investigation chain of command within five working days so that the bill can be paid in a timely manner.
- (f) Undercover credit cards are provided to facilitate investigative functions. Unauthorized use may subject a Bureau of Investigation staff member to disciplinary action and/or criminal prosecution.

### 603.1.6 DOCUMENTATION

On a monthly basis, the chief investigator or deputy chief investigator will provide to the fiscal manager or director of the Fiscal/Administrative/Legislative Services Division the sign-out log and agreement for review. The log should accurately reflect the date(s) that all undercover credit cards were used. All uses listed on the log shall have a corresponding ERF that has been submitted and approved for each expenditure.

### 603.1.7 RETURN OF UNDERCOVER CREDIT CARDS

- (a) The undercover credit card(s) will be returned when the specific investigative need is concluded.
- (b) The undercover credit card(s) will be returned to the BOI safe. The chief investigator or the deputy chief investigator and a witness will document the return of the undercover credit card(s) in the sign-out ledger and both will sign indicating that the undercover credit card(s) have been returned.

### 603.1.8 DISPOSITION OF ASSETS

- (a) Assets obtained by use of the undercover credit card(s) will be maintained and handled as evidence in the case for which they were obtained.

## *Undercover Credit Cards*

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- (b) At the conclusion of the criminal or civil case for which the assets were obtained, the assets will be disposed of by one of the following means:
- Destroyed if the asset is of an illegal nature or of no use to the District Attorney's Office, Bureau of Investigation or County of Ventura. Such destruction will be documented and approved by the chief investigator or the deputy chief investigator.
  - If the asset is usable by the District Attorney's Office, Bureau of Investigation or County of Ventura, the item(s) will be placed in the inventory of equipment, etc. for such use after approval has been obtained from the chief investigator or the deputy chief investigator.
  - If the asset is not usable by the District Attorney's Office Form IC-1 County of Ventura Request for Removal of County Property will be completed and forwarded to GSA Stores for disposition.

### 603.1.9 CONFIDENTIAL FICTITIOUS CREDIT/DEBIT CARD AGREEMENT

The undersigned employee (the "employee") hereby acknowledges receipt of a Confidential Fictitious Credit/Debit Card ("card"). By accepting this card, the employee agrees to abide by the Bureau of Investigation's Undercover Credit Cards policies and procedures for use. Such policies and procedures include, but are not limited to, the following:

The undercover purchase of goods or services as part of an official investigation.

Establishing an Internet account for an undercover operation.

Paying for fictitious medical or legal services.

Purchase of illicit or illegal products.

The employee shall submit receipts or other documentation for charges made as required by the Bureau of Investigation and the Fiscal/Administrative/Legislative Division to verify the validity of the charges. The undercover credit card(s) shall not be utilized for any personal expenses such as food, beverage or gasoline, unless the nature of the operation calls for such expenditures.

All receipts or documentation associated with expenditures where the undercover credit card(s) have been used will be submitted to the Fiscal/Administrative/Legislative Services Division via the Bureau of Investigation chain of command \_\_\_\_\_ (within five working days after the transaction). If not submitted within five working days, the employee agrees that the charges may be deducted from his/her first paycheck following the fifth day (or from any subsequent paycheck). In addition, the employee agrees that if he/she terminates prior to submitting the receipts or documentation within the scheduled time frame, the outstanding charges may be deducted from his/her final paycheck or any other payments due from the County to the employee.

# Ventura County District Attorney's Office

Ventura County DA CA Policy Manual

## *Undercover Credit Cards*

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Date \_\_\_\_\_ Employee \_\_\_\_\_



## 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.

#### 604.1.1 DEFINITIONS

Definitions related to this policy include:

***Brady* information** -Information known or possessed by the Ventura County District Attorney's Office or the prosecution team for the case that is both favorable to the accused and material to either guilt or punishment.

### 604.2 POLICY

The Ventura County District Attorney's Office 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 Ventura County District Attorney's Office will assist the prosecution by complying with its obligation to disclose information that is both favorable and material to the defense. The Bureau will identify and disclose to the prosecution potentially exculpatory information, as provided in this policy.

### 604.3 DISCLOSURE OF INVESTIGATIVE INFORMATION

Investigators 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 an investigator learns of potentially incriminating or exculpatory information any time after submission of a case, the investigator or the handling investigator 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 investigator should discuss the matter with a supervisor and/or prosecutor to determine the appropriate manner in which to proceed.

Evidence or facts are considered material if there is a reasonable probability that they would affect the outcome of a criminal proceeding or trial. Determining whether evidence or facts are material often requires legal or even judicial review. If an investigator is unsure whether evidence or facts are material, the investigator should address the issue with a supervisor.

Supervisors who are uncertain about whether evidence or facts are material should address the issue in a written memo to an appropriate prosecutor. A copy of the memo should be retained in the Bureau case file.

## *Brady Material Disclosure*

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### **604.4 DISCLOSURE OF PERSONNEL INFORMATION**

If there is a sustained finding of misconduct in a Bureau personnel file that reflects upon moral turpitude or the truthfulness or bias of the employee, the Chief Investigator shall comply with the procedures of the District Attorney's Pitchess/Brady Procedure for Disclosure of Material from Law Enforcement Personnel Records (External Policy).

### **604.5 INVESTIGATING BRADY ISSUES**

If the Bureau 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.

#### **604.5.1 PEACE OFFICER OR EXPERT CREDIBILITY**

Upon learning, from a source other than a personnel file, of any apparently credible allegation involving law enforcement employee or expert witness misconduct, including misconduct by an employee of another department, that may be subject to discovery under Brady, an investigator shall timely report this information to their supervisor, to be handled pursuant to the District Attorney's policy for Brady Discovery of Law Enforcement Employee Misconduct (Internal Policy).

### **604.6 TRAINING**

Bureau members should receive periodic training on the requirements of this policy.

## Confidential Informants

### 605.1 PURPOSE AND SCOPE

In many instances, a successful investigation cannot be conducted without the use of cooperating individuals. To protect the integrity of the District Attorney's Office-Bureau of Investigation and the investigators using informants, it shall be the policy of the District Attorney's Office-Bureau of Investigation to take appropriate precautions by using sound informant policies, as enumerated in the Ventura County District Attorney's Office Legal Policies Manual as listed in Article II, section 1.02, chapter 2, subsection O.

### 605.2 INFORMANT FILE SYSTEM

Legal Staff shall be responsible for maintaining informant files. A separate file shall be maintained on each cooperating individual.

#### 605.2.1 FILE SYSTEM PROCEDURE

Each file shall be coded with an assigned informant control number. An informant history shall be prepared to correspond to each informant file and include the following information:

- (a) Informant's name and/or aliases
- (b) Date of birth
- (c) Physical description: height, weight, hair color, eye color, race, sex, scars, tattoos or other distinguishing features
- (d) Current home address and telephone numbers
- (e) Current employer(s), position, address(es) and telephone numbers
- (f) Vehicles owned and registration information
- (g) Places frequented
- (h) Informant's photograph
- (i) Briefs of information provided by the informant and his or her subsequent reliability. If an informant is determined to be unreliable, the informant's file is marked as "Unreliable"
- (j) Name of investigator initiating use of the informant
- (k) Signed informant agreement
- (l) Update on active or inactive status of informant

The informant files shall be maintained in a secure area within the District Attorney's Office. These files shall be used to provide a source of background information about the informant, enable

## *Confidential Informants*

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review and evaluation of information given by the informant, and minimize incidents that could be used to question the integrity of investigators or the reliability of the confidential informant.

### **605.3 USE OF INFORMANTS**

Before using an individual as a confidential informant, an investigator must receive approval from the Deputy Chief Investigator. The investigator shall compile sufficient information through a background investigation in order to determine the reliability and credibility of the individual.

#### **605.3.1 JUVENILE INFORMANTS**

The use of juvenile informants under the age of 13-years is prohibited. Except as provided for in the enforcement of the Tobacco Enforcement Act, Business & Professions Code §§ 22950, et seq., the use of any juvenile informant between the ages of 13 and 18-years is only authorized by court order obtained pursuant to Penal Code § 701.5.

For purposes of this policy, a "juvenile informant" means any juvenile who participates, on behalf of this Bureau, in a prearranged transaction or series of prearranged transactions with direct face-to-face contact with any party, when the juvenile's participation in the transaction is for the purpose of obtaining or attempting to obtain evidence of illegal activity by a third party and where the juvenile is participating in the transaction for the purpose of reducing or dismissing a pending juvenile petition against the juvenile.

### **605.4 GUIDELINES FOR HANDLING CONFIDENTIAL INFORMANTS**

All confidential informants are required to sign and abide by the provisions of the District Attorney's Office Informant Agreement. The investigator and/or the deputy district attorney assigned to the case using the confidential informant shall discuss each of the provisions of the agreement with the confidential informant.

Details of the agreement are to be approved in writing by the unit supervisor before being finalized with the confidential informant.

#### **605.4.1 RELATIONSHIPS WITH CONFIDENTIAL INFORMANTS**

No member of the District Attorney's Office-Bureau of Investigation shall knowingly maintain a social relationship with a confidential informant while on or off duty, or otherwise become intimately involved with a confidential informant. Members of the District Attorney's Office shall neither solicit nor accept gratuities nor engage in any private business transaction with a confidential informant.

To maintain investigator/informant integrity, the following must be adhered to:

- (a) Investigators shall not withhold the identity of an informant from their superiors
- (b) Identities of informants shall otherwise be kept confidential
- (c) Criminal activity by informants shall not be condoned
- (d) Informants shall be told they are not acting as Bureau investigators, employees or agents of the District Attorney's Office, and that they shall not represent themselves as such

## *Confidential Informants*

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- (e) The relationship between investigators and informants shall always be ethical and professional
- (f) Social contact shall be avoided unless necessary to conduct an official investigation, and only with prior approval of the investigator's supervisor
- (g) Investigators shall not meet with informants of the opposite sex in a private place unless accompanied by at least one additional investigator or with prior approval of their supervisor. Investigators may meet informants of the opposite sex alone in an occupied public place such as a restaurant. When contacting informants of either sex for the purpose of making payments, investigators shall arrange for the presence of another investigator, whenever possible.

### **605.5 NARCOTICS INFORMANT PAYMENT PROCEDURES**

The potential payment of large sums of money to any confidential informant must be done in a manner respecting public opinion and scrutiny. Additionally, to maintain a good accounting of such funds requires a strict procedure for disbursements.

#### **605.5.1 PAYMENT PROCEDURE**

The amount of funds to be paid to any confidential informant will be evaluated against the following criteria:

- The extent of the informant's personal involvement in the case
- The quality of the violator arrested
- The amount of assets seized
- The quantity of the drugs seized
- The informant's previous criminal activity
- The level of risk taken by the informant

The District Attorney or his designee will discuss the above factors with the Bureau Chief or his designee and arrive at a recommended level of payment.

#### **605.5.2 PAYMENT PROCESS**

A check shall be requested, payable to the case agent. The case number shall be recorded justifying the payment. The Fiscal/Admin Manager signature is required for disbursements over \$500. Payments \$500 and under may be paid in cash out of the Investigation Bureau Buy/Expense Fund. The chief investigator or the deputy chief investigator will be required to sign the voucher for amounts under \$500.

To complete the transaction with the confidential informant, the case agent shall have the confidential informant initial the cash transfer form. The confidential informant will sign the form indicating the amount received, the date, and that the confidential informant is receiving funds in payment for information voluntarily rendered in the case. The District Attorney's Office case

## *Confidential Informants*

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number shall be recorded on the cash transfer form. The form will be kept in the confidential informant's file.

If the payment amount exceeds \$500.00, a complete written statement of the confidential informant's involvement in the case shall be placed in the confidential informant's file. This statement shall be signed by the confidential informant verifying the statement as a true summary of his/her actions in the case(s).

Each confidential informant receiving a cash payment shall be informed of his or her responsibility to report the cash to the Internal Revenue Service (IRS) as income.

### 605.5.3 REPORTING OF PAYMENTS

Each confidential informant receiving a cash payment shall be informed 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 confidential informant should be provided IRS Form 1099 (26 CFR § 1.6041-1). If such documentation or reporting may reveal the identity of the confidential informant and by doing so jeopardize any investigation, the safety of peace officers or the safety of the confidential informant (26 CFR § 1.6041-3), then IRS Form 1099 should not be issued.

In such cases, the confidential 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 confidential informant's file.

## Death Penalty/Life Without Parole Cases

### 606.1 PURPOSE AND SCOPE

The Legal Policy Manual acknowledges the death penalty may not be an appropriate punishment in some special circumstance murder cases (190.2 PC). The policy states the District Attorney will hold a preliminary review as soon as reasonable after the complaint is filed. The preliminary review will be conducted by the District Attorney, Chief Assistant District Attorney, Chief Deputy of the Criminal Prosecutions Division, Bureau of Investigation Chief, the assigned prosecutor and the assigned investigator.

If, after the meeting, the District Attorney determines that the death penalty may be appropriate under the circumstances or that more information is needed to make a penalty recommendation, the assigned investigator will immediately begin a thorough background investigation of the defendant and prepare a confidential background report.

For additional information regarding death penalty/life without parole, refer to the Legal Policy Manual.

### 606.2 SPECIAL CIRCUMSTANCE MURDER CASE ASSIGNMENT

It will be the practice for investigators assigned to a special circumstance murder case to begin preparation for the Death Penalty Review as soon as practical. The initial preparation of the case should consist of gathering the below listed records before a Death Penalty Biography is ordered. Early request of these records will expedite receipt of these records and will aid in a timely Biography.

- Defendant's prison record;
- Defendant's prior court files;
- Defendant's military service records;
- Identifying prior employers; and
- Researching whether prior violent crime victims would still be available to testify.

### 606.3 PRE-DEATH PENALTY REVIEW MEETING

The assigned investigator should make preparations for the Pre-Death Penalty Review meeting. The investigator should know or have the following information available for such meetings:

- The defendant's criminal history (CII / FBI) and information on past criminal activity which the defendant used or attempted to use force or violence or the express or implied threat to use force or violence, or the infliction of significant suffering on a victim;
- The presence or absence of prior felony convictions;

## Death Penalty/Life Without Parole Cases

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- The extent to which the defendant poses a threat of physical dangerousness to others both in and out of custody;
- The age of the defendant at the time of the crimes;
- Currently known mental, physical or character traits that might influence a death penalty decision;
- Records listed in section 606.2 above.

### **606.4 CONFIDENTIAL BACKGROUND BIOGRAPHY**

If, after the Pre-Death Penalty Review meeting, the District Attorney determines that the death penalty may be appropriate under the circumstances or that more information is needed to make a penalty recommendation, the assigned investigator will prepare a thorough Confidential Background Biography.

If, after the preliminary review meeting, the District Attorney concludes the case does *not* warrant the death penalty, the conclusion will be documented and no further background investigation will be conducted for the purposes of penalty determination.

The biography should be composed in the following format and contain the following information:

#### A. Standard General Memo Cover

#### B. Table of Contents

#### C. Defendant Demographics.

- Date of Birth, Moniker, Place of Birth, CDL/CII/FBI/SSN, Description/Tattoos;
- Demographic information on parent(s), sibling(s), spouse(s), ex-spouse(s) and/or immediate family or friends close to the defendant;
- Children; and
- Occupation.

#### D. Current Crime Summary.

#### E. Family History.

- Defendant's family structure and history with the family for as far back as possible;
- Interviews with family and friends germane to the case;
- Interviews with current or former neighbors;
- Attempts to interview parents, significant others and adult children of the defendant should be made; and
- Statements from historic government documents; CPS reports, probation reports etc.

#### F. Health and Medical History

- Any known health history on the defendant learned through family, friends, court records or subpoenaed documents.



## Death Penalty/Life Without Parole Cases

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### G. Psychological History

- Any known psychological history on the defendant learned through family, friends, court records or subpoenaed documents.

### H. Education History

- Any known educational history on the defendant learned through family, friends, teachers, court records or subpoenaed documents.

### I. Employment History

- Any known employment history on the defendant learned through family, friends, court records or subpoenaed documents. If able, interviews with prior co-workers and employers should be conducted.

### J. Military History

- Any known military history on the defendant learned through family, friends, court records or subpoenaed documents.

### K. Community Service

- Any known history of community service by the defendant.

### L. Criminal History

- A complete list of the defendant's criminal history; both juvenile and adult. To include prior arrests and convictions involving the defendant with summaries of violent or significant crimes as learned through court documents, probation records and/or interviews.

### M. Custody History

- A complete custody history on the defendant to include custody conduct and notable events during their time in custody; specifically any violent events or issues that might be relevant to the death penalty review.

### N. Conclusion

- A brief summary of the facts learned from the investigation into the defendant's background.

## **606.5 POST-VERDICT INVESTIGATION: JUROR DEBRIEFINGS**

No matter what the result, willing jurors should be interviewed individually and memos should be written summarizing the results and reflecting the course of deliberations, how the jurors evaluated the penalty issue and arrived at their decision or lack of one etc.

## **Chapter 7 - Equipment**

## County of Ventura Owned and Personal Property

### 700.1 PURPOSE AND SCOPE

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

County of Ventura property is to include property identified as that of the District Attorney's Office and/or Bureau of Investigation.

### 700.2 CARE OF COUNTY OF VENTURA PROPERTY

Employees shall be responsible for the safekeeping, serviceable condition, proper care, use and replacement of department property assigned or entrusted to them. An employee's intentional or negligent abuse or misuse of county 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 Bureau issued property or equipment assigned for their use.
- (b) The use of damaged or unserviceable Bureau property should be discontinued as soon as practical and replaced with comparable Bureau property as soon as available and following notice to a supervisor.
- (c) Except when otherwise directed by competent authority or required by exigent circumstances, Bureau 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) Bureau property shall not be thrown away, sold, traded, donated, destroyed, or otherwise disposed of without proper authority.
- (e) In the event that any Bureau 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

Please refer to County of Ventura Administrative Policy Manual, Chapter IX-Risk Management. Specifically Policies No. 8, titled "Personal Property Reimbursement" and No. 9, titled "Personal Property Damage-Automotive."

Claims for reimbursement for damage or loss of personal property must be made on the proper form. This form is submitted to the employee's immediate supervisor. The supervisor may require a separate written report of the loss or damage.

## *County of Ventura Owned and Personal Property*

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

Upon review by the Deputy Chief Investigator and a finding that no misconduct or negligence was involved, repair or replacement may be recommended by the Deputy Chief Investigator who will then forward the claim.

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

### **700.3.1 REPORTING REQUIREMENT**

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

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

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

Investigators 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.
- (c) A county property damage report form will be completed.

#### **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 Deputy Chief Investigator.

## 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 Department or personally owned, while on-duty or when used for authorized work-related purposes.

This policy generically refers to all such devices as Personal Communication Devices (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

Depending on an employee's assignment and needs of the position, the Bureau may, at its discretion, issue a PCD. Such devices shall remain the sole property of the Bureau and shall be subject to inspection or monitoring (including all related records and content) at any time without notice and without reason.

Bureau issued PCD's are intended for official business use. Personal use of PCD's should be limited. An employee that is issued a PCD will be provided the monthly billing statement. They will review this statement and highlight all personal calls. The employee will submit the reviewed statement to the bureau secretary and include a reimbursement for all personal calls at a rate of .10 cents per minute.

All members are responsible for understanding and adhering to the policies described in the following policies. Refer to these specific policies for further details:

- Ventura County Cellular Device Policy
- Mobile Device Management Policy

### 701.3 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. Investigators 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 department 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 Department 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.

## Vehicle Use

### 702.1 PURPOSE & SCOPE

The Bureau utilizes County owned motor vehicles in a variety of applications operated by Bureau personnel. In order to maintain a system of accountability and ensure County owned vehicles are used appropriately, regulations relating to the use of these vehicles have been established. The term "County owned" as used in this section also refers to any vehicle leased or rented by the County.

Employees are responsible for assisting in maintaining Bureau vehicles so that they are properly equipped, properly maintained, properly refueled and present a clean appearance.

### 702.2 USE OF VEHICLES

#### 702.2.1 AUTHORIZED PASSENGERS

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

#### 702.2.2 INSPECTIONS

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

### 702.3 ASSIGNED VEHICLES

County owned vehicles assigned to investigators for their use within their job assignment may be used to and from their residence for work-related purposes.

County vehicles assigned to investigators shall only be used for work-related purposes and shall not be used for personal errands, or transports, unless special circumstances exist and the supervisor gives authorization. The agreement also requires the employee to be responsible for the vehicle's care and maintenance.

The assignment of vehicles is at the discretion of the Chief Investigator or his designee. Assigned vehicles may be changed at any time and/or permission to take home a vehicle may be withdrawn at any time.

#### 702.3.1 VEHICLES SUBJECT TO INSPECTION

All County owned vehicles are subject to inspection and/or search at any time by a supervisor and no employee assigned to or operating such vehicle shall be entitled to any expectation of privacy with respect to the vehicle or its contents.

## *Vehicle Use*

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### 702.3.2 ALCOHOL

Members who have consumed alcohol are prohibited from operating any department 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.

### 702.4 SECURITY

Employees may take home County owned vehicles and shall meet the following criteria:

- (a) The employee is issued a County owned vehicle.
- (b) The employee is not on limited or light duty status.
- (c) The employee lives within County limits or has obtained approval from the Chief Investigator.
- (d) Parking shall be available at the employee's residence.
- (e) Vehicles shall be locked when not attended.
- (f) All firearms shall be removed from the interior of the vehicle and placed in the trunk or properly secured in the residence when the vehicle is not attended (refer to Firearms policy § 312 regarding safe storage of firearms at home).

### 702.5 ENFORCEMENT ACTIONS

When driving an assigned vehicle to and from work, an investigator should avoid becoming directly involved in enforcement actions except in those circumstances where a potential threat to life or serious property damage exists (see Off-Duty Law Enforcement Actions Policy and the Law Enforcement Authority Policy).

Investigators may render public assistance (e.g. to a stranded motorist) when deemed prudent.

Investigators driving bureau vehicles should be armed at all times and carry their department-issued identification. Investigators should also ensure that Bureau radio communication capabilities are maintained to the extent feasible.

### 702.6 MAINTENANCE

- (a) Each employee is responsible for the cleanliness (exterior and interior) and overall maintenance of their assigned vehicle.
  - 1. Employees may use the wash racks at the County maintenance facilities (trusties may be used to clean vehicles, when available).
  - 2. Cleaning/maintenance supplies will be provided by the County.
- (b) Employees shall make daily inspections of their assigned vehicle for service/maintenance requirements and damage.
- (c) Routine maintenance and oil changes shall be done in accordance with the shop schedule. The vehicles will normally be serviced at the County maintenance shop.

## *Vehicle Use*

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1. When leaving a vehicle at the maintenance shop, the employee will complete a vehicle repair card explaining the service or repair.
2. All maintenance will be completed in a timely manner. It is the responsibility of the employee assigned the vehicle to ensure that any maintenance that is due is completed within the next 30 days.

No weapons shall be left in the vehicles while at the county garage for maintenance.

### 702.6.1 ACCESSORIES AND/OR MODIFICATIONS

No modifications, additions or deletions of any equipment or accessories shall be made to the vehicle without written permission from the Commander in charge of fleet management.

### **702.7 ACCIDENT DAMAGE, ABUSE, AND MISUSE**

Any time a county vehicle is involved in a traffic collision, either singularly or with another vehicle, the involved employee will be responsible to do the following:

- (a) Contact the local law enforcement agency to have an accident report taken.
- (b) Immediately contact their unit supervisor or available supervisor and notify him/her of the accident.
- (c) The employee involved in the collision shall complete a Risk Management Occurrence Report form. If the employee is incapable, the supervisor shall complete the form.
- (d) The employee's unit supervisor or available supervisor will respond to the scene of the accident, when possible, and make sure information is obtained about the location, involved parties etc., as well as take photos of the scene and damage.
- (e) The photographs and the Risk Management Occurrence Report form are to be forwarded to the Deputy Chief Investigator through the chain of command.

Any damage to a vehicle, not caused by a traffic collision, shall be immediately reported within the day in which the damage was discovered, documented in memorandum format and forwarded to the supervisor. The supervisor will then forward the memorandum to the Commander in charge of the office fleet.

An administrative investigation may be conducted to determine if the damage was caused by abuse or misuse. If it is determined that misuse or abuse was a result of negligent conduct or operation, appropriate disciplinary action may result.

### 702.7.1 DEFECTIVE VEHICLE

When a Bureau vehicle becomes inoperative or in need of repair that affects the safety of the vehicle, that vehicle shall be removed from service for repair. Proper documentation shall be promptly completed by the employee who first becomes aware of the defective condition, describing the correction needed. The paperwork shall be promptly forwarded to vehicle maintenance for repair.



## *Vehicle Use*

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### 702.7.2 VEHICLE MAINTENANCE LOCATIONS

A vehicle is required to periodically receive maintenance throughout the year. The person with an assigned vehicle will receive a notice, usually via email, of the need for such maintenance. There are two locations where you take your vehicle after making an appointment to do so: the Ventura County Government Center garage or the Fleet Services garage located on County Road in Ventura, CA. (Saticoy Yard)

When notified that maintenance is due on an assigned vehicle, it shall be the assigned persons responsibility to have that service completed within 30 days.

### 702.7.3 CREDIT CARD FOR FUEL

As stated in the Policy and Procedures manual, the credit card issued shall only be used for self-service, unleaded fuel, and only when a county fuel source is not available within the county or when the purchase is made outside the County of Ventura. Other incidentals, such as car washes, shall not be charged on the credit card. The following locations are available to obtain fuel:

- The Ventura County Government Center garage;
- The Saticoy Fleet Services garage;
- The Ventura County Main Jail facility;
- The Ventura County East Valley Sheriff's facility; and
- The Ventura County Animal shelter located at the Camarillo Airport.

### 702.7.4 ANNUAL LEAVE OR EXTENDED ABSENCE

If an employee is on leave for an extended period of time, which is quantified as a week or more, (i.e., annual leave, leave without pay, worker's comp injury, etc), the employee must leave the assigned vehicle at the office site as well as leave its keys with their supervisor.

### 702.8 TOLL ROAD USAGE

Law enforcement vehicles are not routinely exempted from incurring toll road charges.

To avoid unnecessary toll road charges, all members operating a County-owned vehicle upon the toll road shall adhere to the following:

- (a) All members operating a County-owned vehicle for any reason other than in response to an emergency shall pay the appropriate toll charge or utilize the appropriate toll way transponder. Members may submit a request for reimbursement from the County for any toll fees incurred in the course of official business.
- (b) All members passing through a toll plaza or booth during a response to an emergency shall notify, in writing, the appropriate Commander within five working days explaining the circumstances.

# Ventura County District Attorney's Office

Ventura County DA CA Policy Manual

## *Vehicle Use*

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## **Chapter 8 - Support Services**

## 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 those persons authorized to remove and/or destroy property.

Each evidence room is managed by two or more evidence custodians who are supervised by a senior investigator. Evidence rooms are not to be used for reviewing or examining evidence. This should be done elsewhere after the evidence has been checked out. The evidence room is not a storage facility.

### 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.

**Safekeeping** - Includes the following types of property:

- Property obtained by the Bureau 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))

### 800.3 PROPERTY HANDLING

Any investigator who first comes into possession of any evidence/property, shall retain such property in his/her possession until it is properly tagged and placed in the designated property locker or storage rooms of the Bureau of Investigation. Care shall be taken to maintain the chain of custody for all evidence.

#### 800.3.1 PROPERTY BOOKING PROCEDURE

The following is the Bureau of Investigation protocol for booking general property items for either safekeeping or evidentiary purposes:

- (a) No evidence will be accepted and stored in the evidence room unless it has been electronically received and identified in Evidence on Q, or unless the investigator has received prior authorization from the Evidence Supervisor / Commander to be stored temporarily. The evidence must be removed from the evidence room or properly packaged and entered in Evidence on Q within one business day.

## *Property and Evidence*

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- (b) Prior to being placed into evidence, the investigator will input each piece of evidence into the Evidence on Q software system. This can be accomplished by accessing Evidence on Q from the investigator's desktop computer.
- (c) After the evidence has been inputted into Evidence on Q, the investigator will print evidence barcoded labels from the Evidence on Q label maker for each item of evidence.
- (d) The investigator will affix the barcoded labels on each piece of evidence.
- (e) If numerous envelopes are used, each envelope will have its own item number, and can be stored inside an unsealed box. The exterior of the box should be properly labeled showing the case investigator and relevant case information including case number, type of crime and defendant's name.
- (f) All packaged items will be initialed and sealed by the investigator..
- (g) The evidence custodian will confirm the evidence has been properly packaged and labeled. If it does not satisfy the booking procedure requirements, it will not be accepted.
- (h) The evidence custodian will check in each piece of evidence electronically using Evidence on Q.
- (i) The evidence custodian will designate the location where the evidence is to be stored and will enter this information in Evidence on Q, making every attempt to keep evidence from the same case together.
- (j) After all evidence has been checked and stored in the evidence room, the investigator can download a property receipt or chain-of-custody log from their desktop computer using Evidence on Q.
- (k) Weapons, money, and jewelry are to be stored in a lockable cabinet and/or safe located inside the evidence room at County Square Drive only.
- (l) No narcotics are permitted inside the evidence rooms. Such evidence must be stored at the law enforcement agency of jurisdiction. Hazardous materials, explosives, blasting caps, gun powder or any other combustible material will be handled by the Ventura County Sheriff's Bomb Squad and are not permitted in the evidence rooms.
- (m) No buccal swabs or biological evidence are permitted inside the evidence rooms. Biological evidence includes blood, saliva, sperm, hair, tissue, bones, teeth, fecal material or any other bodily fluids, in any form. Such evidence must be stored at the Sheriff's Office or the law enforcement agency of jurisdiction.
- (n) Only sworn staff are allowed to check in evidence.
- (o) Evidence rooms are not to be used for reviewing or examining evidence. This should be done elsewhere after the evidence has been checked out.
- (p) Refer to the applicable Lexipol section for the proper handling of currency.
- (q) Whenever possible, give the evidence custodian advance notice when needing to store or retrieve evidence.

## *Property and Evidence*

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- (r) If the investigator checking in evidence is different than the investigator who originally checked out the evidence, advise the evidence custodian to ensure the proper documentation is reflected in Evidence on Q.

### 800.3.2 CURRENCY

- 1) All currency, domestic and foreign, shall be packaged separately from all other evidence and from other currency seized from the same location and put into a clearly marked currency envelope. Prior to packaging, all currency shall be counted by the case investigator seizing the currency in front of a second investigator. Each investigator shall sign and date the currency envelope.
- 2) All money shall be re-counted by a supervising investigator whose name shall be clearly written on the currency envelope along with the amount of money to be booked into evidence.
- 3) If the total amount of money seized from the entire searched location exceeds \$5,000, the deputy chief investigator shall be notified, through the chain of command.
- 4) Once seized, the currency will be booked into the County Square Property Room (CSPR).
- 5) The case investigator must check one of the following on the currency envelope: Deposit Into Trust Account (i.e., Wells Fargo); Retain Best Evidence (Money that must be kept in its original state for presentation in court or for processing, i.e. photographing, checking for latent prints, D.N.A., by the crime lab. Counterfeit currency or altered currency would be considered "best evidence."); Retain Collector Value (Money that may be part of a collection or keepsake and may be worth more than face value.); or Retain Foreign Currency
- 6) The case investigator shall notify, via e-mail, the senior investigator in charge of the CSPR any time currency is booked into the property room.
- 7) Upon receiving the e-mail notifying him or her of the booked currency, the senior investigator in charge of the CSPR shall determine if the currency is to be deposited into the trust account. If so, the currency shall be removed from the property room safe by the senior investigator in charge of the CSPR and transported to Wells Fargo Bank for deposit into the trust account.
- 8) The senior investigator in charge of the CSPR shall obtain a deposit receipt and submit the original deposit receipt to the Fiscal Manager who shall prepare a cash receipt to be processed by the County Treasurer. A copy of the deposit slip shall be provided to the case investigator.
- 9) In the event that a discrepancy in the amount of currency to be deposited is discovered, the senior investigator in charge of the CSPR shall return the currency to the property room and re-book the currency into the CSPR until such time as the discrepancy can be accounted for and corrected.

### Release of currency from trust account (TFRF-Trust Fund Release Form)

- 1) To remove currency from the trust account, the case investigator or the unit senior investigator shall fill out a "Trust Fund Release Form" (TFRF). The form includes the following information and must be completed in its entirety:

## *Property and Evidence*

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- a) The date the currency was originally seized and/or received.
  - b) The report/ number associated with the case that the money was seized under.
  - c) The amount of currency to be released.
  - d) Name of the owner of the currency.
  - e) The name of person that the check is to be made payable to.
  - f) The date that the check is to be released to owner.
  - g) Any other pertinent information.
  - h) Bureau staff authorized to pick up disbursements.
- 2) The form will be sent to the case investigator's senior investigator for his or her approval. The case investigator's senior investigator will indicate his or her approval by signing the form. Once this is completed, the form will be sent to the Deputy Chief Investigator. The Deputy Chief Investigator will indicate his or her approval by also signing the form where indicated.
  - 3) Once the form is signed by the case investigator's senior investigator and the Deputy Chief Investigator, it will be sent to the Fiscal Manager and a copy to the senior investigator in charge of the CSPR.
  - 4) Only upon receipt of a fully completed Trust Fund Release Form, will the Fiscal Manager request a check from the County Auditor/Controller.

### Release of Check

- 1) Upon receipt of the check from the Auditor/Controller, the Fiscal Manager shall notify the case investigator that the check is ready to be picked up from the fiscal office. The case investigator shall make two copies of the check, one for the senior investigator in charge of the CSPR and one for the case file.
- 2) The case investigator shall immediately contact the lawful owner of the currency and make arrangements for its release.
- 3) Under no circumstances shall the check be released to anyone without proper identification. The owner of the property shall also sign a "Property Release Form." A copy of the identification and a copy of the Property Release Form shall be provided to the senior investigator in charge of the CSPR who shall maintain a copy of the Property Release Form and a copy of the check.
- 4) The photocopy of the identification information will be returned to the Fiscal Manager and kept on file.

### 800.3.3 EXCEPTIONAL HANDLING

Certain property items require a separate process. The following items shall be processed in the described manner:

- (a) County property, unless connected to a known criminal case, should be released directly to the appropriate county department. No formal booking is required. In cases

## *Property and Evidence*

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where no responsible person can be located, the property should be booked for safekeeping in the normal manner.

### **800.3.4 EXPLOSIVES**

Explosives that are known or suspected to be armed or live, other than fixed ammunition, should not be retained in the Bureau facility. All fireworks, railroad flares, or fuses that are considered safe will be transported to the Ventura County Sheriff's Bomb Squad as needed by an evidence custodian.

Investigators who encounter an explosive device shall immediately notify the immediate supervisor and/or deputy chief investigator. The Ventura County Sheriff's Department Bomb Squad will be called to handle situations involving explosive devices and all such devices will be released to them for disposal.

### **800.3.5 PREPARING FIREARMS**

The following is the Bureau of Investigation protocol for preparing firearms for either safekeeping or evidentiary purposes:

- (a) Ensure the weapon is unloaded and the magazines removed, if applicable;
- (b) Record the manufacturer, model, caliber and serial number;
- (c) Tie a property tag to the weapon;
- (d) Open cylinder, or lock slide to the rear, then insert safety tie preventing cylinder or slide from closing;
- (e) Secure weapon in gun/rifle box (holsters, bags, etc., will be booked as separate items);
- (f) Complete a check of the weapons serial number through AFS. A copy of the AFS printout will remain with the weapon and a copy provided to the investigator.

### **800.3.6 LABELING COMPUTERS**

The following is the Bureau of Investigation protocol for booking computers for either safekeeping or evidentiary purposes:

- (a) Place evidence label on computer.
- (b) The information printed on the label should include: manufacturer, model, serial number, case name, case number and assigned investigator.

## **800.4 PROPERTY CONTROL**

Each time the evidence custodian receives property or releases property to another person, he/she shall enter this information into Evidence on Q. Investigators desiring property for court should make every attempt to contact the evidence custodian at least one day prior to the court day.



## *Property and Evidence*

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### 800.4.1 CHECKING OUT EVIDENCE FROM EVIDENCE ROOM

The following is the Bureau of Investigation protocol for checking-out evidence:

- (a) The investigator will provide the evidence custodian with the evidence item number/barcode of the evidence requesting to be checked out.
- (b) For the purpose of this policy, barcodes and items number are synonymous; they just appear in different formats. These numbers are not associated with item numbers given to evidence at search warrant locations and appear on search warrant inventory forms.
- (c) The barcode/item number can be retrieved from the evidence log/receipt or from Evidence on Q using the VCIJIS case number.
- (d) If the investigator needs to check out one or more pieces of evidence booked under one item number, the investigator will check out all the evidence stored under that particular item number.
- (e) The investigator will advise the evidence custodian the purpose for checking out the evidence. This information will be entered into Evidence on Q and will be reflected on the chain-of-custody log.
- (f) The investigator will provide an electronic signature documenting that he/she is checking out evidence.
- (g) The investigator may retrieve an evidence log from Evidence on Q showing what evidence has been checked out.
- (h) The evidence custodian will retrieve the items of evidence being checked out and note the purpose in Evidence on Q (i.e. Court, Return, Disposal).
- (i) Only sworn staff and assigned evidence custodians are permitted to check out evidence from the evidence rooms, or support staff with prior authorization from case agent, noting the name of authorizing investigator as well as purpose for release.
- (j) Whenever possible, give the evidence custodian advanced notice when needing to checkout evidence.
- (k) If the investigator checking out evidence is different than the investigator who originally checked in the evidence, advise the evidence custodian to ensure the proper documentation is reflected in Evidence on Q.

### 800.4.2 AUTHORITY TO RELEASE PROPERTY

The Bureau of Investigation shall authorize the disposition or release of all evidence and property coming into the care and custody of the Bureau.

### 800.4.3 RELEASE OF PROPERTY

All reasonable attempts shall be made to identify the rightful owner of found property or evidence not needed for an investigation.

## *Property and Evidence*

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Release of property shall be made with authorization from an investigator, deputy district attorney, or court order when applicable with supporting documentation, which may include Evidence Disposal Memorandums (EDM), written authorizations, supporting documentation (i.e email exchanges). The authorization shall list the name and address to whom the property is to be released, and specify the proper disposition of the evidence. Release of all property shall be documented on the property form, detailing item number and description.

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- 2080..10). The final disposition of all such property shall be fully documented in related reports.

An investigator or property and evidence technician shall release the property upon proper identification being presented by the owner/owner representative for which prior authorization has been received. The name of releaser, case number, description of items, signature of the person receiving the property and their government issued identification number shall be recorded on the property release form. After release of all property, the signed property release form, authorizations, and court orders shall be scanned into VCIJIS by the evidence custodian.

Under no circumstances shall any firearm 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 registered owner shall complete and submit the Law Enforcement Gun Release Application to the California Department of Justice (Penal Code 33850), and upon receipt of the written determination, call to schedule an appointment to retrieve the firearm. If the firearm is not retrieved by the expiration date on the written determination, the owner must repeat the Law Enforcement Gun Release Application process. In instances where the owner is prohibited from possessing a firearm, the owner may choose to transfer the weapon to an authorized firearms dealer for consignment, or complete an Intra-Familial Transfer (BOF 4544A)

The Property and Evidence Room Supervisor or evidence custodian shall also make reasonable efforts to determine whether the owner is in a prohibited class They will check the Mental Health Firearms Prohibition Systems (MHFPS), verify the owner has no active warrants, that they are not the restrained party in an Order of Protection, or that they are the subject of any court order preventing the person from possessing a firearm.Ifthe owner is in a prohibited class, the firearm should not be released to the person while the order is in effect.

The Bureauis not required to retain any firearm or other deadly weapon longer than 180 days after notice has been provided to the owner that such firearm or other deadly weapon is available for return. At the expiration of such period, the firearm or other deadly weapon may be processed for disposal in accordance with applicable law (Penal Code § 33875).

## *Property and Evidence*

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### 800.4.4 DISPUTED CLAIMS TO PROPERTY

Occasionally more than one party may claim an interest in property being held by the Bureau, 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 Bureau may wish to file an interpleader to resolve the disputed claim (Code of Civil Procedure § 386(b)).

### 800.4.5 RELEASE OF FIREARM IN DOMESTIC VIOLENCE MATTERS

Within five days of the expiration of a restraining order issued in a domestic violence matter that required the relinquishment of a firearm, the property and evidence technician shall return the weapon to the owner if the requirements of Penal Code § 33850 and Penal Code § 33855 are met unless the firearm is determined to be stolen, evidence in a criminal investigation or the individual is otherwise prohibited from possessing a firearm (Family Code § 6389(g); Penal Code § 33855).

### 800.4.6 OUTSIDE LAW ENFORCEMENT CASE EVIDENCE

When evidence has been originally seized by another agency, or if we seize evidence in connection with another agency's investigation, that evidence should be booked/ stored with that agency.

### 800.4.7 RELEASE OF FIREARMS AND WEAPONS IN MENTAL ILLNESS MATTERS

Firearms and other deadly weapons confiscated from an individual detained for an evaluation by a mental health professional or subject to the provisions of Welfare and Institutions Code § 8100 or Welfare and Institutions Code § 8103 shall be released or disposed of as follows:

- (a) If a petition for a hearing regarding the return of the weapon has been initiated pursuant to Welfare and Institutions Code § 8102(c), the weapon shall be released or disposed of as provided by an order of the court. If the court orders a firearm returned, the firearm shall not be returned unless and until the person presents valid identification and written notification from the California Department of Justice (DOJ) which conforms to the provisions of Penal Code § 33865.
- (b) If no petition has been initiated pursuant to Welfare and Institutions Code § 8102(c) and the weapon is not retained as evidence, the Bureau shall make the weapon available for return. No firearm will be returned unless and until the person presents valid identification and written notification from the California DOJ which conforms to the provisions of Penal Code § 33865.
- (c) Unless the person contacts the Bureau to facilitate the sale or transfer of the firearm to a licensed dealer pursuant to Penal Code § 33870, firearms not returned should be sold, transferred, destroyed or retained as provided in Welfare and Institutions Code § 8102.

### 800.4.8 CUSTODIANS OF EVIDENCE

Only designated evidence custodians are permitted to check in/out evidence. No one, other than evidence custodians, are permitted inside the evidence room unescorted by an evidence

## *Property and Evidence*

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custodian. When entering the evidence room escorted individuals must sign in and out on the evidence room log form. If the evidence custodians are unavailable, or if access to the evidence rooms is required during evening hours, weekend or holidays, contact the assigned senior investigator.

### 800.4.9 RELEASE OF FIREARMS IN GUN VIOLENCE RESTRAINING ORDER MATTERS

Firearms and ammunition that were taken into temporary custody or surrendered pursuant to a gun violence restraining order shall be returned to the restrained person upon the expiration of the order and in accordance with the requirements of Penal Code § 33850 et seq. (Penal Code § 18120).

If the restrained person who owns the firearms or ammunition does not wish to have the firearm or ammunition returned, he/she is entitled to sell or transfer title to a licensed firearms dealer, provided that the firearms or ammunition are legal to own or possess and the restrained person has right to title of the firearms or ammunition (Penal Code § 18120).

If a person other than the restrained person claims title to the firearms or ammunition surrendered pursuant to Penal Code § 18120 and the Ventura County District Attorney's Office determines him/her to be the lawful owner, the firearms or ammunition shall be returned in accordance with the requirements of Penal Code § 33850 et seq. (Penal Code § 18120). Prior to release, the firearm must be registered to the individual claiming title.

Firearms and ammunition that are not claimed are subject to the requirements of Penal Code § 34000.

## Records Maintenance and Release

### 801.1 PURPOSE AND SCOPE

This policy provides guidance on the maintenance and release of Ventura County District Attorney's Officer records. Protected information is separately covered in the Protected Information Policy.

### 801.2 POLICY

The Ventura County District Attorney's Office is committed to providing public access to records in a manner that is consistent with the California Public Records Act (Government Code § 6250 et seq.).

### 801.3 PROCESSING REQUESTS FOR PUBLIC RECORDS

Any Ventura County District Attorney's Office member who receives a request for any record shall route the request to the Custodian of Records or the authorized designee.

#### 801.3.1 REQUESTS FOR RECORDS

Any member of the public, including the media and elected officials, may access unrestricted records of this Office, during regular business hours by submitting a written and signed request that reasonably describes each record sought and by paying any associated fees (Government Code § 6253).

The processing of requests for any record is subject to the following (Government Code § 6253):

- (a) The Ventura County District Attorney's Office is not required to create records that do not exist.
- (b) Victims of an incident or their authorized representative shall not be required to show proof of legal presence in the United States to obtain Ventura County District Attorney's Office records or information. If identification is required, a current driver's license or identification card issued by any state in the United States, a current passport issued by the United States or a foreign government with which the United States has a diplomatic relationship or current Matricula Consular card is acceptable (Government Code § 6254.30).
- (c) Either the requested record or the reason for non-disclosure will be provided promptly, but no later than 10 days from the date of request, unless unusual circumstances preclude doing so. If more time is needed, an extension of up to 14 additional days may be authorized by the Custodian of Records or the authorized designee. If an extension is authorized, the Ventura County District Attorney's Office shall provide the requester written notice that includes the reason for the extension and the anticipated date of the response.
  - (a) When the request does not reasonably describe the records sought, the Custodian of Records shall assist the requester in making the request focused and effective in a way to identify the records or information that would be responsive to the request including providing assistance for overcoming any

## *Records Maintenance and Release*

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practical basis for denying access to the records or information. The Custodian of Records shall also assist in describing the information technology and physical location in which the record exists (Government Code § 6253.1).

- (b) If the record requested is available on the Ventura County District Attorney's Office website, the requester may be directed to the location on the website where the record is posted. If the requester is unable to access or reproduce the record, a copy of the record shall be promptly provided.
- (d) Upon request, a record shall be provided in an electronic format utilized by the Ventura County District Attorney's Office. Records shall not be provided only in electronic format unless specifically requested (Government Code § 6253.9).
- (e) When a record contains material with release restrictions and material that is not subject to release restrictions, the restricted material shall be redacted and the unrestricted material released.
  - (a) A copy of the redacted release should be maintained in the case file for proof of what was actually released and as a place to document the reasons for the redactions. If the record is audio or video, a copy of the redacted audio/video release should be maintained in the office-approved media storage system and a notation should be made in the case file to document the release and the reasons for the redacted portions.
- (f) If a record request is denied in whole or part, the requester shall be provided a written response that includes the statutory exemption for withholding the record or facts that the public interest served by nondisclosure outweighs the interest served by disclosure (Government Code § 6255). The written response shall also include the names, titles or positions of each person responsible for the denial.

### **801.4 RELEASE RESTRICTIONS**

Examples of release restrictions include:

- (a) Personal identifying information, including an individual's photograph; Social Security and driver identification numbers; name, address, and telephone number; and medical or disability information that is contained in any driver license record, motor vehicle record, or any office record including traffic collision reports, are restricted except as authorized by the Ventura County District Attorney's Office, and only when such use or disclosure is permitted or required by law to carry out a legitimate law enforcement purpose (18 USC § 2721; 18 USC § 2722).
- (b) Social Security numbers (Government Code § 6254.29).
- (c) Personnel records, medical records, and similar records which would involve an unwarranted invasion of personal privacy except as allowed by law (Government Code § 6254; Penal Code § 832.7; Penal Code § 832.8; Evidence Code § 1043 et seq.).
  - 1. Peace officer personnel records that are deemed confidential shall not be made public or otherwise released to unauthorized individuals or entities absent a valid court order.

# Ventura County District Attorney's Office

Ventura County DA CA Policy Manual

## *Records Maintenance and Release*

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2. The identity of any investigator subject to any criminal or administrative investigation shall not be released without the consent of the involved investigator, prior approval of the Chief Investigator, or as required by law.
- (d) Victim information that may be protected by statutes, including victims of certain crimes who have requested that their identifying information be kept confidential, victims who are minors, and victims of certain offenses (e.g., sex crimes or human trafficking, Penal Code § 293). Addresses and telephone numbers of a victim or a witness to any arrested person or to any person who may be a defendant in a criminal action shall not be disclosed, unless it is required by law (Government Code § 6254; Penal Code § 841.5).
1. Victims of certain offenses (e.g., domestic violence, sexual assault, stalking, human trafficking, adult abuse) or their representatives shall be provided, upon request and without charge, one copy of all incident report face sheets, one copy of all incident reports, or both, pursuant to the requirements and time frames of Family Code § 6228.
  2. Victims of sexual assault, upon written request, shall be provided a free copy of the initial crime report regardless of whether the report has been closed. Personal identifying information may be redacted (Penal Code § 680.2(b)).
- (e) Video or audio recordings created during the commission or investigation of the crime of rape, incest, sexual assault, domestic violence, or child abuse that depicts the face, intimate body part, or voice of a victim of the incident except as provided by Government Code § 6254.4.5.
- (f) Information involving confidential informants, intelligence information, information that would endanger the safety of any person involved, or information that would endanger the successful completion of the investigation or a related investigation. This includes analysis and conclusions of investigating investigators (Evidence Code § 1041; Government Code § 6254).
1. Absent a statutory exemption to the contrary or other lawful reason to deem information from reports confidential, information from unrestricted agency reports shall be made public as outlined in Government Code § 6254(f).
- (g) Local criminal history information including but not limited to arrest history and disposition, and fingerprints shall only be subject to release to those agencies and individuals set forth in Penal Code § 13300.
1. All requests from criminal defendants and their authorized representatives (including attorneys) shall be referred to the District Attorney, County Counsel, or the courts pursuant to Penal Code § 1054.5.
- (h) Certain types of reports involving but not limited to child abuse and molestation (Penal Code § 11167.5), elder and dependent abuse (Welfare and Institutions Code § 15633), and juveniles (Welfare and Institutions Code § 827).
- (i) Sealed autopsy and private medical information concerning a murdered child with the exceptions that allow dissemination of those reports to law enforcement agents,

## *Records Maintenance and Release*

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prosecutors, defendants, or civil litigants under state and federal discovery laws (Code of Civil Procedure §130).

- (j) Information contained in applications for licenses to carry firearms or other files that indicates when or where the applicant is vulnerable or which contains medical or psychological information (Government Code § 6254).
- (k) Traffic collision reports (and related supplemental reports) shall be considered confidential and subject to release only to the California Highway Patrol, Department of Motor Vehicles (DMV), other law enforcement agencies, and those individuals and their authorized representatives set forth in Vehicle Code § 20012.
- (l) Any record created exclusively in anticipation of potential litigation involving this Office (Government Code § 6254).
- (m) Any memorandum from legal counsel until the pending litigation has been adjudicated or otherwise settled (Government Code § 6254.25).
- (n) Records relating to the security of the Ventura County District Attorney's Office electronic technology systems (Government Code § 6254.19).
- (o) A record of a civilian complaint, or the investigations, findings, or dispositions of that complaint if the complaint is frivolous, as defined by Code of Civil Procedure § 128.5, or if the complaint is unfounded (Penal Code § 832.7 (b)(8)).
- (p) Any other record not addressed in this policy shall not be subject to release where such record is exempt or prohibited from disclosure pursuant to state or federal law, including but not limited to provisions of the Evidence Code relating to privilege (Government Code § 6254).
- (q) Information connected with juvenile court proceedings or the detention or custody of a juvenile. Federal officials may be required to obtain a court order to obtain certain juvenile information (Welfare and Institutions Code § 827.9; Welfare and Institutions Code § 831).

### **801.5 RELEASED RECORDS TO BE MARKED**

Each page of any written record released pursuant to this policy should be stamped in a colored ink or otherwise marked to indicate the Ventura County District Attorney's Office name and to whom the record was released.

Each audio/video recording released should include the Ventura County District Attorney's Office name and to whom the record was released.

### **801.6 SEALED RECORD ORDERS**

Sealed record orders received by the Ventura County District Attorney's Office shall be reviewed for appropriate action by the Custodian of Records. The Custodian of Records shall seal such records as ordered by the court. Records may include but are not limited to a record of arrest, investigation, detention, or conviction. Once the record is sealed, members shall respond to any inquiry as though the record did not exist (Penal Code § 851.8; Welfare and Institutions Code § 781).



## *Records Maintenance and Release*

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When an arrest record is sealed pursuant to Penal Code § 851.87, Penal Code § 851.90, Penal Code § 851.91, Penal Code § 1000.4, or Penal Code § 1001.9, the Staff Services Manager shall ensure that the required notations on local summary criminal history information and police investigative reports are made. Sealed records may be disclosed or used as authorized by Penal Code § 851.92.

### **801.7 SECURITY BREACHES**

The Staff Services Manager shall ensure notice is given anytime there is a reasonable belief an unauthorized person has acquired either unencrypted personal identifying information or encrypted personal information along with the encryption key or security credential stored in any Ventura County District Attorney's Office information system (Civil Code § 1798.29).

Notice shall be given as soon as reasonably practicable to all individuals whose information may have been acquired. The notification may be delayed if the Ventura County District Attorney's Office determines that notification will impede a criminal investigation or any measures necessary to determine the scope of the breach and restore the reasonable integrity of the data system.

For the purposes of this requirement, personal identifying information includes an individual's first name or first initial and last name in combination with any one or more of the following:

- Social Security number
- Driver license number, California identification card number, tax identification number, passport number, military identification number, or other unique identification number issued on a government document commonly used to verify the identity of a specific individual
- Account number or credit or debit card number, in combination with any required security code, access code or password that would permit access to an individual's financial account
- Medical information
- Health insurance information
- A username or email address, in combination with a password or security question and answer that permits access to an online account
- Information or data collected by Automated License Plate Reader (ALPR) technology
- Unique biometric data

#### **801.7.1 FORM OF NOTICE**

- (a) The notice shall be written in plain language, be consistent with the format provided in Civil Code § 1798.29 and include, to the extent possible, the following:
1. The date of the notice.
  2. Name and contact information for the Ventura County District Attorney's Office.

## *Records Maintenance and Release*

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3. A list of the types of personal information that were or are reasonably believed to have been acquired.
  4. The estimated date or date range within which the security breach occurred.
  5. Whether the notification was delayed as a result of a law enforcement investigation.
  6. A general description of the security breach.
  7. The toll-free telephone numbers and addresses of the major credit reporting agencies, if the breach exposed a Social Security number or a driver license or California identification card number.
- (b) The notice may also include information about what the Ventura County District Attorney's Office has done to protect individuals whose information has been breached and may include information on steps that the person whose information has been breached may take to protect him/herself (Civil Code § 1798.29).
- (c) When a breach involves an online account, and only a username or email address in combination with either a password or security question and answer that would permit access to an online account, and no other personal information has been breached (Civil Code § 1798.29):
- (a) Notification may be provided electronically or in another form directing the person to promptly change either his/her password or security question and answer, as applicable, or to take other appropriate steps to protect the online account with the Ventura County District Attorney's Officer in addition to any other online accounts for which the person uses the same username or email address and password or security question and answer.
  - (b) When the breach involves an email address that was furnished by the Ventura County District Attorney's Office, notification of the breach should not be sent to that email address but should instead be made by another appropriate medium as prescribed by Civil Code § 1798.29.

### 801.7.2 MANNER OF NOTICE

- (a) Notice may be provided by one of the following methods (Civil Code § 1798.29):
1. Written notice.
  2. Electronic notice if the notice provided is consistent with the provisions regarding electronic records and signatures set forth in 15 USC § 7001.
  3. Substitute notice if the cost of providing notice would exceed \$250,000, the number of individuals exceeds 500,000 or the [Department/Office] does not have sufficient contact information. Substitute notice shall consist of all of the following:
    - (a) Email notice when the [Department/Office] has an email address for the subject person.
    - (b) Conspicuous posting of the notice on the [department/office]'s webpage for a minimum of 30 days.

## *Records Maintenance and Release*

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4. Notification to major statewide media and the California Information Security Office within the California Department of Technology.
  - (b) If a single breach requires the [Department/Office] to notify more than 500 California residents, the [Department/Office] shall electronically submit a sample copy of the notification, excluding any personally identifiable information, to the Attorney General.

### **801.8 RELEASE OF AUDIO OR VIDEO RECORDINGS RELATED TO CRITICAL INCIDENTS**

Video and audio recordings related to critical incidents shall be released upon a proper public record request and subject to delayed release, redaction, and other release restrictions as provided by law (Government Code § 6254(f)(4)).

For purposes of this section, a video or audio recording relates to a critical incident if it depicts an incident involving the discharge of a firearm at a person by an investigator, or in which the use of force by an investigator against a person resulted in death or in great bodily injury (as defined by Penal Code § 243(f)(4)) (Government Code § 6254(f)(4)).

The Custodian of Records should work as appropriate with the Chief Investigator or the Special Investigations supervisor in determining what recordings may qualify for disclosure when a request for a recording is received and if the requested recording is subject to delay from disclosure, redaction, or other release restrictions.

#### **801.8.1 RECORDINGS WITHHELD FROM PUBLIC DISCLOSURE**

If the reasonable expectation of privacy of a person depicted in the recording cannot adequately be protected through redaction, and that interest outweighs the public interest in disclosure, the Ventura County District Attorney's Officer may withhold the recording from the public, except that the recording, either redacted or unredacted, shall be disclosed promptly, upon request, to any of the following (Government Code § 6254(f)(4)):

- (a) The person in the recording whose privacy is to be protected, or his/her authorized representative.
- (b) If the person is a minor, the parent or legal guardian of the person whose privacy is to be protected.
- (c) If the person whose privacy is to be protected is deceased, an heir, beneficiary, designated immediate family member, or authorized legal representative of the deceased person whose privacy is to be protected.

If the Ventura County District Attorney's Office determines that this disclosure would substantially interfere with an active criminal or administrative investigation, the Custodian of Records shall provide the requester with written notice of the specific basis for the determination and the estimated date of disclosure (Government Code § 6254(f)(4)).

The Ventura County District Attorney's Office may continue to delay release of the recording from the public for 45 days with extensions as provided in this policy (Government Code § 6254(f)(4) (A)).

## *Records Maintenance and Release*

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### 801.8.2 REDACTION

If the Custodian of Records, in consultation with the Chief Investigator or authorized designee, determines that specific portions of the recording may violate the reasonable expectation of privacy of a person depicted in the recording, the Ventura County District Attorney's Office should use redaction technology to redact portions of recordings made available for release. The redaction should not interfere with the viewer's ability to fully, completely, and accurately comprehend the events captured in the recording, and the recording should not otherwise be edited or altered (Government Code § 6254(f)(4)).

If any portions of a recording are withheld to protect the reasonable expectation of privacy of a person depicted in the recording, the Custodian of Records shall provide in writing to the requester the specific basis for the expectation of privacy and the public interest served (Government Code § 6254(f)(4)).

### 801.8.3 NOTICE OF DELAY OF RELEASE

When there is justification to delay disclosure of a recording, the Custodian of Records shall provide written notice to the requester as follows (Government Code § 6254(f)(4)):

- (a) During the initial 45 days, the Custodian of Records shall provide the requester with written notice of the specific basis for the determination that disclosure would substantially interfere with the investigation. The notice shall also include the estimated date for the disclosure.
- (b) When delay is continued after the initial 45 days, the Custodian of Records shall promptly provide the requester with written notice of the specific basis for the determination that the interest in preventing interference with an active investigation outweighs the public interest in the disclosure, and the estimated date for the disclosure. The Custodian of Records should work with the Chief Investigator in reassessing the decision to continue withholding a recording and notify the requester every 30 days.

Recordings withheld shall be disclosed promptly when the specific basis for withholding the recording is resolved.

### 801.8.4 DELAY OF RELEASE

Disclosure of critical incident recordings during active criminal or administrative investigations may be delayed as follows if disclosure would substantially interfere with the investigation, such as by endangering the safety of a witness or a confidential source:

- (a) Disclosure may be delayed up to 45 days from the date the Ventura County District Attorney's Office knew or reasonably should have known about the incident.
- (b) Delay of disclosure may continue after the initial 45 days and up to one year if the Ventura County District Attorney's Office demonstrates that disclosure would substantially interfere with the investigation.

# Ventura County District Attorney's Office

Ventura County DA CA Policy Manual

## *Records Maintenance and Release*

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- (c) Any delay of disclosure longer than one year must be supported by clear and convincing evidence that disclosure would substantially interfere with the investigation (Government Code § 6254(f)(4)).

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## Protected Information

### 802.1 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 Ventura County District Attorney's Office. This policy addresses the protected information that is used in the day-to-day operation of the Ventura County District Attorney's Office and not the public records information covered in the Records Maintenance and Release Policy.

#### 802.1.1 DEFINITIONS

Definitions related to this policy include:

**Protected information** - Any information or data that is collected, stored or accessed by members of the Ventura 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.

### 802.2 POLICY

Members of the Ventura 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.

### 802.3 RESPONSIBILITIES

The Clerical Staff Services Manager is the designated member 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.

## *Protected Information*

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- (f) Ensuring security practices and procedures are in place to comply with requirements applicable to protected information.

### **802.4 ACCESS TO PROTECTED INFORMATION**

Protected information shall not be accessed in violation of any law, order, regulation, user agreement, Ventura 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.

#### **802.4.1 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).

#### **802.4.2 RELEASE OF CORI**

Authorized persons releasing CORI are responsible to ensure that each request granted appears legitimate and that the requester is an authorized recipient with a right and need to know.

### **802.5 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 Staff Services Manager for information regarding a formal request.

Unless otherwise ordered or when an investigation would be jeopardized, protected information maintained by the Ventura County District Attorney's 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 Administrative Assistant 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

## *Protected Information*

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further an investigation or where circumstances reasonably indicate that the immediate safety of investigators, other [department/office] members or the public is at risk.

Nothing in this policy is intended to prohibit broadcasting warrant information.

### **802.5.1 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).

Individuals shall be allowed to review their arrest or conviction record on file with the Ventura County District Attorney's Office after complying with all legal requirements regarding authority and procedures in Penal Code § 11120 through Penal Code § 11127 (Penal Code § 13321).

### **802.6 SECURITY OF PROTECTED INFORMATION**

The Chief Investigator will select a member of the Ventura County District Attorney's 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 Investigator and appropriate authorities.

### **802.6.1 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).

### **802.7 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.

### **802.7.1 COMPUTER TERMINAL SECURITY**

Computer terminal equipment capable of providing access to automated criminal offender record information is located throughout the Ventura County District Attorney's Office and shall be secured to preclude access by unauthorized persons. No employee shall be authorized to



## *Protected Information*

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operate computer terminal equipment with access to CORI until the operator has completed the appropriate training. Use of the system is restricted to authorized individuals for official purposes only.

### **802.7.2 DESTRUCTION OF CORI**

When any document providing CORI information has served the purpose for which it was obtained, it shall be destroyed by shredding.

Each employee shall be responsible for destroying the CORI documents they receive.

### **802.8 TRAINING PROGRAM**

All personnel authorized to process or release CORI information shall be required to complete a training program. The Clerical Staff Services Manager shall coordinate the course to provide training in the proper use, control, and dissemination of CORI.

### **802.9 PENALTIES FOR MISUSE OF RECORDS**

Penal Code §§ 11140 and 11144 make it a misdemeanor to furnish, buy, receive, or possess Department of Justice rap sheets without authorization by a court, statute, or case law.

Title 11, California Administrative Code § 702 provides that authorized persons or agencies violating the Regulations Regarding the Security of Criminal Offender Record Information in California may lose direct access to CORI maintained by the California Department of Justice.

Divulging the content of any criminal record to anyone other than authorized personnel is a violation of this Policy Manual.

Employees who obtain, or attempt to obtain, information from the department files other than that to which they are entitled in accordance with their official duties is a violation of this Policy Manual.

### **802.10 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).

## Computers and Digital Evidence

### 803.1 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.

### 803.2 SEIZING COMPUTERS AND RELATED EVIDENCE

Computer equipment requires specialized training and handling to preserve its value as evidence. Investigators should be aware of the potential to destroy information through careless or improper handling, and utilize the most knowledgeable available resources. 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 manually 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 damaged or lost.
- (g) Lodge all computer items in the Property Room. Do not store computers where normal room temperature and humidity is not maintained.
- (h) At a minimum, investigators 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.

## *Computers and Digital Evidence*

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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.

### **803.2.1 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. Investigators should contact a computer forensic examiner for instructions and/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.

### **803.2.2 FORENSIC EXAMINATION OF COMPUTERS**

If an examination of the contents of the computer's hard drive, 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 Report.
- (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) An exact duplicate of the hard drive or disk will be made using a forensic computer and a forensic software program by someone trained in the examination of computer storage devices for evidence.

### **803.3 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.
- (b) Do not review, access or open digital files prior to submission. If the information is needed for immediate investigation request the Computer Forensic Examiner 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.

## *Computers and Digital Evidence*

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- (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.

### **803.4 SEIZING PCDS**

Personal communication devices such as cell phones, PDA's 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) Investigators should not attempt to access, review or search the contents of such devices prior to examination by an expert. Unsent messages can be lost, data can be inadvertently deleted and incoming messages can override stored messages
- (b) When seizing the devices, also seize the charging units and attempt to acquire any passwords.
- (c) If the phone is on and unlocked, the phone should be placed into "airplane" mode and then powered off. After the phone has been powered off, remove the battery if possible. If the phone is off when encountered, remove the battery, if possible.

### **803.5 DIGITAL EVIDENCE RECORDED BY OFFICERS**

Investigators 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.

#### **803.5.1 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.

#### **803.5.2 PRESERVATION OF DIGITAL EVIDENCE**

- (a) Only trained technicians are authorized to copy original digital media that is held as evidence. The original digital media shall remain in evidence and shall remain unaltered.
- (b) Digital images that are clarified 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 clarification is done to the copy of the original, it shall be documented in a memorandum.

## Communication Operations

### 804.1 PURPOSE AND SCOPE

The basic function of the communications system is to satisfy the immediate information needs of the law enforcement agency in the course of its normal daily activities and during emergencies. The latter situation places the greatest demands upon the communications system and tests the capability of the system to fulfill its functions. Measures and standards of performance are necessary to assess the effectiveness with which any department, large or small, uses available information technology in fulfillment of its missions.

#### 804.1.1 FCC COMPLIANCE

Ventura County District Attorney's Office radio operations shall be conducted in accordance with Federal Communications Commission (FCC) procedures and guidelines.

### 804.2 RADIO COMMUNICATIONS

Operations are more efficient and officer safety is enhanced when supervisors, and fellow investigators know the status of investigators and investigative assistants, their locations and the nature of cases. Investigators shall maintain a professional approach to radio communication. Radio transmissions should be calm, brief, and clear utilizing sound judgment in content.

Investigators in the field serving search or arrest warrants or conducting surveillances shall notify dispatch of their location and the type of operation they are conducting. Investigators conducting a probation/parole search shall notify dispatch of their location. When investigators are conducting field investigations and no assistance is anticipated, such as subpoena service or business contacts, investigators should notify dispatch.

Investigative assistants serving subpoenas or in the field conducting an investigation shall maintain radio contact with dispatch by advising them of their work location and status. Investigative assistants are not required to advise dispatch when serving subpoenas at businesses or where rapport has been established with the witness.

#### 804.2.1 IDENTIFICATION

Identification systems are based on factors such as investigator and investigative assistant identification numbers. Employees should use the entire call sign when initiating communication with the dispatcher. Radio call signs for investigators consist of "DA" followed by the investigator's three digit ID number. Radio call signs for investigative assistants consist of "IA" followed by the investigative assistant's three digit ID number. The use of the call sign allows for a brief pause so that the dispatcher can acknowledge the appropriate unit. Employees initiating communication with other agencies shall use their entire call sign. This requirement does not apply to continuing conversation between the mobile unit and dispatcher once the mobile unit has been properly identified.

## *Communication Operations*

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### **804.3 VICTIM/WITNESS/PRISONER TRANSPORTATION**

Investigators and investigative assistants shall notify dispatch by radio in all cases when transporting a victim, witness or prisoner. When transporting subjects, the investigator or investigative assistant shall advise dispatch of the location of the transportation, the intended destination, the type of transportation (witness/victim/prisoner) and the starting and ending mileage. Investigators and investigative assistants should also audio record the entire transportation.

In some cases, a transportation will cover significant distances and require driving outside of Ventura County. In these instances, instead of notifying the dispatch center of the jurisdiction outside of Ventura County, investigators and investigative assistants should audio record the entire transportation. The recording shall include the location of the transportation, the intended destination, the type of transportation (witness/victim/prisoner) and the starting and ending mileage. A copy of the audio recording is to be placed in the case file. Investigators and investigative assistants are encouraged to take a second investigator or investigative assistant when conducting out of county transportations.

## **Chapter 9 - Custody**

## 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 the Ventura County District Attorney's Office facility. Such items can pose a serious risk to the safety and security of department members, individuals in custody, contractors and the public.

Nothing in this policy is intended to prohibit the otherwise lawful collection of evidence from an individual in custody.

#### 900.1.1 DEFINITIONS

Definitions related to this policy include:

**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.

**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 FIELD AND TRANSPORTATION SEARCHES

An investigator 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 department vehicle.

Whenever practical, a custody search should be conducted by an investigator of the same sex as the person being searched. If an investigator of the same sex is not reasonably available, a witnessing investigator should be present during the search.



## *Custodial Searches*

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### **900.4 STRIP SEARCHES**

No individual in temporary custody at any Ventura 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 department 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).

#### **900.4.1 STRIP SEARCH PROCEDURES**

Strip searches at Ventura County District Attorney's Office facilities shall be conducted as follows (28 CFR 115.115; Penal Code § 4030):

- (a) Written authorization from the Deputy Chief Investigator 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.
- (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:

## *Custodial Searches*

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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 Deputy Chief Investigator.
  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 Deputy Chief Investigator 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.

### 900.4.2 SPECIAL CIRCUMSTANCE FIELD STRIP SEARCHES

A strip search may be conducted in the field only with Deputy Chief Investigator authorization and only in exceptional circumstances, such as when:

- (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.

## *Custodial Searches*

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- (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 Deputy Chief Investigator authorization does not need to be in writing.

### **900.5 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 Deputy Chief Investigator 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 department 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 Deputy Chief Investigator'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 department members present.
  - 8. Any contraband or weapons discovered by the search.

## *Custodial Searches*

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- (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.

### **900.6 TRAINING**

The Training Manager 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.

### **900.7 BODY SCANNER SEARCH**

If a body scanner is available, a body scan search should be performed on all inmates/arrestees upon entering the secure booking area of the facility. Members (Penal Code § 4030):

- (a) Within sight of the visual display of a body scanner that is depicting the body during a scan shall be of the same sex as the person being scanned, except for physicians or licensed medical personnel.
- (b) Should ask female inmates if they are pregnant prior to a body scan and should not knowingly use a body scanner on a woman who is pregnant.

## Temporary Custody of Adults

### 901.1 PURPOSE AND SCOPE

This policy provides guidelines to address the health and safety of adults taken into temporary custody by members of the Ventura County District Attorney's Office for processing prior to being released or transferred to a housing or other type of facility.

Temporary custody of juveniles is addressed in the Temporary Custody of Juveniles Policy. Juveniles will not be permitted where adults in custody are being held.

Custodial searches are addressed in the Custodial Searches Policy.

#### 901.1.1 DEFINITIONS

Definitions related to this policy include:

**Holding cell/cell** - Any locked enclosure for the custody of an adult or any other enclosure that prevents the occupants from being directly visually monitored at all times by a member of the Ventura County District Attorney's Office.

**Safety checks** - Direct, visual observation 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 adults in temporary custody.

**Temporary custody** - The time period an adult is in custody at the Ventura County District Attorney's Office prior to being released or transported to a housing or other type of facility.

### 901.2 POLICY

The Ventura County District Attorney's Office is committed to releasing adults from temporary custody as soon as reasonably practicable, and to keeping adults safe while in temporary custody at the Ventura County District Attorney's Office. Adults should be in temporary custody only for as long as reasonably necessary for investigation, processing, transfer or release.

### 901.3 GENERAL CRITERIA AND SUPERVISION

No adult should be in temporary custody for longer than six hours.

#### 901.3.1 INDIVIDUALS WHO SHOULD NOT BE IN TEMPORARY CUSTODY

Individuals who exhibit certain behaviors or conditions should not be in temporary custody at the Ventura County District Attorney's Office, but should be transported to a jail facility, a medical facility, or another type of facility as appropriate. These include:

- (a) Any individual who is unconscious or has been unconscious while being taken into custody or while being transported.
- (b) Any individual who has a medical condition, including pregnancy, that may require medical attention, supervision, or medication while he/she is in temporary custody.
- (c) Any individual who is seriously injured.

## *Temporary Custody of Adults*

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- (d) Individuals who are a suspected suicide risk (see the Mental Illness Commitments Policy).
  - 1. If the investigator taking custody of an individual believes that he/she may be a suicide risk, the investigator shall ensure continuous direct supervision until evaluation, release, or a transfer to an appropriate facility is completed (15 CCR 1030).
- (e) Individuals who are obviously in crisis, as defined in the Crisis Intervention Incidents Policy.
- (f) Individuals who are under the influence of alcohol, a controlled substance, or any substance to the degree that may require medical attention, or who have ingested any substance that poses a significant risk to their health, whether or not they appear intoxicated.
- (g) Any individual who has exhibited extremely violent or continuously violent behavior including behavior that results in the destruction of property or demonstrates an intent to cause physical harm to him/herself or others (15 CCR 1053; 15 CCR 1055).
- (h) Any individual who claims to have, is known to be afflicted with, or displays symptoms of any communicable disease that poses an unreasonable exposure risk (15 CCR 1051).
- (i) Any individual with a prosthetic or orthopedic device where removal of the device would be injurious to his/her health or safety.
- (j) Any individual who is obviously developmentally disabled (15 CCR 1057).
- (k) Any individual who appears to be a danger to him/herself or others due to a mental disorder, or who appears gravely disabled (15 CCR 1052).
- (l) Any individual who needs restraint beyond the use of handcuffs or shackles for security reasons (15 CCR 1058).
- (m) Any individual obviously suffering from drug or alcohol withdrawal (15 CCR 1213).

Investigators taking custody of a person who exhibits any of the above conditions should notify a supervisor of the situation. These individuals should not be in temporary custody at the Ventura County District Attorney's Office unless they have been evaluated by a qualified medical or mental health professional, as appropriate for the circumstances.

### 901.3.2 SUPERVISION IN TEMPORARY CUSTODY

An authorized Bureau member capable of supervising shall be present at all times when an individual is held in temporary custody. The member responsible for supervising should not have other duties that could unreasonably conflict with his/her supervision. Any individual in custody must be able to summon the supervising member if needed. If the person in custody is deaf or hard of hearing or cannot speak, accommodations shall be made to provide this ability (15 CCR 1027).

At least one female Bureau member should be present when a female adult is in temporary custody. In the event that none is readily available, the female in custody should be transported to another facility or released pursuant to another lawful process (15 CCR 1027).

## *Temporary Custody of Adults*

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Absent exigent circumstances, such as a medical emergency or a violent subject, members should not enter the cell of a person of the opposite sex unless a member of the same sex as the person in custody is present (Penal Code § 4021).

No individual in custody shall be permitted to supervise, control or exert any authority over other individuals in custody.

### **901.3.3 ENTRY RESTRICTIONS**

Entry into any location where a person is held in custody should be restricted to:

- (a) Authorized members entering for official business purposes.
- (b) Emergency medical personnel when necessary.
- (c) Any other person authorized by the Deputy Chief Investigator.

When practicable, more than one authorized member should be present for entry into a location where a person is held in custody for security purposes and to witness interactions.

### **901.4 INITIATING TEMPORARY CUSTODY**

The investigator responsible for an individual in temporary custody should evaluate the person for any apparent chronic illness, disability, vermin infestation, possible communicable disease or any other potential risk to the health or safety of the individual or others. The investigator should specifically ask if the individual is contemplating suicide and evaluate him/her for obvious signs or indications of suicidal intent.

The arresting investigator should notify the deputy or jailer if there is any statement, indication or evidence surrounding the individual's arrest and transportation that would reasonably indicate the individual is at risk for suicide or critical medical care. If there is any suspicion that the individual may be suicidal, he/she shall be transported to the County jail or the appropriate mental health facility.

The investigator should promptly notify the Deputy Chief Investigator of any conditions that may warrant immediate medical attention or other appropriate action. The Deputy Chief Investigator shall determine whether the individual will be placed in a cell, immediately released or transported to jail or other facility.

#### **901.4.1 CONSULAR NOTIFICATION**

Consular notification may be mandatory when certain foreign nationals are arrested. The U.S. Department of State's list of countries and jurisdictions that require mandatory notification and Consular Notification Statements and other related material can be found at [travel.state.gov/content/travel/en/consularnotification.html](https://travel.state.gov/content/travel/en/consularnotification.html) or by calling (202) 647-4415. [See attachment: Vienna Convention LA memo.pdf for additional information.](#)

Department members assigned to process a foreign national shall:

- (a) Inform the individual, without delay, that he/she may have his/her consular officers notified of the arrest or detention and may communicate with them.

## *Temporary Custody of Adults*

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1. This notification should be documented.
- (b) Determine whether the foreign national's country is on the U.S. Department of State's mandatory notification list.
  1. If the country is on the mandatory notification list, then:
    - (a) Notify the country's nearest embassy or consulate of the arrest or detention by fax or telephone.
    - (b) Tell the individual that this notification has been made and inform him/her without delay that he/she may communicate with consular officers.
    - (c) Forward any communication from the individual to his/her consular officers without delay.
    - (d) Document all notifications to the embassy or consulate and retain the faxed notification and any fax confirmation for the individual's file.
  2. If the country is not on the mandatory notification list and the individual requests that his/her consular officers be notified, then:
    - (a) Notify the country's nearest embassy or consulate of the arrest or detention by fax or telephone.
    - (b) Forward any communication from the individual to his/her consular officers without delay.

### **901.5 SAFETY, HEALTH AND OTHER PROVISIONS**

#### 901.5.1 TEMPORARY CUSTODY LOGS

Any time an individual is in temporary custody at the Ventura County District Attorney's Office, the custody shall be promptly and properly documented in a custody log, including:

- (a) Identifying information about the individual, including his/her name.
- (b) Date and time of arrival at the [Department/Office].
- (c) Any charges for which the individual is in temporary custody and any case number.
- (d) Time of all safety checks (15 CCR 1027; 15 CCR 1027.5).
- (e) Any medical and other screening requested and completed.
- (f) Any emergency situations or unusual incidents.
- (g) Any other information that may be required by other authorities, such as compliance inspectors.
- (h) Date and time of release from the Ventura County District Attorney's Office.

The Deputy Chief Investigator should initial the log to approve the temporary custody and should also initial the log when the individual is released from custody or transferred to another facility.

The Deputy Chief Investigator should make periodic checks to ensure all log entries and safety and security checks are made on time.



## *Temporary Custody of Adults*

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### 901.5.2 TEMPORARY CUSTODY REQUIREMENTS

Members monitoring or processing anyone in temporary custody shall ensure:

- (a) Safety checks and significant incidents/activities are noted on the log.
- (b) Individuals 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 individual is not aware.
  - 2. This does not apply to surreptitious and legally obtained recorded interrogations.
- (c) There is reasonable access to toilets and wash basins.
- (d) There is reasonable access to a drinking fountain or water.
- (e) There are reasonable opportunities to stand and stretch, particularly if handcuffed or otherwise restrained.
- (f) There is privacy during attorney visits.
- (g) Those in temporary custody are generally permitted to remain in their personal clothing unless it is taken as evidence or is otherwise unsuitable or inadequate for continued wear while in custody.
- (h) Clean blankets are provided as reasonably necessary to ensure the comfort of an individual.
  - 1. The supervisor should ensure that there is an adequate supply of clean blankets.
- (i) Adequate shelter, heat, light and ventilation are provided without compromising security or enabling escape.
- (j) Adequate furnishings are available, including suitable chairs or benches.

### 901.5.3 MEDICAL CARE

First-aid equipment and basic medical supplies should be available to Bureau members (15 CCR 1220). At least one member who has current certification in basic first aid and CPR should be on-duty at all times.

Should a person in custody be injured or become ill, appropriate medical assistance should be sought. A supervisor should meet with those providing medical aid at the facility to allow access to the person. Members shall comply with the opinion of medical personnel as to whether an individual in temporary custody should be transported to the hospital. If the person is transported while still in custody, he/she will be accompanied by an investigator.

Those who require medication while in temporary custody should not be at the Ventura County District Attorney's Office. They should be released or transferred to another facility as appropriate.

### 901.5.4 ORTHOPEDIC OR PROSTHETIC APPLIANCE

Subject to safety and security concerns, individuals shall be permitted to retain an orthopedic or prosthetic appliance. However, if the member supervising the individual has probable cause to believe the possession of the appliance presents a risk of bodily harm to any person or is a risk

## *Temporary Custody of Adults*

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to the security of the facility, the appliance may be removed from the individual unless its removal would be injurious to his/her health or safety.

Whenever a prosthetic or orthopedic appliance is removed, the Deputy Chief Investigator shall be promptly apprised of the reason. It shall be promptly returned when it reasonably appears that any risk no longer exists (Penal Code § 2656; 15 CCR 1207).

### **901.5.5 FIREARMS AND OTHER SECURITY MEASURES**

Firearms and other weapons and control devices shall not be permitted in secure areas where individuals are in custody or are processed. They should be properly secured outside of the secure area. An exception may occur only during emergencies, upon approval of a supervisor.

All perimeter doors to secure areas shall be kept locked at all times, except during routine cleaning, when no individuals in custody are present or in the event of an emergency, such as an evacuation.

### **901.5.6 REPORTING PHYSICAL HARM OR SERIOUS THREAT OF PHYSICAL HARM**

In addition to a custody log entry, any incident that results in physical harm or serious threat of physical harm to a member, person in custody or any other person shall be documented as stated in the Use of Force or On-Duty Injuries policies, or other applicable reporting process. A copy of all reports generated regarding the above circumstances shall be submitted as soon as reasonably practicable. The Deputy Chief Investigator will retain a record of these reports for inspection purposes (15 CCR 1044).

### **901.5.7 DISCIPLINE**

Discipline will not be administered to any individual in custody at this facility. Any individual in custody who repeatedly fails to follow directions or facility rules should be transported to the appropriate jail, mental health facility or hospital as soon as practicable. Such conduct should be documented and reported to the receiving facility (15 CCR 1081).

## **901.6 USE OF RESTRAINT DEVICES**

Individuals in custody may be handcuffed in accordance with the Handcuffing and Restraints Policy. Unless an individual presents a heightened risk, handcuffs should generally be removed when the person is in a cell.

The use of restraints, other than handcuffs or leg irons, generally should not be used for individuals in temporary custody at the Ventura County District Attorney's Office unless the person presents a heightened risk, and only in compliance with the Handcuffing and Restraints Policy.

Individuals in restraints shall be kept away from other unrestrained individuals in custody and monitored to protect them from abuse.

### **901.6.1 PREGNANT ADULTS**

Women who are known to be pregnant should be restrained in accordance with the Handcuffing and Restraints Policy.

## *Temporary Custody of Adults*

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### **901.7 PERSONAL PROPERTY**

The personal property of an individual in temporary custody should be removed, inventoried and processed as provided in the Custodial Searches Policy, unless the individual requests a different disposition. For example, an individual may request property (i.e., cash, car or house keys, medications) be released to another person. A request for the release of property to another person must be made in writing. Release of the property requires the recipient's signature on the appropriate form.

Upon release of an individual from temporary custody, his/her items of personal property shall be compared with the inventory, and he/she shall sign a receipt for the property's return. If the individual is transferred to another facility or court, the member transporting the individual is required to obtain the receiving person's signature as notice of receipt. The Ventura County District Attorney's Office shall maintain a copy of the property receipt.

The Deputy Chief Investigator shall be notified whenever an individual alleges that there is a shortage or discrepancy regarding his/her property. The Deputy Chief Investigator shall attempt to prove or disprove the claim.

### **901.8 SUICIDE ATTEMPT, DEATH, OR SERIOUS INJURY**

The Deputy Chief Investigator will ensure procedures are in place to address any suicide attempt, death or serious injury of any individual in temporary custody at the Ventura County District Attorney's Office. The procedures should include the following:

- (a) Immediate request for emergency medical assistance if appropriate
- (b) Immediate notification of the Deputy Chief Investigator, Chief Investigator and Deputy Chief Investigator
- (c) Notification of the spouse, next of kin or other appropriate person
- (d) Notification of the appropriate prosecutor
- (e) Notification of the County Counsel
- (f) Notification of the [Medical Examiner/JOP]
- (g) Evidence preservation
- (h) In-custody death reviews (15 CCR 1046)
- (i) Notification to the Attorney General within 10 days of any death in custody including any reasonably known facts concerning the death (Government Code § 12525)

### **901.9 RELEASE AND/OR TRANSFER**

When an individual is released or transferred from custody, the member releasing the individual should ensure the following:

- (a) All proper reports, forms and logs have been completed prior to release.
- (b) A check has been made to ensure that the individual is not reported as missing and does not have outstanding warrants.

## *Temporary Custody of Adults*

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- (c) It has been confirmed that the correct individual is being released or transported.
- (d) All property, except evidence, contraband or dangerous weapons, has been returned to, or sent with, the individual.
- (e) All pertinent documentation accompanies the individual being transported to another facility (e.g., copies of booking forms, medical records, an itemized list of his/her property, warrant copies).
- (f) The individual is not permitted in any nonpublic areas of the Ventura County District Attorney's Office unless escorted by a member of the Ventura County District Attorney's Office .
- (g) Any known threat or danger the individual may pose (e.g., escape risk, suicide potential, medical condition) is documented, and the documentation transported with the individual if he/she is being sent to another facility.
  - (a) The Bureau member transporting the individual shall ensure such risks are communicated to intake personnel at the other facility.
- (h) Generally, persons of the opposite sex, or adults and juveniles, should not be transported in the same vehicle unless they are physically separated by a solid barrier. If segregating individuals is not practicable, investigators should be alert to inappropriate physical or verbal contact and take appropriate action as necessary.
- (i) Transfers between facilities or other entities, such as a hospital, should be accomplished with a custodial escort of the same sex as the person being transferred to assist with his/her personal needs as reasonable.

### 901.9.1 FORM REQUEST FOR PETITION TO SEAL RECORDS

Upon request, a detained arrestee released from custody shall be provided with the appropriate Judicial Council forms to petition the court to have the arrest and related records sealed (Penal Code § 851.910).

The Ventura County District Attorney's Office shall display the required signage that complies with Penal Code § 851.91 advising an arrestee of the right to obtain the Judicial Council forms.

### 901.10 ASSIGNED ADMINISTRATOR

The Deputy Chief Investigator will ensure any reasonably necessary supplemental procedures are in place to address the following issues (15 CCR 1029):

- (a) General security
- (b) Key control
- (c) Sanitation and maintenance
- (d) Emergency medical treatment (15 CCR 1200)
- (e) Escapes
- (f) Evacuation plans
- (g) Fire- and life-safety, including a fire suppression pre-plan as required by 15 CCR 1032

## *Temporary Custody of Adults*

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- (h) Disaster plans
- (i) Building and safety code compliance
- (j) Civil and other disturbances including hostage situations
- (k) Periodic testing of emergency equipment
- (l) Emergency suspension of Title 15 regulations and notice to the Board of State and Community Corrections as required in 15 CCR 1012
- (m) Inspections and operations reviews
- (n) Any other applicable requirements under 15 CCR 1029

Annual review and evaluation of security measures including internal and external security measures, sanitation, safety and maintenance (15 CCR 1280).

These supplemental procedures shall be reviewed and updated no less than every two years and shall be available to all members (15 CCR 1029).

### **901.11 TRAINING**

Bureau members should be trained and familiar with this policy and any supplemental procedures.

Bureau members responsible for supervising adults in temporary custody shall complete the Corrections Officer Core Course or eight hours of specialized training within six months of assignment. Such training shall include but not be limited to the following (15 CCR 1024):

- (a) Applicable minimum jail standards
- (b) Jail operations liability
- (c) Inmate segregation
- (d) Emergency procedures and planning, fire safety, and life safety.
- (e) Suicide prevention

Eight hours of refresher training shall be completed once every two years (15 CCR 1024).

The Training Manager shall maintain records of all such training in the member's training file.

## **Chapter 10 - Personnel**

## 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 Ventura 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 Ventura 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, or any other protected class or status. The Ventura County District Attorney's Office does not show partiality or grant any special status to any applicant, employee, or group of employees unless otherwise required by law.

The Ventura County District Attorney's 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 Deputy Chief Investigator 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 [department/office] website and the use of [department/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 Deputy Chief Investigator shall avoid advertising, recruiting and screening practices that tend to stereotype, focus on homogeneous applicant pools or screen applicants in a discriminatory manner.

The Bureau 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.

## *Recruitment and Selection*

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### **1000.4 SELECTION PROCESS**

The Bureau shall actively strive to identify a diverse group of candidates who have in some manner distinguished themselves as being outstanding prospects. Minimally, the Bureau 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) Medical and psychological examination (may only be given after a conditional offer of employment)
- (i) 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 Ventura 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).

#### **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).



## *Recruitment and Selection*

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### 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 Deputy Chief Investigator shall not require candidates to provide passwords, account information, or access to password-protected social media accounts (Labor Code § 980

### 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 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).

### 1000.5.6 BACKGROUND INVESTIGATION UPDATE

A background investigation update may, at the discretion of the Chief Investigator, be conducted in lieu of a complete new background investigation on a peace officer candidate who is reappointed within 180 days of voluntary separation from the Ventura County District Attorney's Office, or who is an interim police chief meeting the requirements contained in 11 CCR 1953(f).

## **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:

- 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

## *Recruitment and Selection*

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- 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 [Department/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 INVESTIGATORS**

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)
- (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)

# Ventura County District Attorney's Office

Ventura County DA CA Policy Manual

## *Recruitment and Selection*

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In addition to the above minimum POST required standards, candidates may be subjected to additional standards established by the Ventura County District Attorney's Office (Penal Code § 13510(d)).

## Evaluation of Employees

### 1001.1 PURPOSE AND SCOPE

The objective of the evaluation system is to record work performance for employees giving recognition for good work and providing a guide for improvement where needed. The employee performance evaluation report is a gauge in measuring performance and is used for making personnel decisions relating to merit increase, promotion, reassignment, discipline, demotion and termination. The report also provides a guide for mutual work planning and review and an opportunity to convert general impressions into a more objective history of work performance based on job standards.

The reasons for preparing performance evaluations is twofold. The primary purpose is to aid the employee in individual growth and development and then by following through with constructive discussion and guidance. The second purpose is to aid in the separation of employees who consistently fail to meet job standards.

### 1001.2 POLICY

Employee performance evaluations will be written based on job related factors specific to the position occupied by the employee without regard to sex, race, color, creed or any protected class. Each evaluation will cover a specific period and should be based on performance during that period. The employee's immediate supervisor will complete each evaluation. Other supervisors directly familiar with the employee's performance during the rating period may be consulted by the immediate supervisor for their input.

All sworn supervisory personnel shall be sent to a POST approved supervisory course that includes training on the completion of performance evaluations within one year of the supervisory appointment.

### 1001.3 EVALUATION PROCESS

Evaluation reports will cover a specific period of time and should be based on documented and/or observed 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 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.

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.

## *Evaluation of Employees*

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Non-probationary employees demonstrating substandard performance should be notified in writing of such performance as soon as possible in order to have an opportunity to remediate the issues. Such notification should occur at the earliest opportunity, with the goal being a minimum of 90 days written notice prior to the end of the evaluation period.

Employees who disagree with their evaluation and who desire to provide a formal response or a rebuttal may do so in writing in the prescribed format and time period according to the respective bargaining unit agreements.

### **1001.4 FULL TIME PROBATIONARY PERSONNEL**

Investigative Assistant and other support personnel are on probation for 6 months before being eligible for certification as a permanent employee. An evaluation is completed at 3 and 6 months for probationary personnel.

Sworn personnel are on probation for 12 months before being eligible for certification as a permanent employee. Probationary investigators are observed daily, weekly and monthly during the probationary period and receive an evaluation at 3, 6 and 12 months during the probationary period.

### **1001.5 FULL-TIME PERMANENT STATUS PERSONNEL**

Permanent employees are subject to three types of performance evaluations:

**Regular** - An Employee Performance Evaluation shall be completed once every year pursuant to the employee's respective bargaining unit's Memorandum of Agreement and Management Resolution.

**Transfer** - If an employee is transferred from one assignment to another during an evaluation period, then the evaluation shall be completed by the supervisor who supervised the employee for the majority of the evaluation period with input from the other supervisor.

**Special** - A special evaluation may be completed any time the rater and the rater's supervisor feel one is necessary due to employee performance that is deemed less than standard. Generally, the special evaluation will be the tool used to demonstrate those areas of performance deemed less than standard when follow-up action is planned (action plan, remedial training, retraining, etc.). The evaluation form and the attached documentation shall be submitted as one package. At the discretion of management or the supervisor's discretion, an appraisal may be made at any other time that it will serve a legitimate purpose.

#### **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:

#### **SWORN INVESTIGATORS/SUPPORT STAFF:**

## *Evaluation of Employees*

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**"+" MEETS THE STANDARD:** The rating of "Meets the Standard" represented by a "+" is a benchmark of good, solid and consistent performance. This benchmark is a high standard and represents efficient, expected performance with no significant faults or deficiencies.

**"-" NEEDS IMPROVEMENT:** The rating of "Needs Improvement" indicates the employee's performance is below the benchmark of good, solid and consistent performance.

Space for written comments is provided within the evaluation. This section allows the rater to document employee strengths, employee weakness and suggestions for improvement. Any rating under any job dimension marked Needs Improvement or "-" shall be substantiated in the rater comments section. The supervisor must specifically detail any performance issues and support such observations with any available facts or evidence, and propose a reasonable manner by which the evaluated employee may rise to the desired standard.

### **1001.6 EVALUATION INTERVIEW**

When the supervisor has completed the preliminary evaluation, and the evaluation has been reviewed by the Chief Investigator or Deputy Chief Investigator, 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 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. Employees may also include written comments in the Employee Section of the performance evaluation report.

### **1001.7 EVALUATION REVIEW**

The signed performance evaluation shall be forwarded to the rater's supervisor for reviewer comments before the evaluation is forwarded to the Chief Investigator for final review, via the chain of command.

### **1001.8 EVALUATION DISTRIBUTION**

The performance evaluation will be forwarded to the District Attorney's Human Resource Office. The original will be forwarded to County Human Resources, a copy will be forwarded to the employee, and a copy placed in the employee's personnel file maintained by the District Attorney's Human Resources.

## Promotional Policy

### 1002.1 PURPOSE AND SCOPE

The purpose of this policy is to establish desirable qualifications for promotion within the ranks of the District Attorney's Office-Bureau of Investigation.

#### 1002.1.1 GENERAL REQUIREMENTS

The following conditions will be used in evaluating employees for promotion and transfer:

- (a) Presents a professional, neat appearance;
- (b) Demonstrates:
  1. Emotional stability and maturity
  2. Sound judgment and decision making
  3. Personal integrity
  4. Honesty
  5. Leadership
  6. Initiative
  7. Ability to confront and/or deal with issues both positive and/or negative
  8. Ability to conform to organizational goals and objectives

### 1002.2 PROMOTIONAL PROCESS

The promotional process involves the rating and evaluation of candidates. The promotional process can include the use of a written exam, oral board interview, in-house promotability review and a practical exercise. Information from these processes is considered confidential. Any ratings and/or written/oral comments may only be released by the Human Resources Staff Services Manager to the candidate upon request. The release of any information will be in compliance with County of Ventura policy.

### 1002.3 PROMOTIONAL REQUIREMENTS

Requirements and information regarding any promotional process are available at the Ventura County District Attorney Office Bureau of Investigation Department of Human Resources.

### 1002.4 POLICY

The Ventura County District Attorney's Office determines assignments and promotions in a non-discriminatory manner based upon job-related factors and candidate skills and qualifications. Assignments and promotions are made by the Chief Investigator.

## Grievance Procedure

### 1003.1 PURPOSE AND SCOPE

It is the policy of the Bureau that all grievances be handled quickly and fairly without discrimination against employees who file a grievance whether or not there is a basis for the grievance. The philosophy of the District Attorney's Office is to promote a free verbal communication between employees and supervisors.

#### 1003.1.1 GRIEVANCE DEFINED

A grievance is a claim by an employee or a group of employees of a violation, misinterpretation, or inequitable application of existing policy or practice, rules, and regulations, or memorandum of agreement applicable to the employee, or a complaint of illegal discrimination because of the charging party's race, religious creed, color, national origin, ancestry, age, sex, physical disability, or claim by employee's bargaining unit.

### 1003.2 PROCEDURE

If an employee feels that he or she has a grievance as defined above, then that employee shall observe the procedure outlined in the appropriate MOA.

A grievance may be filed if management interpretation on application of provisions of the Memorandum of Understanding adversely affects an employee's wages, hours, terms or conditions of employment.

### 1003.3 EMPLOYEE REPRESENTATION

Employees are entitled to have representation during the grievance process. The employee should refer to their respective bargaining unit for additional information regarding representation.



## Anti-Retaliation

### 1004.1 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.

### 1004.2 POLICY

The Ventura 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.

### 1004.3 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.

## *Anti-Retaliation*

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### **1004.4 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 Investigator or Staff Services Manager.

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.

### **1004.5 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 Investigator 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.

## *Anti-Retaliation*

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### **1004.6 COMMAND STAFF RESPONSIBILITIES**

The Chief Investigator 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.

### **1004.7 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 Special Investigations for investigation pursuant to the Personnel Complaints Policy.

#### **1004.7.1 DISPLAY OF WHISTLE-BLOWER LAWS**

The Ventura County District Attorney's 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).

## *Anti-Retaliation*

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### **1004.8 RECORDS RETENTION AND RELEASE**

The Staff Services Manager shall ensure that documentation of investigations is maintained in accordance with the established records retention schedules.

### **1004.9 TRAINING**

The policy should be reviewed with each new member.

All members should receive periodic refresher training on the requirements of this policy.

## Reporting of Employee Convictions

### 1005.1 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 Ventura County District Attorney's Office of any past and current criminal convictions.

The AdministrativeCommander shall submit in a timely manner a notice to the Commission on Peace Officer Standards and Training (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 Ventura County District Attorney's Office (11 CCR 1003).

The AdministrativeCommader shall submit in a timely manner a notice to POST of a felony conviction or Government Code § 1029 reason that disqualifies any current peace officer employed by the Ventura County District Attorney's Office or any former peace officer if the Ventura County District Attorney's Office was responsible for the investigation (11 CCR 1003).

#### 1005.1.1 LAW ENFORCEMENT CONTACTS

Employees of the Bureau of Investigation will report any off-duty law enforcement contacts in which they were a suspect, victim or witness to any criminal offense. This allows for the review of the contact/case to determine if a possible conflict exists which would cause a referral to the State of California Attorney General's Office.

### 1005.2 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.

### 1005.3 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 contendere 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.

## *Reporting of Employee Convictions*

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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 [department/office] may be inherently in conflict with law enforcement duties and the public trust.

### **1005.4 REPORTING PROCEDURE**

All members of the Ventura County District Attorney's Office and all retired investigators with an identification card issued by the Ventura County District Attorney's Office shall promptly notify their immediate supervisor (or the Chief Investigator in the case of retired investigators) 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 investigators with an identification card issued by the Ventura County District Attorney's Office shall further promptly notify their immediate supervisor (or the Chief Investigator in the case of retired investigators) 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.

### **1005.5 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 Ventura County

# Ventura County District Attorney's Office

Ventura County DA CA Policy Manual

## *Reporting of Employee Convictions*

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District Attorney's 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.

## Drug- and Alcohol-Free Workplace

### 1006.1 PURPOSE AND SCOPE

The intent of this policy is to deter the misuse or abuse of legal or illegal substances that create a threat to the safety and health of any employee or member of the public. The Ventura County District Attorney's Office discourages alcohol and drug abuse and strives to achieve a work force free from the influence of drugs and alcohol.

### 1006.2 POLICY

The consumption of alcohol or other intoxicants is generally prohibited by on-duty personnel except as necessary in the performance of an official special assignment and then only with prior approval from the Chief Investigator. Personnel who consume alcohol as part of a special assignment shall not do so to the extent of impairing on-duty performance.

Employees who have consumed an amount of an alcoholic beverage or taken any drugs that would tend to adversely affect their senses or judgment shall not report for duty. They shall timely report such absence to their supervisor.

Members, whether on or off duty, if found intoxicated in a public place may be subject to immediate relief of duty pending an investigation.

Members of the Bureau shall not use habit-forming drugs or narcotics unless such drugs or narcotics are properly prescribed by a physician for an illness or injury. Members of the Bureau, while on duty, shall not smoke while conducting interviews or under like conditions where smoking may be detrimental to good conduct, appearance or procedure.

VCDSA members hired after June 1, 1988, must refrain from smoking tobacco at any time. Members who fail to comply with this provision shall be subject to disciplinary action up to and including termination.

#### 1006.2.1 PURCHASE OR POSSESSION OF DRUGS OR ALCOHOL ON DUTY

Employees shall not purchase or possess alcohol or other controlled substances on County property, at work, or while on duty except in the performance of a special assignment as described in Policy Manual § 1012.2.

#### 1006.2.2 USE OF PRESCRIBED MEDICATIONS

Any employee who is required to take any medication with side effects which might impair his/her ability to fully and safely perform all requirements of the position shall report the need for such medication to the immediate supervisor prior to commencing any on-duty status. No employee shall be permitted to work or drive a department-owned or department-leased vehicle while taking such potentially impairing medication without a written release from his/her physician.

Possession of medical marijuana or being under the influence of marijuana on or off-duty is prohibited and may lead to disciplinary action.



## *Drug- and Alcohol-Free Workplace*

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### **1006.3 GENERAL GUIDELINES**

Alcohol and drug use in the workplace or on [department/office] time can endanger the health and safety of [department/office] members and the public. Such use shall not be tolerated (41 USC § 8103).

Members who have consumed an amount of an alcoholic beverage or taken any medication, or combination thereof, that would tend to adversely affect their mental or physical abilities shall not report for duty. Affected members shall notify the Deputy Chief Investigator or appropriate supervisor as soon as the member is aware that he/she will not be able to report to work. If the member is unable to make the notification, every effort should be made to have a representative contact the supervisor in a timely manner. If the member is adversely affected while on-duty, he/she shall be immediately removed and released from work (see Work Restrictions in this policy).

#### **1006.3.1 USE OF MEDICATIONS**

Members should avoid taking any medications that will impair their ability to safely and completely perform their duties. Any member who is medically required or has a need to take any such medication shall report that need to his/her immediate supervisor prior to commencing any on-duty status.

No member shall be permitted to work or drive a vehicle owned or leased by the [Department/Office] while taking any medication that has the potential to impair his/her abilities, without a written release from his/her physician.

#### **1006.3.2 USE OF MARIJUANA**

Possession of marijuana, including medical marijuana, or being under the influence of marijuana on or off-duty is prohibited and may lead to disciplinary action.

### **1006.4 MEMBER RESPONSIBILITIES**

Members shall report for work in an appropriate mental and physical condition. Members are prohibited from purchasing, manufacturing, distributing, dispensing, possessing or using controlled substances or alcohol on [department/office] premises or on [department/office] time (41 USC § 8103). The lawful possession or use of prescribed medications or over-the-counter remedies is excluded from this prohibition.

Members who are authorized to consume alcohol as part of a special assignment shall not do so to the extent of impairing on-duty performance.

Members shall notify a supervisor immediately if they observe behavior or other evidence that they believe demonstrates that a fellow member poses a risk to the health and safety of the member or others due to drug or alcohol use.

Members are required to notify their immediate supervisors of any criminal drug statute conviction for a violation occurring in the workplace no later than five days after such conviction (41 USC § 8103).

## *Drug- and Alcohol-Free Workplace*

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### **1006.5 EMPLOYEE ASSISTANCE PROGRAM**

There may be available a voluntary employee assistance program to assist those who wish to seek help for alcohol and drug problems (41 USC § 8103). Insurance coverage that provides treatment for drug and alcohol abuse also may be available. Employees should contact the Department of Human Resources, their insurance providers or the employee assistance program for additional information. It is the responsibility of each employee to seek assistance before alcohol or drug problems lead to performance problems.

### **1006.6 WORK RESTRICTIONS**

If a member informs a supervisor that he/she has consumed any alcohol, drug or medication that could interfere with a safe and efficient job performance, the member may be required to obtain clearance from his/her physician before continuing to work.

If the supervisor reasonably believes, based on objective facts, that a member is impaired by the consumption of alcohol or other drugs, the supervisor shall prevent the member from continuing work and shall ensure that he/she is safely transported away from the [Department/Office].

### **1006.7 REQUESTING SCREENING TESTS**

The supervisor may request an employee to submit to a screening test under the following circumstances:

- (a) The supervisor reasonably believes, based upon objective facts, that the employee is under the influence of alcohol or drugs that are impairing his/her ability to perform duties safely and efficiently.
- (b) The employee discharges a firearm, other than by accident, in the performance of his/her duties.
- (c) During the performance of his/her duties, the employee drives a motor vehicle and becomes involved in an incident that results in bodily injury to him/herself or another person, or substantial damage to property.

#### **1006.7.1 SUPERVISOR RESPONSIBILITY**

The supervisor shall prepare a written record documenting the specific facts that led to the decision to request the test, and shall inform the employee in writing of the following:

- (a) The test will be given to detect either alcohol or drugs, or both.
- (b) The result of the test is not admissible in any criminal proceeding against the employee.
- (c) The employee may refuse the test, but refusal may result in dismissal or other disciplinary action.

#### **1006.7.2 SCREENING TEST REFUSAL**

An employee may be subject to disciplinary action if he/she:

## *Drug- and Alcohol-Free Workplace*

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- (a) Fails or refuses to submit to a screening test as requested.
- (b) After taking a screening test that indicates the presence of a controlled substance, fails to provide proof, within 72 hours after being requested, that he/she took the controlled substance as directed, pursuant to a current and lawful prescription issued in his/her name.
- (c) Violates any provisions of this policy.

### **1006.8 COMPLIANCE WITH THE DRUG-FREE WORKPLACE ACT**

No later than 30 days following notice of any drug statute conviction for a violation occurring in the workplace involving a member, the [Department/Office] will take appropriate disciplinary action, up to and including dismissal, and/or requiring the member to satisfactorily participate in a drug abuse assistance or rehabilitation program (41 USC § 8104).

### **1006.9 CONFIDENTIALITY**

The [Department/Office] recognizes the confidentiality and privacy due to its members. Disclosure of any information relating to substance abuse treatment, except on a need-to-know basis, shall only be with the express written consent of the member involved or pursuant to lawful process.

The written results of any screening tests and all documents generated by the employee assistance program are considered confidential medical records and shall be maintained separately from the employee's other personnel files.

## Sick Leave

### 1007.1 PURPOSE AND SCOPE

This policy provides general guidance regarding the use and processing of sick leave. The accrual and terms of use of sick leave for eligible employees are detailed in the County personnel manual or applicable collective bargaining agreement.

This policy is not intended to cover all types of sick or other leaves. For example, employees may be entitled to additional paid or unpaid leave for certain family and medical reasons as provided for in the Family and Medical Leave Act (FMLA) (29 USC § 2601 et seq.) and the California Family Rights Act, and leave related to domestic violence, sexual assault, stalking or for organ or bone marrow donor procedures (29 CFR 825; Government Code § 12945.2; Labor Code § 230.1; Labor Code § 1510).

### 1007.2 EMPLOYEE RESPONSIBILITIES

Sick leave may be used for absences caused by illness, injury, temporary disability (including pregnancy/maternity), or for medical, dental or vision exams or medical treatment of the employee or the employee's immediate family when it is not possible to schedule such appointments during non-working hours.

Sick leave is not considered vacation, and abuse of sick leave may result in discipline and/or denial of sick-leave benefits. Employees on sick leave shall not engage in other employment or self-employment, or participate in any sport, hobby, recreational or other activity which may impede recovery from the injury or illness.

#### 1007.2.1 NOTIFICATION

Any employee unable to report to work shall personally notify his/her supervisor by 8:00 a.m. Notification shall include the expected date of return and a phone number where the employee can be reached. Should the employee's supervisor be unavailable, the next highest ranking supervisor must be notified.

### 1007.3 USE OF SICK LEAVE

Sick leave is intended to be used for qualified absences. Sick leave is not considered vacation. Abuse of sick leave may result in discipline, denial of sick leave benefits, or both.

Employees on sick leave shall not engage in other employment or self-employment or participate in any sport, hobby, recreational activity or other activity that may impede recovery from the injury or illness (see Outside Employment Policy).

Qualified appointments should be scheduled during a member's non-working hours when it is reasonable to do so.

#### 1007.3.1 LEAVES OF ABSENCE

##### LEAVES OF ABSENCE 1. INTRODUCTION

## *Sick Leave*

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The County of Ventura Personnel Rules and Regulations defines a LEAVE OF ABSENCE ("Leave") as "An authorized absence from duties with or without pay." The County's Leave of Absence Program applies to all regular employees. Employees should apply for a Leave for any absence over three work days, unless the absence is due to a pre-approved vacation. The Leave of Absence Program and administrative practices comply with federal and state laws and county documents, including:

Fair Employment and Housing Act (FEHA) Family & Medical Leave Act (FMLA) District Attorney's Office Page 9 2/7/2013 California Family Rights Act (CFRA) California Labor Code Pregnancy Disability Leave (PDL) Uniform Services Employment and Reemployment Rights Act of 1994 (USERRA) County of Ventura Personnel Rules and Regulations Memorandum of Agreements (MOA) between the County and unions Management Resolution (MR) If an employee is absent from work without authorization for three (3) days or two (2) consecutive 24-hour work shifts, the County may, without any notice, deem that the employee has voluntarily abandoned his/her job under Article 22, Section 2203, of the County of Ventura's Personnel Rules and Regulations. When an employee will be, or has been, out of the office for more than three (3) days, it is the responsibility of the employee's supervisor to immediately notify the Fiscal Administrative Unit so that the appropriate forms and information can be given to the employee, and the employee is receiving any and all benefits available. This includes an employee who may be out intermittently for the same cause. By authority of the applicable agreements and resolutions, the District Attorney may grant a leave of absence without pay to a member of his staff for as long as one year. (Mgmt. Res., Art. 14; SEIU MOA, Art. 17; VCDSA. MOA 17; CJA AVC Art. 14; SPOAVC Art. 13.) Although the granting of most such leaves is solely within the discretion of the District Attorney, more detailed guidelines than those provided in the agreements and resolution are appropriate. This section shall not limit military leave of absence rights as provided in the California Military and Veterans Codes or as provides in other statutes.

## 2. PROCEDURE

An employee may request a leave of absence with or without pay by submitting a leave of absence (LOA) request form to his/her immediate supervisor. The LOA request form shall state the reason for and length of the requested leave and may include any other information relevant to the request. The request should be submitted at least 30 days before the beginning of the requested leave period. The immediate supervisor shall evaluate the request according to the Leaves of Absence Policy guidelines. Within five days of receiving a leave of absence request, the immediate supervisor shall submit to the District Attorney the employee LOA request form with the supervisor's recommendation. The District Attorney or his designee, after consultation with appropriate members of the management group and the immediate supervisor, shall, in writing, notify the requesting employee of the District Attorney's decision.

## 3. POLICY GUIDELINES

a. Maternity Leaves of absence without pay will be granted by the District Attorney in accordance with state/federal law. A typical maternity leave will be granted for up to four (4) months. The employee may also be entitled to additional leave under the California Family Rights Act (CFRA).

## *Sick Leave*

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Additional time up to a total of one year may be granted in the case of demonstrated medical necessity. Such a leave may consist, in part, of accrued sick, annual, or vacation time at the employee's option.

b. Other Leaves Leaves for purposes other than maternity may be granted by the District Attorney for up to one year when such leave is in the best interest of the County. Among the factors the District Attorney will consider in deciding whether or not to grant a leave of absence without pay are the following: Whether the interests of the County and the District Attorney's Office would be served by granting the request. Whether any staffing inconvenience would result by granting the request. Whether other employee vacation conflicts would result from granting the request. The quality of the employee's service and the value of the employee to this department and the County. The need and purpose of the request. The extent of the requested leave. Whether the request is intended to merely augment vacation time. Whether the employee has had a leave of absence without pay and, if so, how recently. When a leave is granted for medical reasons, the employee will normally be required to exhaust accrued sick and/or annual leave before leave without pay begins. When a non-medical leave is granted, exhaustion of accrued annual leave and/or vacation time will normally be required.

### 1007.3.2 OTHER LEAVES

Leaves for purposes other than maternity will not be granted to an employee with less than 30 months' service in the District Attorney's Office. Exceptions may be made for medical leaves. Among the factors the District Attorney will consider in deciding whether or not to grant a leave of absence without pay are the following:

- Whether the interests of the county and the District Attorney's Office would be served by granting the request.
- Whether any staffing inconvenience would result by granting the request.
- Whether other employee vacation conflicts would result from granting the request.
- The quality of the employee's service and the value of the employee to this department and the county.
- The need and purpose of the request.
- The extent of the requested leave.
- Whether the request is intended to merely augment vacation time.
- Whether the employee has been granted a previous leave of absence without pay and, if so, how recently.

An employee with more than 30 but less than 60 months' service in the District Attorney's Office, whose request satisfies these guidelines, may be granted a leave of absence without pay for 30 to 90 days. In unusual circumstances, more than 90 days may be granted. An employee with more than 60 months' service in the District Attorney's Office may be granted a leave of absence without pay for as long as one year. When a leave is granted for medical reasons, the employee

## *Sick Leave*

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will normally be required to exhaust accrued sick and/or annual leave before leave without pay begins. When a non-medical leave is granted, exhaustion of sick leave, accrued annual leave and/or vacation time will normally be required.

### **1007.3.3 IDENTIFICATION AND KEYS**

In the event of a leave longer than 90 days, employees may be required to surrender office keys, as well as identification, including badges.

### **1007.3.4 NOTIFICATION**

All members should notify the Deputy Chief Investigator or appropriate supervisor as soon as they are aware that they will not be able to report to work and no less than one hour before the start of their scheduled shifts. If, due to an emergency, a member is unable to contact the supervisor, every effort should be made to have a representative for the member contact the supervisor (Labor Code § 246 ).

When the necessity to be absent from work is foreseeable, such as planned medical appointments or treatments, the member shall, whenever possible and practicable, provide the [Department/Office] with no less than 30 days' notice of the impending absence (Labor Code § 246).

Upon return to work, members are responsible for ensuring their time off was appropriately accounted for, and for completing and submitting the required documentation describing the type of time off used and the specific amount of time taken.

### **1007.4 EXTENDED ABSENCE**

Members absent from duty for more than three consecutive days may be required to furnish a statement from a health care provider supporting the need to be absent and/or the ability to return to work. Members on an extended absence shall, if possible, contact their supervisor at specified intervals to provide an update on their absence and expected date of return.

Nothing in this section precludes a supervisor from requiring, with cause, a health care provider's statement for an absence of three or fewer days after the first three days of paid sick leave are used in a 12-month period.

### **1007.5 REQUIRED NOTICES**

The Staff Services Manager shall ensure:

- (a) Written notice of the amount of paid sick leave available is provided to employees as provided in Labor Code § 246.
- (b) A poster is displayed in a conspicuous place for employees to review that contains information on paid sick leave as provided in Labor Code § 247.

### **1007.6 SUPERVISOR RESPONSIBILITIES**

The responsibilities of supervisors include, but are not limited to:

- (a) Monitoring and regularly reviewing the attendance of those under their command to ensure that the use of sick leave and absences is consistent with this policy.

## *Sick Leave*

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- (b) Attempting to determine whether an absence of four or more days may qualify as family medical leave and consulting with legal counsel or the Department of Human Resources as appropriate.
- (c) Addressing absences and sick leave use in the member's performance evaluation when excessive or unusual use has:
  - 1. Negatively affected the member's performance or ability to complete assigned duties.
  - 2. Negatively affected [department/office] operations.
- (d) When appropriate, counseling members regarding excessive absences and/or inappropriate use of sick leave.
- (e) Referring eligible members to an available employee assistance program when appropriate.



# Communicable Diseases

## 1008.1 PURPOSE AND SCOPE

This policy provides general guidelines to assist in minimizing the risk of [department/office] members contracting and/or spreading communicable diseases.

### 1008.1.1 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 Ventura County District Attorney's Office. (See the exposure control plan for further details to assist in identifying whether an exposure has occurred.)

## 1008.2 POLICY

The Ventura 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.

## 1008.3 EXPOSURE CONTROL OFFICER

The Chief Investigator will assign a person as the Exposure Control Officer (ECO). The ECO 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 Ventura County District Attorney's 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).

## *Communicable Diseases*

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2. Bloodborne pathogen mandates including (8 CCR 5193):
    - (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 Ventura County District Attorney's 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 Ventura County District Attorney's Office website (Health and Safety Code § 1797.188).

The ECO should also act as the liaison with the Division of Occupational Safety and Health (Cal/OSHA) and may request voluntary compliance inspections. The ECO shall annually review and update the exposure control plan and review implementation of the plan (8 CCR 5193).

### **1008.4 EXPOSURE PREVENTION AND MITIGATION**

#### **1008.4.1 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 [department/office] vehicles, as applicable.
- (b) Wearing [department/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.

## *Communicable Diseases*

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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.

### 1008.4.2 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).

## **1008.5 POST EXPOSURE**

### 1008.5.1 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.

### 1008.5.2 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

## *Communicable Diseases*

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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).

### 1008.5.3 MEDICAL CONSULTATION, EVALUATION AND TREATMENT

Ventura County District Attorney's 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 ECO 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 ECO.

### 1008.5.4 COUNSELING

The Ventura County District Attorney's Office shall provide the member, and his/her family if necessary, the opportunity for counseling and consultation regarding the exposure (8 CCR 5193).

### 1008.5.5 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 ECO. If the ECO 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.

## *Communicable Diseases*

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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 ECO is responsible for coordinating the testing to prevent unnecessary or duplicate testing.

The ECO should seek the consent of the individual for testing and consult the County Counsel to discuss other options when no statute exists for compelling the source of an exposure to undergo testing if he/she refuses.

### **1008.6 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.

### **1008.7 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.

## Smoking and Tobacco Use

### 1009.1 PURPOSE AND SCOPE

This policy establishes limitations on smoking and the use of tobacco products by members and others while on-duty or while in Ventura County District Attorney's Office facilities or vehicles.

For the purposes of this policy, smoking and tobacco use includes, but is not limited to, any tobacco product, such as cigarettes, cigars, pipe tobacco, snuff, tobacco pouches and chewing tobacco, as well as any device intended to simulate smoking, such as an electronic cigarette or personal vaporizer.

### 1009.2 POLICY

Smoking and other use of tobacco products is not permitted inside any Ventura County facilities or vehicles. It shall also be the responsibility of all employees to ensure that no person smokes or uses any tobacco product inside Bureau facilities and vehicles.

Members of the Bureau, while on duty, shall not smoke while conducting interviews or under like conditions where smoking may be detrimental to good conduct, appearance or procedure. The Ventura County District Attorney's Office recognizes that tobacco use is a health risk and can be

VCDSA members hired after June 1, 1988, must refrain from smoking tobacco at any time. Members who fail to comply with this provision shall be subject to disciplinary action up to and including termination.

Smoking and tobacco use also presents an unprofessional image for the Office and its members. Therefore, smoking and tobacco use is prohibited by members and visitors in all department facilities, buildings, vehicles, and the outline of this policy (Government Code § 7596; Labor Code 6404.5).

### 1009.3 ADDITIONAL PROHIBITIONS

No person shall use tobacco products within 20 feet of a main entrance, exit or operable window of any public building (including any department facility), or buildings on the campuses of the University of California, California State University and California community colleges, whether present for training, enforcement or any other purpose (Government Code § 7596 et seq.).

## Personnel Complaints

### 1010.1 PURPOSE AND SCOPE

This policy provides guidelines for the reporting, investigation and disposition of complaints regarding the conduct of members of the Ventura 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.

### 1010.2 POLICY

The Ventura County District Attorney's Office takes seriously all complaints regarding the service provided by the Ventura County District Attorney's Office and the conduct of its members.

The Ventura County District Attorney's 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.

### 1010.3 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 Ventura County District Attorney's Office.

#### 1010.3.1 COMPLAINT CLASSIFICATIONS

Personnel complaints shall be classified in one of the following categories:

**Informal** - A matter in which the Chief Investigator or his designee is satisfied that appropriate action has been taken by a Bureau supervisor of rank greater than the accused member.

**Formal** - A matter in which the Chief Investigator or his designee determines that further action is warranted. Such complaints may be investigated by a Bureau supervisor of rank greater than the accused member or referred to the Special Investigations Unit, 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 Chief Investigator, such matters may be further investigated depending on the seriousness of the complaint and the availability of sufficient information.

## *Personnel Complaints*

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### 1010.3.2 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 Ventura County District Attorney's 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.

### **1010.4 AVAILABILITY AND ACCEPTANCE OF COMPLAINTS**

#### 1010.4.1 COMPLAINT FORMS

Personnel complaint forms will be maintained at all offices of the District Attorney.

Personnel complaint forms in languages other than English may also be provided, as determined necessary or practicable.

#### 1010.4.2 ACCEPTANCE

All complaints will be courteously accepted by any Ventura County District Attorney's 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 Ventura County District Attorney's Office (Penal Code § 832.7).

#### 1010.4.3 AVAILABILITY OF WRITTEN PROCEDURES

The Ventura County District Attorney's Office shall make available to the public a written description of the investigation procedures for complaints (Penal Code § 832.5).

### **1010.5 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.



## *Personnel Complaints*

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On an annual basis, the Ventura County District Attorney's Office should audit the log and send an audit report to the Chief Investigator or the authorized designee.

### **1010.6 ADMINISTRATIVE INVESTIGATIONS**

Allegations of misconduct will be administratively investigated as follows.

#### **1010.6.1 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 Investigator 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 Deputy Chief Investigator 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 Deputy Chief Investigator or the Chief Investigator, 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.
  - (a) Follow-up contact with the complainant should be made within 24 hours of the Ventura County District Attorney's Office receiving the complaint.
  - (b) 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 Deputy Chief Investigator.
- (d) Ensuring that upon receipt of a complaint involving allegations of a potentially serious nature, the Deputy Chief Investigator and the Chief Investigator are notified via the chain of command as soon as practicable.
- (e) Promptly contacting the Department of Human Resources and the Deputy Chief Investigator 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 Deputy Chief Investigator, who will determine whether to contact the complainant or assign the complaint for investigation.
- (g) Investigating a complaint as follows:

# Ventura County District Attorney's Office

Ventura County DA CA Policy Manual

## Personnel Complaints

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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.
- (h) Ensuring that the procedural rights of the accused member are followed (Government Code § 3303 et seq.).
- (i) Ensuring interviews of the complainant are generally conducted during reasonable hours.

### 1010.6.2 ADMINISTRATIVE INVESTIGATION PROCEDURES

Whether conducted by a supervisor or a member of the Special 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 Ventura 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 investigator 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.

## Personnel Complaints

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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 investigator solely because the investigator has been placed on a prosecutor's *Brady* list or the name of the investigator 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 investigator has been placed on a *Brady* list or may otherwise be subject to disclosure pursuant to *Brady v. Maryland* (Government Code § 3305.5).

### 1010.6.3 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.

Upon completion, the report should be forwarded through the chain-of-command to the Deputy Chief Investigator.

Once received, the Chief Investigator may accept or modify the classification and recommendation for disciplinary action.

## *Personnel Complaints*

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### 1010.6.4 DISPOSITIONS

Each personnel complaint shall be classified with one of the following dispositions:

**Unfounded** - When the investigation discloses that the alleged acts did not occur or did not involve Ventura County District Attorney's 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 an investigator were found to violate law or Ventura County District Attorney's 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.

### 1010.6.5 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.

### 1010.6.6 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.

### 1010.7 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).

## *Personnel Complaints*

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### 1010.7.1 DISCLOSURE OF FINANCIAL INFORMATION

An employee may be compelled to disclose personal financial information under the following circumstances (Government Code § 3308):

- (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

### **1010.8 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 Ventura County District Attorney's Office, the Chief Investigator 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 Ventura County District Attorney's Office badge, identification, assigned weapons and any other Ventura County District Attorney's 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.

### **1010.9 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 Investigator shall be notified as soon as practicable when a member is accused of criminal conduct. The Chief Investigator 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 Ventura County District Attorney's Office may release information concerning the arrest or detention of any member, including an investigator, that has not led to a conviction. No disciplinary action should be taken until an independent administrative investigation is conducted.

### **1010.10 POST-ADMINISTRATIVE INVESTIGATION PROCEDURES**

Upon completion of a formal investigation, an investigation report should be forwarded to the Chief Investigator through the chain of command. Each level of command should review the report

## *Personnel Complaints*

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and include his/her comments in writing before forwarding the report. The Chief Investigator may accept or modify any classification or recommendation for disciplinary action.

### 1010.10.1 DEPUTY CHIEF INVESTIGATOR RESPONSIBILITIES

Upon receipt of any completed personnel investigation, the Deputy Chief Investigator of the involved member shall review the entire investigative file, the member's personnel file and any other relevant materials.

The Deputy Chief Investigator 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 Investigator, the Deputy Chief Investigator may return the entire investigation to the assigned investigator or supervisor for further investigation or action.

When forwarding any written recommendation to the Chief Investigator, the Deputy Chief Investigator 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.

### 1010.10.2 CHIEF INVESTIGATOR RESPONSIBILITIES

Upon receipt of any written recommendation for disciplinary action, the Chief Investigator shall review the recommendation and all accompanying materials. The Chief Investigator may modify any recommendation and/or may return the file to the Deputy Chief Investigator for further investigation or action.

Once the Chief Investigator is satisfied that no further investigation or action is required by staff, the Chief Investigator shall determine the amount of discipline, if any, that should be imposed. In the event disciplinary action is proposed, the Chief Investigator 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 Investigator shall also provide the member with:

- (a) Access to all of the materials considered by the Chief Investigator in recommending the proposed discipline.
- (b) An opportunity to respond orally or in writing to the Chief Investigator within five days of receiving the notice.
  - (a) Upon a showing of good cause by the member, the Chief Investigator may grant a reasonable extension of time for the member to respond.
  - (b) If the member elects to respond orally, the presentation may be recorded by the Ventura County District Attorney's 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 Investigator shall consider all information received in regard to the recommended discipline. The Chief Investigator shall render a timely written decision to the

## *Personnel Complaints*

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member and specify the grounds and reasons for discipline and the effective date of the discipline. Once the Chief Investigator has issued a written decision, the discipline shall become effective.

### **1010.10.3 NOTICE OF FINAL DISPOSITION TO THE COMPLAINANT**

The Chief Investigator 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)).

### **1010.10.4 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)).

### **1010.11 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 Investigator 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 Investigator to consider.
- (d) In the event that the Chief Investigator 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 Investigator on the limited issues of information raised in any subsequent materials.

### **1010.12 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.

### **1010.13 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.

## *Personnel Complaints*

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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.

During any administrative appeal, evidence that an investigator 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).

### **1010.14 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 investigator 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 Investigator 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 Investigator shall be final.

### **1010.15 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.



## Seat Belts

### 1011.1 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 department vehicles (Vehicle Code § 27315.5).

#### 1011.1.1 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.

### 1011.2 WEARING OF SAFETY RESTRAINTS

All members shall wear properly adjusted safety restraints when operating or riding in a seat equipped with restraints, in any vehicle owned, leased or rented by this department while on- or off-duty, or in any privately owned vehicle while on-duty. The member driving such a vehicle shall ensure that all other occupants, including non-members, are also properly restrained.

Exceptions to the requirement to wear safety restraints may be made only in exceptional situations where, due to unusual circumstances, wearing a seat belt would endanger the member or the public. Members must be prepared to justify any deviation from this requirement.

### 1011.3 TRANSPORTING SUSPECTS, PRISONERS OR ARRESTEES

Suspects, prisoners and arrestees should be in a seated position and secured in the rear seat of any department 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.

### 1011.4 INOPERABLE SEAT BELTS

Department 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.

Department 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 Investigator.

Members who discover an inoperable restraint system shall report the defect to the appropriate supervisor. Prompt action will be taken to replace or repair the system.

### 1011.5 POLICY

It is the policy of the Ventura 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.

## *Seat Belts*

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### **1011.6 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).

### **1011.7 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.

### **1011.8 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.

## **Body Armor and Safety Equipment**

### **1012.1 PURPOSE AND SCOPE**

The purpose of this policy is to provide law enforcement officers with guidelines for the proper use of body armor.

### **1012.2 POLICY**

It is the policy of the Ventura 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.

### **1012.3 ISSUANCE OF BODY ARMOR**

The Administrative supervisor shall ensure that body armor is issued to all investigators when the investigator begins service at the Ventura County District Attorney's Office and that, when issued, the body armor meets or exceeds the standards of the National Institute of Justice.

The Administrative supervisor 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.

#### **1012.3.1 USE OF SOFT BODY ARMOR**

Generally, the use of body armor is required subject to the following:

- (a) Investigators shall only wear agency-approved body armor.
- (b) Investigators shall wear body armor anytime they are in a situation where they could reasonably be expected to take enforcement action.
- (c) Investigators 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 an investigator is working in uniform conducting tactical operations, or taking part in Bureau range training.
- (e) An investigator 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.

#### **1012.3.2 INSPECTIONS OF BODY ARMOR**

Supervisors should ensure that body armor is worn and maintained in accordance with this policy through routine observation and periodic documented inspections. Annual inspections of body armor should be conducted by an authorized designee for fit, cleanliness, and signs of damage, abuse and wear.

## *Body Armor and Safety Equipment*

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### 1012.3.3 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.

### **1012.4 RANGEMASTER RESPONSIBILITIES**

The Rangemaster should:

- (a) Monitor technological advances in the body armor industry for any appropriate changes to Bureau approved body armor.
- (b) Assess weapons and ammunition currently in use and the suitability of approved body armor to protect against those threats.
- (c) Provide training that educates investigators about the safety benefits of wearing body armor.

## Personnel Records

### 1013.1 PURPOSE AND SCOPE

This policy governs maintenance and access to personnel records. Personnel records include any file maintained under an individual member's name.

### 1013.2 POLICY

It is the policy of the Ventura County District Attorney's 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).

### 1013.3 [VENTURA COUNTY DISTRICT ATTORNEY'S OFFICE FILE](#)

The Ventura County District Attorney's Office file shall be maintained as a record of a person's employment/appointment with this Office. The Ventura County District Attorney's 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

## *Personnel Records*

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member should sign or initial the noted refusal. Such a refusal, however, shall 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.

### **1013.4 DIVISION FILE**

Division files may be separately maintained internally by a member's supervisor for the purpose of completing timely performance evaluations. The Division 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.

### **1013.5 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.

### **1013.6 INTERNAL AFFAIRS FILE**

Internal affairs files shall be maintained under the exclusive control of the Special Investigations in conjunction with the office of the Chief Investigator. Access to these files may only be approved by the Chief Investigator or the Special Investigations 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

## *Personnel Records*

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resulted in other than a sustained finding may not be used by the Ventura County District Attorney's 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).

### **1013.7 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.

### **1013.8 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 Executive, County Counsel or other attorneys or representatives of the County in connection with official business.

#### **1013.8.1 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.

## *Personnel Records*

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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.

### **1013.8.2 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 Ventura County District Attorney's 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).

### **1013.9 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 Investigator through the chain of command. The Ventura County District Attorney's 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 Ventura County District Attorney's 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 Ventura County District Attorney's 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.



## *Personnel Records*

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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 Ventura County District Attorney's Office and the member that may be discovered in a judicial proceeding.

### **1013.10 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 Investigator.
- (c) If, in the opinion of the Chief Investigator, 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.

### **1013.11 RELEASE OF PERSONNEL RECORDS AND RECORDS RELATED TO CERTAIN INCIDENTS, COMPLAINTS, AND INVESTIGATIONS OF INVESTIGATORS**

Personnel records and records related to certain incidents, complaints, and investigations of investigators 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 Investigator or the Special Investigations 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 an investigator in connection with an incident, or whether the investigator's action

## Personnel Records

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was consistent with law and [department/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 an investigator.
  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 an investigator.
- (b) Records relating to an incident where a sustained finding (see the Personnel Complaints Policy) was made by the [department/office] or oversight agency regarding:
  1. An investigator engaged in sexual assault of a member of the public (as defined by Penal Code § 832.7(b)).
  2. Dishonesty of an investigator relating to the reporting, investigation, or prosecution of a crime, or directly relating to the reporting of, or investigation of misconduct by, another investigator, 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 investigators, the Ventura County District Attorney's Office shall not release information about allegations of misconduct or the analysis or disposition of an investigation of an investigator unless it relates to a sustained finding of a qualified allegation as provided by Penal Code § 832.7(b)(4) against the investigator. However, factual information about the action of the investigator during an incident or the statements of an investigator shall be released if the statements are relevant to a sustained finding of the qualified allegation against another investigator that is subject to release (Penal Code § 832.7(b)(4)).

### 1013.11.1 REDACTION

The Custodian of Records, in consultation with the Chief Investigator 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 investigators

# Ventura County District Attorney's Office

Ventura County DA CA Policy Manual

## *Personnel Records*

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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 investigator 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)).

### 1013.11.2 DELAY OF RELEASE

Unless otherwise directed by the Chief Investigator, 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 an investigator or against someone other than an investigator 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 Officer 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 investigator's use of force

## *Personnel Records*

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### 1013.11.3 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, 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 an investigator and there are extraordinary circumstances to warrant a continued delay due to the ongoing criminal investigation or proceeding, then the Ventura County District Attorney's 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 investigators.

In cases where an action to compel disclosure is brought pursuant to Government Code § 6258, the Ventura County District Attorney's 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)).

## Request for Change of Assignment

### 1014.1 PURPOSE AND SCOPE

It is the intent of the Bureau management that all requests for change of assignment are considered equally. To facilitate the selection process, the following procedure is established whereby all such requests will be reviewed on an equal basis as assignments are made.

### 1014.2 REQUEST FOR CHANGE OF ASSIGNMENT

All Bureau employees shall complete and submit a Consideration for Transfer Request Form to Bureau management when requested by Bureau management. This applies to both personnel wishing to be considered for a change of assignment as well as those who do not desire to be transferred. The form should then be forwarded through the chain of command to the Deputy Chief Investigator.

#### 1014.2.1 PURPOSE OF FORM

All assignments an employee is interested in should be listed on the form, as well as any collateral assignments.

The Consideration for Transfer Request form will remain in effect until the end of the calendar year in which it was submitted or until updated request forms are requested by Bureau management.

These requests will be considered by Bureau management in making assignments in the Bureau. Bureau management is not bound by the assignments requested by personnel and will make assignments in the best interest of Bureau operations.

## Employee Commendations and Recognition

### 1015.1 PURPOSE AND SCOPE

Special recognition may be in order whenever an employee performs his/her duties in an exemplary manner. This procedure provides general guidelines for the commending of exceptional employee performance.

### 1015.2 POLICY

It is the policy of the Ventura County District Attorney's Office to recognize and acknowledge exceptional individual or group achievements, performance, proficiency, heroism and service of its members and individuals from the community through commendations and awards.

### 1015.3 COMMENDABLE ACTIONS

A meritorious or commendable act by an employee of this office may include, but is not limited to, the following:

- Superior handling of a difficult situation by an employee
- Conspicuous bravery or outstanding performance by any employee of the office
- Any action or performance that is above and beyond the typical duties of an employee

#### 1015.3.1 COMMENDATION

The office memorandum format shall be used to document the commendation of the employee and shall contain the following:

- (a) Employee name, title, and the date of the commendable action
- (b) A brief account of the commendable action shall be documented on the form with report numbers, as appropriate
- (c) Initials of the commending supervisor

Completed reports shall be forwarded to the appropriate Deputy Chief Investigator for his/her review and approval prior to giving the commendation to the employee. The Deputy Chief Investigator shall sign and forward the report to the Chief Investigator for his/her review.

The Chief Investigator will return the approved commendation to the employee for his/her initials. A copy will be provided to the employee. A copy will be sent to the employee's personnel file.

#### 1015.3.2 PERSONNEL PERFORMANCE REPORT

Supervisors and District Attorney Investigator IIIs may use a Personnel Performance Report (PPR) to recognize and commend a subordinate's performance. The same form can be used to document a subordinate's infraction of rule, regulation or policy. The PPR is to be signed by the member and retained by the member's supervisor during the rating period. The PPR is not to be placed in the member's Personnel File and shall be removed from the supervisory file upon the completion of each Performance Review.

## *Employee Commendations and Recognition*

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### **1015.4 OUTSIDE EMPLOYEE RECOGNITION**

Occasionally the Bureau/Office is asked to submit the name of an employee for recognition by an organization outside the District Attorney's Office. This recognition can be for overall exemplary performance throughout the year or for some type of special recognition by an organization.

Supervisors shall submit the names of any personnel they feel should be considered for such recognition to their respective Deputy Chief Investigator Investigator for review. The supervisor will submit a written summary of why the employee is worthy of consideration of the award or nomination being sought.

Bureau management shall determine and approve the submission of any employee's name for awards or recognition by organizations outside the District Attorney's Office.

## Fitness for Duty

### 1016.1 PURPOSE AND SCOPE

All investigators 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 investigators of this Bureau remain fit for duty and able to perform their job functions (Government Code § 1031).

### 1016.2 EMPLOYEE RESPONSIBILITIES

- (a) It shall be the responsibility of each member of this department to maintain good physical condition sufficient to safely and properly perform essential duties of their position.
- (b) Each member of this department shall perform his/her respective duties without physical, emotional, and/or mental constraints.
- (c) During working hours, all employees are required to be alert, attentive, and capable of performing his/her assigned responsibilities.
- (d) Any employee who feels unable to perform his/her duties shall promptly notify a supervisor. In the event that an employee believes that another employee is unable to perform his/her duties, such observations and/or belief shall be promptly reported to a supervisor.

### 1016.3 SUPERVISOR RESPONSIBILITIES

- (a) A supervisor observing an employee, or receiving a report of an employee who is perceived to be, unable to safely perform his/her duties due to a physical or mental condition shall take prompt and appropriate action in an effort to resolve the situation.
- (b) Whenever feasible, the supervisor should attempt to ascertain the reason or source of the problem and in all cases a preliminary evaluation should be made in an effort to determine the level of inability of the employee to perform his/her duties.
- (c) In the event the employee appears to be in need of immediate medical or psychiatric treatment, all reasonable efforts should be made to provide such care.
- (d) In conjunction with the Deputy Chief Investigator, a determination should be made whether or not the employee should be temporarily relieved from his/her duties.
- (e) The Chief Investigator shall be promptly notified in the event that any employee is relieved from duty.



## *Fitness for Duty*

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### **1016.4 NON-WORK RELATED CONDITIONS**

Any employee suffering from a non-work related condition which warrants a temporary leave from duty may be required to use vacation, sick leave or other paid time off (PTO) in order to obtain medical treatment or other reasonable rest period.

### **1016.5 WORK RELATED CONDITIONS**

Any employee suffering from a work related condition which warrants a temporary leave from duty shall be required to comply with County personnel rules and guidelines for processing such claims.

Upon the recommendation of the Deputy Chief Investigator and concurrence of the Chief Investigator, any employee whose actions or use of force in an official capacity result in death or serious injury to another may be temporarily removed from regularly assigned duties and/or placed on paid administrative leave for the wellbeing of the employee and until such time as the following may be completed:

- (a) A preliminary determination that the employee's conduct appears to have been appropriate and in compliance with office and Bureau policy.
- (b) The employee has had the opportunity to receive necessary counseling and/or psychological clearance to return to full duty.

### **1016.6 PHYSICAL AND PSYCHOLOGICAL EXAMINATIONS**

- (a) Whenever circumstances reasonably indicate that an employee is unfit for duty, the Chief Investigator may serve that employee with a written order to undergo a physical and/or psychological examination in cooperation with Department of Human Resources to determine the level of the employee's fitness for duty. The order shall indicate the date, time and place for the examination.
- (b) The examining physician or therapist will provide the Department with a report indicating that the employee is either fit for duty or, if not, listing any functional limitations which limit the employee's ability to perform job duties. If the employee places his/her condition at issue in any subsequent or related administrative action/grievance, the examining physician or therapist may be required to disclose any and all information which is relevant to such proceeding (Civil Code § 56.10(c)(8)).
- (c) In order to facilitate the examination of any employee, the Department will provide all appropriate documents and available information to assist in the evaluation and/or treatment.
- (d) All reports and evaluations submitted by the treating physician or therapist shall be part of the employee's confidential personnel file.
- (e) Any employee ordered to receive a fitness for duty examination shall comply with the terms of the order and cooperate fully with the examining physician or therapist regarding any clinical interview, tests administered or other procedures as directed.

## *Fitness for Duty*

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Any failure to comply with such an order and any failure to cooperate with the examining physician or therapist may be deemed insubordination and shall be subject to discipline up to and including termination.

- (f) Once an employee has been deemed fit for duty by the examining physician or therapist, the employee will be notified to resume his/her duties.

## Meal Periods and Breaks

### 1017.1 PURPOSE AND SCOPE

This policy regarding meals and breaks, insofar as possible shall conform to the policy governing all County employees that has been established by the County Executive Officer and the MOA appropriate for the employee's classification.

#### 1017.1.1 MEAL PERIODS

The time spent for the meal period shall not exceed the authorized time allowed pursuant to applicable bargaining agreements.

#### 1017.1.2 15 MINUTE REST PERIOD

Pursuant to the County Administrative Manual (Chapter VIII (B)-1), each employee is allowed a 15 minute rest period in both the first half and second half of the work day, when such breaks do not interfere with office business or public safety.

It is intended that the 15-minute period be the total time spent away from an employee's work station.

Rest periods are not cumulative. Also, it is not intended that an employee use rest periods to arrive to work late, leave work early, or extend lunch/meal periods.

## Lactation Break Policy

### 1018.1 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 (29 USC § 207 and Labor Code §§ 1030-1032).

### 1018.2 POLICY

It is the policy of this Bureau to provide, in compliance with the Fair Labor Standards Act, reasonable break time and appropriate facilities to accommodate any employee desiring to express breast milk for her nursing infant child (29 USC § 207 and Labor Code § 1030).

### 1018.3 LACTATION BREAK TIME

A rest period should be permitted each time the employee has the need to express breast milk (29 USC § 207). In general, lactation breaks that cumulatively total 30 minutes or less during any four-hour work period or major portion of a four-hour work period would be considered reasonable. However, individual circumstances may require more or less time. Such breaks, if feasible, should be taken at the same time as the employee's regularly scheduled rest or meal periods.

While a reasonable effort will be made to provide additional time beyond authorized breaks, any such time exceeding regularly scheduled and paid break time will be unpaid (Labor Code § 1030).

Employees desiring to take a lactation break shall notify a supervisor prior to taking such a break. Such breaks may be reasonably delayed if they would seriously disrupt department operations (Labor Code § 1032).

Once a lactation break has been approved, the break should not be interrupted except for emergency or exigent circumstances.

### 1018.4 PRIVATE LOCATION

The Bureau will make reasonable efforts to accommodate employees with the use of an appropriate room or other location to express milk in private. Such room or place should be in close proximity to the employee's work area and shall be other than a bathroom or toilet stall. The location must be shielded from view and free from intrusion from co-workers and the public (29 USC § 207 and Labor Code § 1031).

Employees occupying such private areas shall either secure the door or otherwise make it clear to others that the area is occupied with a need for privacy. All other employees should avoid interrupting an employee during an authorized break, except to announce an emergency or other urgent circumstance.

Authorized lactation breaks for employees assigned to the field may be taken at the nearest appropriate private area.

## *Lactation Break Policy*

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### **1018.5 STORAGE OF EXPRESSED MILK**

Any employee storing expressed milk in any authorized refrigerated area within the Bureau shall clearly label it as such. No expressed milk shall be stored at the Bureau beyond the employee's shift.

## Time Reporting Procedures

### 1019.1 PURPOSE AND SCOPE

This policy provides the guidelines for completing and submitting payroll records (time cards) of Ventura County District Attorney's Office members who are eligible for the payment of wages.

#### 1019.1.1 RESPONSIBILITY FOR COMPLETION OF TIME REPORTING

Employees are responsible for the accurate and timely submission of time reporting for the payment of wages.

#### 1019.1.2 TIME REQUIREMENTS

All employees are paid on a bi-weekly basis usually on Friday with certain exceptions such as holidays. Time reporting shall be completed by all employees and approved by the supervisor no later than 10:00 a.m. on the Monday following the end of the pay period, unless specified otherwise.

### 1019.2 RECORDS

The Deputy Chief Investigator shall ensure that accurate and timely payroll records are maintained as required by 29 CFR 516.2 for a minimum of three years (29 CFR 516.5).

### 1019.3 POLICY

The Ventura County District Attorney's Office maintains timely and accurate payroll records.

### 1019.4 RESPONSIBILITIES

Members are responsible for the accurate completion and timely submission of their payroll records for the payment of wages.

Supervisors are responsible for approving the payroll records for those under their commands.

### 1019.5 TIME REQUIREMENTS

Members who are eligible for the payment of wages are paid on a scheduled, periodic basis, generally on the same day or date each period, with certain exceptions, such as holidays. Payroll records shall be completed and submitted to the Fiscal Division as established by the County payroll procedures.

## Overtime Payment Requests

### 1020.1 PURPOSE AND SCOPE

It is the policy of the Bureau to compensate non-exempt salaried employees who work authorized overtime either by payment of wages as agreed and in effect through the Memorandum of Agreement (MOA), or by the allowance of accrual of compensatory time off. In order to qualify for either, the employee must complete and submit a Request for Overtime Payment as soon as practical after overtime is worked.

#### 1020.1.1 BUREAU POLICY

Because of the nature of police work and the specific needs of the Bureau, a degree of flexibility concerning overtime policies must be maintained.

Non-exempt employees are not authorized to volunteer work time to the Bureau. All requests to work overtime shall be approved in advance by a supervisor. If circumstances do not permit prior approval, then approval shall be sought as soon as practical during the overtime shift and in no case later than the end of shift in which the overtime is worked.

### 1020.2 REQUEST FOR OVERTIME PAYMENT FORMS

Employees shall submit all overtime payment request forms for verification by their immediate supervisor, who will then forward them to their respective Commander or Deputy Chief Investigator as soon as practical. Failure to submit a request for overtime payment in a timely manner may result in a denial of compensation.

#### 1020.2.1 EMPLOYEES RESPONSIBILITY

Employees shall complete the Overtime Report Form immediately after working the overtime and submit the form to his/her immediate supervisor or the Commander or Deputy Chief Investigator.

#### 1020.2.2 SUPERVISORS RESPONSIBILITY

The supervisor shall verify that the overtime was worked by the employee before approving the request for payment.

After approving the Overtime Request Form, the supervisor will forward the form to his/her Commander or Deputy Chief Investigator for final approval.

#### 1020.2.3 COMMANDERS/DEPUTY CHIEFS RESPONSIBILITY

Commanders or Deputy Chiefs, after approving payment, will then forward the form to the Fiscal Administrative Unit.

### 1020.3 ACCOUNTING FOR OVERTIME WORKED

Partial hours of overtime worked are to be accounted for in quarters of an hour. One quarter is equivalent to fifteen minutes as indicated by the following chart:

# Ventura County District Attorney's Office

Ventura County DA CA Policy Manual

## *Overtime Payment Requests*

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### 1020.3.1 ACCOUNTING FOR PORTIONS OF AN HOUR

When accounting for less than a full hour, time worked shall be rounded up to the nearest quarter of an hour as indicated by the following chart:

<u>TIME WORKED</u>	<u>INDICATE ON CARD</u>
1 to 15 minutes	1/4 hour
16 to 30 minutes	1/2 hour
31 to 45 minutes	3/4 hour
46 to 60 minutes	1 hour

### 1020.3.2 VARIATION IN TIME REPORTED

Where two or more employees 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 investigator, the approving supervisor or manager may require each employee to include the reason for the variation on the overtime payment request.



## Outside Employment

### 1021.1 PURPOSE AND SCOPE

An employee shall comply with county civil service rules regarding outside employment by completing the county Outside Employment Approval Request Form and submitting it to the District Attorney for approval prior to the commencement of any such employment. Approved outside employment requests must be renewed annually in all cases. Outside employment approval must be obtained regarding any public, semipublic, or private positions.

A district attorney investigator shall not engage in private investigation of any kind without the written authorization of both the Chief Investigator and the District Attorney.

#### 1021.1.1 DEFINITIONS

**Outside Employment** - Any member of this office 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 employees who are self-employed and not affiliated directly with this office for services, product(s) or benefits rendered.

### 1021.2 OBTAINING APPROVAL

No member of this Bureau may engage in any outside employment without first obtaining prior written approval of the Chief Investigator. 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 employee must complete an Outside Employment Application which shall be submitted to the employee's immediate supervisor. The application will then be forwarded through the chain of command to the Chief Investigator for consideration.

If approved, the employee will be provided with a copy of the approved request. Unless otherwise indicated in writing on the approved form, an approved request will be valid through the end of the calendar year in which the request was approved. Any employee seeking to renew a request shall submit a new Outside Employment Application in a timely manner.

Any employee 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)).

#### 1021.2.1 REVOCATION/SUSPENSION OF OUTSIDE EMPLOYMENT PERMITS

Any approved outside employment request may be revoked or suspended under the following circumstances:

- (a) Should an employee's performance at the Bureau decline to a point where it is evaluated by a supervisor as needing improvement to reach an overall level

## *Outside Employment*

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of competency, the Chief Investigator may, at his or her discretion, revoke any previously approved outside employment request(s). That revocation will stand until the employee's performance has been reestablished at a satisfactory level and his/her supervisor recommends reinstatement of the outside employment permit

- (b) Suspension or revocation of a previously approved outside employment request may be included as a term or condition of sustained discipline
- (c) If, at any time during the term of a valid outside employment request, an employee's conduct or outside employment conflicts with the provisions of office policy, the approved request may be suspended or revoked
- (d) When an employee is unable to perform at a full duty capacity due to an injury or other condition, any previously approved outside employment request may be rescinded until the employee has returned to a full duty status

### **1021.3 PROHIBITED OUTSIDE EMPLOYMENT**

Consistent with the provisions of Government Code § 1126, the Bureau expressly reserves the right to deny any Outside Employment Application submitted by an employee seeking to engage in any activity which:

- (a) Involves the employee's use of office time, facilities, equipment or supplies, the use of the Bureau badge, uniform, prestige or influence for private gain or advantage.
- (b) Involves the employee's receipt or acceptance of any money or other consideration from anyone other than this office for the performance of an act which the employee, 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 employee's duties as a member of this office.
- (c) Involves the performance of an act in other than the employee'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 employee of this office.
- (d) Involves time demands that would render performance of the employee's duties for this Bureau less efficient.

#### **1021.3.1 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 sworn investigators of the Bureau may engage in any outside employment as a private security guard, private investigator or other similar private security position.

### **1021.4 DEPARTMENT RESOURCES**

Employees 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 employee's position with this office.

## *Outside Employment*

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### 1021.4.1 REVIEW OF FINANCIAL RECORDS

Employees 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 Bureau may request that an employee provide his/her personal financial records for review/audit in order to determine whether a conflict of interest exists. Failure of the employee 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 Bureau becomes concerned that a conflict of interest exists based on a financial reason, the Bureau may request that the employee provide his/her personal financial records for review/audit. If the employee elects not to provide the requested records, his/her off-duty work permit may be revoked pursuant to § 1040.2.2(c) of this policy.

### 1021.5 CHANGES IN OUTSIDE EMPLOYMENT STATUS

If an employee terminates his or her outside employment during the period of an approved request, the employee shall promptly submit written notification of such termination to the Chief Investigator via their chain of command. Any subsequent request for renewal or continued outside employment must thereafter be processed and approved through normal procedures set forth in this policy.

Employees shall also promptly submit in writing to the Chief Investigator any material changes in outside employment including any change in the number of hours, type of duties, or demands of any approved outside employment. Employees who are uncertain whether a change in outside employment is material are advised to report the change.

### 1021.6 OUTSIDE EMPLOYMENT WHILE ON DISABILITY

Department members engaged in outside employment who are placed on disability leave or modified/light-duty shall inform their immediate supervisor in writing within five days whether or not they intend to continue to engage in such outside employment while on such leave or light-duty status. The immediate supervisor shall review the duties of the outside employment along with any related doctor's orders, and make a recommendation to the Chief Investigator whether such outside employment should continue.

In the event the Chief Investigator determines that the outside employment should be discontinued or if the employee fails to promptly notify his/her supervisor of his/her intentions regarding their work permit, a notice of revocation of the member's permit will be forwarded to the involved employee, and a copy attached to the original work permit.

Criteria for revoking the outside employment permit include, but are not limited to, the following:

- (a) The outside employment is medically detrimental to the total recovery of the disabled member, as indicated by the County's professional medical advisors.
- (b) The outside employment performed requires the same or similar physical ability, as would be required of an on-duty member.

# Ventura County District Attorney's Office

Ventura County DA CA Policy Manual

## *Outside Employment*

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- (c) The employee's failure to make timely notice of their intentions to their supervisor.

When the disabled member returns to full duty with the Ventura County District Attorney's Office, a request (in writing) may be made to the Chief Investigator to restore the permit.

# Occupational Disease and Work-Related Injury Reporting

## 1022.1 PURPOSE AND SCOPE

The purpose of this policy is to provide for the reporting of on-duty injuries, occupational illnesses, or deaths to Risk Management, to ensure proper medical attention is received, and to document the circumstances of the incident.

## 1022.2 POLICY

The Ventura 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.).

### 1022.2.1 INJURIES REQUIRING MEDICAL CARE

All work related injuries and work related illnesses requiring medical care must be reported to the Risk Management Office and a claim form shall be provided to the injured employee within 24 hours from the time the injury was discovered, excluding weekends and holidays.

### 1022.2.2 ACCIDENT DEFINED

**Accident** - is defined as any occurrence from which bodily injury or property damage may result, regardless of whether any injury or damage actually does occur (e.g., exposure where no immediate injury is apparent).

### 1022.2.3 EMPLOYEE'S RESPONSIBILITY

Any employee sustaining any work-related injury or illness, as well as any employee who is involved in any accident while on duty shall report such injury, illness or accident as soon as practical to his/her supervisor.

Any employee observing or learning of a potentially hazardous condition is to promptly report the condition to his/her immediate supervisor.

Any employee sustaining a work-related injury or illness that requires leave from duty is required to be examined/treated by a doctor.

Any employee sustaining a work-related injury or illness that requires leave from duty is also required to comply with office policies and directives relating to the duty to periodically call in during absences, as well as the duty to notify the office of any change in condition or anticipated duration of the absence.

When appropriate, an employee being treated for an on-duty injury should inform the attending physician that a modified duty assignment may be available at the office. Limited-service duty may be available for the employees whose injuries prevent resumption of regular duties.

An injured employee or employee who has suffered a work-related illness shall report as soon as practical to his/her immediate supervisor the restrictions and the extent and duration of any

## *Occupational Disease and Work-Related Injury Reporting*

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work restrictions if they are known. In addition, such employees are required to promptly submit all medical releases, whether partial or full releases, to their supervisor.

### **1022.2.4 SUPERVISOR'S RESPONSIBILITY**

A supervisor learning of any work-related injury, illness or accident should immediately notify the chief, via the chain-of-command. The supervisor shall promptly prepare the appropriate forms as outlined in this policy. Updated copies of forms with instructions for completion provided by Risk Management are kept in the Fiscal/Admin Unit office.

For work-related accidents, injuries or illness not requiring professional medical care, a Report of Injury form may be completed. All copies of the completed form shall be forwarded to the supervisor's Deputy Chief Investigator.

When an accident, injury, or illness is reported initially on the Report of Injury form and the employee subsequently requires professional medical care, the State of California Employer's Report of Occupational Injury or Illness form shall then be completed.

Every injured employee must be provided with an Employee's Claim for Workers' Compensation Benefits Form (DWC-1) within 24-hours, regardless of the nature of illness or injury.

Copies of any reports documenting the accident or injury should be forwarded to the Deputy Chief Investigator as soon as they are completed.

### **1022.2.5 DEPUTY CHIEF INVESTIGATOR RESPONSIBILITY**

The Deputy Chief Investigator receiving a report of a work-related accident or injury should review the report for accuracy and determine what additional action should be taken. The report shall then be forwarded to the Fiscal/Admin Unit.

### **1022.3 INJURY NOT REQUIRING MEDICAL ATTENTION**

Those injuries and illnesses not requiring medical attention may be recorded on a Report of Injury form.

This form shall be signed by the affected employee, indicating that he/she desired no medical attention at the time of the report. By signing this form, the employee will not preclude his/her ability to seek medical attention later.

## Death of Bureau Employee

### 1023.1 PURPOSE AND SCOPE

The District Attorney acknowledges the possibility that death can occur unexpectedly and sometimes under tragic circumstances in the law enforcement profession. To prepare for such an unwelcome eventuality, the following procedures shall serve as a guideline to assist in making formal notifications, funeral arrangements, and to provide valuable support information for family members

#### 1023.1.1 NOTICE TO CHIEF INVESTIGATOR

The Chief Investigator shall immediately be notified of the on-duty death of any Bureau employee and shall give notice to the District Attorney and other persons discussed herein.

#### 1023.1.2 NOTICE OF DEATH OF EMPLOYEE TO NEXT OF KIN

The Chief Investigator, in consultation with the District Attorney, shall cause any necessary notification to be made to the next of kin. Such notice shall be given (in person if reasonably possible) by the District Attorney, the Chief Investigator, or their designee. An employee may predesignate the person to give notice to his/her next of kin by written memo to the Chief Investigator.

The Chief Investigator shall consider the utilization of the Sheriff's psychologist and/or chaplain during the initial notification and on an "as-needed" basis.

The Chief Investigator shall contact the spouse or family member(s) at an appropriate time and coordinate the implementation of survivor benefits, including acting as liaison with county and state agencies if so requested by the family.

#### 1023.1.3 ANNOUNCEMENT TO BUREAU PERSONNEL

The deceased's Deputy Chief Investigator shall prepare a departmental notice to advise all personnel of the death. This notice shall contain any pertinent information regarding a memorial service or funeral and shall be issued through the Office of the District Attorney and the local agency investigating the death.

#### 1023.1.4 PRESS RELEASE

Any release to the press or the general public shall be handled by the Chief Investigator and shall only be made once the immediate family has been contacted.

#### 1023.1.5 CLETS ADMINISTRATIVE NOTICE

The Chief Investigator or his/her assignee shall see that the investigating agency sends a notice to all law enforcement agencies in the state advising of the death of an investigator and any funeral arrangements. This notice shall be completed as soon as possible to allow outside agencies adequate time to prepare for Honor Guard arrangements.

## *Death of Bureau Employee*

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### 1023.1.6 FLAGS

The Chief Investigator shall request that all county facilities fly flags at half mast for the period of time from the notification of an investigator's on-duty death until completion of funeral services.

### 1023.1.7 FUNERAL COORDINATION

The Chief Investigator or his/her designee shall be responsible for assisting the family with the coordination of funeral arrangements and will act as liaison with concerned agencies and organizations.

A funeral guideline handbook containing instructions for funeral planning and a copy of the employee benefits handbook will be maintained by the Chief Investigator and will be available upon request.



## Personal Appearance Standards

### 1024.1 PURPOSE AND SCOPE

All Bureau personnel are expected to maintain their appearances and conduct themselves according to the highest standards of the Law Enforcement Profession.

In order to assist investigative personnel and provide general dress and appearance standards, the following guidelines are provided:

### 1024.2 GROOMING STANDARDS

Unless otherwise stated and because deviations from these standards could present officer safety issues, the following appearance standards shall apply to all employees, except those whose current assignment would deem them not appropriate, and where the Chief Investigator has granted exception.

#### 1024.2.1 MALE EMPLOYEES

Clothing shall be in keeping with accepted community standards, clean and tailored to present a neat businesslike appearance.

When appearing at jury trials and other hearings where testimony is taken, or when testifying:

- (a) Conservative business suits with ties, long-sleeve shirts and dress shoes.

Other Court Appearances:

- (a) As above, except conservative sports jackets are acceptable.

Coats may be removed while inside buildings, driving a vehicle or under unusual circumstances.

- (a) Blue jeans or denims are not appropriate.
- (b) Dress shoes shall be clean and properly maintained.

Hair

- (a) Hair shall be styled to present a neat, clean, trimmed, well-groomed appearance, and will conform to the following standards:
  - (b) May not cover more than the top one-half of the ear.
  - (c) May not cover any portion of the collar.
  - (d) Will be of a natural looking color.
- (a) Sideburns
  - 1. Shall be neatly trimmed at all times.
  - 2. Sideburns may not connect with the mustache.
- (b) Facial hair

## *Personal Appearance Standards*

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1. Shall be neatly trimmed at all times.
- (c) Jewelry - Jewelry worn in reasonable moderation and good taste by either male or female employees is acceptable. No jewelry may be worn in a manner that might constitute a safety hazard.

### 1024.2.2 FEMALE EMPLOYEES

#### (a) Clothing

1. Clothing shall be clean, properly maintained and present a neat businesslike appearance. Pantsuits with jackets, skirts with blouses and/or jackets, slacks with appropriate tops, or dresses may be worn. Hem length must be modest and professional.
  - (a) Blue jeans or denims are not appropriate.
  - (b) Shoes or boots must be neat, clean and properly maintained.
- (b) Hair - Hair shall be styled to present a neat, clean, trimmed and well-groomed appearance and will be of a natural looking color.

### 1024.3 TATTOOS

While on duty or representing the Bureau in any official capacity, every reasonable effort should be made to conceal tattoos or other body art. At no time while on duty or representing the Bureau in any official capacity shall any offensive tattoo or body art be visible (examples of offensive tattoos would include, but not be limited to those which depict racial, sexual, discriminatory, gang related, or obscene language).

### 1024.4 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) Lip, nose or other facial piercing.
- (c) The complete or transdermal implantation of any material other than hair replacement.
- (d) Abnormal shaping of the ears, eyes, nose or teeth
- (e) Branding or scarification.

#### 1024.4.1 CASUAL BUSINESS ATTIRE

Exceptions to the Personal Appearance Standards are allowed only with prior approval of the investigator's direct supervisor. Unit Supervisors may authorize casual business attire for special projects or assignments for a specified period of time. Meetings with the District Attorney will be in formal business attire except with prior approval of the Chief Investigator.

## *Personal Appearance Standards*

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Casual business attire may include nice jeans or other casual slacks that are well kept. No torn jeans, work-out, sweat pants, or shorts will be allowed. No spaghetti strap tops or dresses and no low-cut dresses or blouses or blouses which show bare midriffs will be allowed. Footwear must consist of closed toed shoes or tennis shoes in good condition. No sandals or flip-flops will be allowed.

### 1024.4.2 CASUAL DAY

On Fridays, casual clothing may be worn by all employees who do not have a court appearance and do not expect to meet the public. Additional "Casual Days" may be granted at the discretion of the District Attorney, Chief Assistant or Chief Investigator.

Investigators are required to have appropriate formal business attire available in their office in the event the investigator is required to appear in court or meet the public.

During casual days, the dress code will be business casual and may include nice jeans or other casual slacks that are well kept. No torn jeans, work-out, sweat pants, or shorts will be allowed. No spaghetti strap tops or dresses and no low-cut dresses or blouses or blouses which show bare midriffs will be allowed. Footwear must consist of closed toed shoes or tennis shoes in good condition. No sandals or flip-flops will be allowed.

Casual dress is a benefit conferred on all employees under the terms and conditions set forth above. Employees shall dress in a manner that is consistent with their duties and the standards of professionalism for the District Attorney's office. Employees reporting to work wearing inappropriate attire may be required to return home without compensation and return in acceptable attire. Failure to comply with the standards set forth in this policy may result in the temporary or permanent loss of casual days on an individual or office-wide basis.

### 1024.4.3 INTERPRETATIONS

Exceptions to these standards are allowed only with prior approval of the investigator's direct supervisor.

Any interpretation or application problems regarding these standards shall be brought to the attention of the Chief Investigator or the Deputy Chief Investigator for resolution.

## **1024.5 SPECIAL ASSIGNMENT ATTIRE**

Investigators assigned to special assignments (ie: VCAT, VENCATT, surveillance activities) are allowed to wear appropriate attire for that assignment.

### 1024.5.1 TACTICAL UNIFORMS

The Bureau approved tactical uniform consists of a polo shirt (or long sleeve shirt) with insignia, BDU style pants, belt and boots. This attire is approved for use in search warrant service activities, enforcement operations or other times when authorized by Bureau supervisor.

When the wearing of the Bureau approved tactical uniform is authorized, investigators shall wear the approved uniform.

## *Personal Appearance Standards*

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Investigators are responsible for maintaining their tactical uniform in good condition.

Investigators shall keep their tactical uniform readily available in their assigned vehicle at all times.

### **1024.6 DRESS UNIFORM**

The dress uniform is to be worn at the direction of the Chief Investigator for special occasions such as law enforcement funerals, graduations, ceremonies, or as otherwise directed by the Chief Investigator. The dress uniform and related apparel articles are optional for all sworn personnel and shall be purchased by the individual investigator. The dress uniform shall consist of the following apparel and equipment articles. Articles not specifically identified herein are prohibited.

#### **(A) APPAREL ARTICLES**

1. Soft Cap (optional)

(a) The cap shall be worn complete with the ornamental cap piece approved by the bureau.

2. Jacket

(a) The wearing of the dress jacket is optional.

3. Shirt

(a) The long sleeve dress uniform shirt shall be worn complete with identification items, tie and tie bar.

4. Trousers

(a) The dress uniform trouser specifications shall apply.

(b) The trouser belt specifications shall apply.

5. Footgear

(a) Black laced oxford style dress shoes or boots capable of maintaining a polished appearance.

6. Socks

(a) Socks shall be solid black with no ornamentation.

#### **(B) EQUIPMENT ARTICLES**

1. The dress uniform equipment specifications shall include: weapon, holster, handcuff(s) and handcuff case(s), ammunition magazines, ammunition case, keepers, and optional key fob.

### **1024.6.1 APPAREL SPECIFICATIONS**

#### **1. BADGE (Issued)**

Brand: Entenmann-Roven

#### **2. DRESS UNIFORM SOFT CAP (Optional)**

## *Personal Appearance Standards*

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Brand: Keystone Uniform Cap or any brand meeting specifications

Model: R-10

Color: Navy Blue

Material: Polyester

Chin Strap: ½ inch metal, flexible and expanding type silver plated attached with two silver plated buttons.

### 3.DRESS UNIFORM CAP PIECE

Brand: Entenmann-Rovin

### 4. DRESS UNIFORM JACKET (Optional)

Brand: Flying Cross

Style: 32189

Color: Navy Blue

Material: Wool

Style and Construction: Eisenhower semi-dress jacket with coat sleeves. Front to be fastened with a zipper, brass finish, from the bottom of the jacket, vertically, to the base of the lapels. To have a one-piece top of the belt at the back of the jacket. To have adjustable straps with one silver button on each side at the side seams. To have a single silver button on each epaulet. To have a single silver button on each of the breast pockets. Jacket to be fitted so as to be worn loosely and straight down over the modified Sam Browne belt and accouterments. Length to vary in accordance with the individual, but in all cases to fall to the top of the hip pockets. Bottom to be made with a 4 inch bottom turn up with lining sewn to top of turn up, and not to include a separate waistband. To have bureau issued identification patch sewn adjacent to the top of each sleeve. To have silver service stripes sewn to the bottom of the left sleeve in accordance with established specifications.

### 5. DRESS UNIFORM TIE

Brand: Any meeting specifications

Color: Black

Material: Barathea, nylon, Dacron or wool fabric

Style : Breakaway

*Personal Appearance Standards*

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6. DRESS UNIFORM TIE BAR

Brand: Any meeting specifications

Color: Silver Tone, glossy

Material: Metal Alloy

Style and Construction: Flat metal,  $\frac{1}{4}$  to  $\frac{5}{16}$  inches wide with a length compatible with the width of the tie. The tie bar shall have a clasp fastener capable of securing the tie to the shirt.

7. DRESS UNIFORM SHIRT (Long Sleeve)

Brand: Elbeco Classic or similar brand

Color: Navy Blue

Material: Wool

8. DRESS UNIFORM TROUSERS

Brand: Elbeco Classic or similar brand

Color: Navy Blue

Material: Wool

Style and Construction: The trousers shall be made on a uniform pattern with plain front, straight side pockets, and two back pockets. "Flashlight pockets" optional.

9. DRESS UNIFORM BELT

Brand: Bianchi or any brand meeting specifications

Model: Not Applicable

Color: Black

Style and Construction: Leather or composite leather appearance material, basketweave finish  $1\frac{3}{4}$  inches wide ( $1\frac{1}{4}$  inches or  $1\frac{1}{2}$  inches optional size for females), rectangular silver buckle or Velcro fastener.

10. DRESS UNIFORM NAME PLATE

Brand: I.D. Plus

Model: S-8

Color: Silver tone

## *Personal Appearance Standards*

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Material: Metal Alloy

Style and Construction: High gloss, blue lettering, 2 ¼ inches by ½ inch, two clutch fasteners. The lettering shall be printed in capital block style. Only the first initial and last name shall be used. The top edge of the name plate shall adjoin and be parallel with the lower stitching on the top edge of the right breast pocket flap. The plate shall be horizontally centered over the pocket button.

### 11. DRESS UNIFORM SERVICE STRIPES

Brand: Hero's Pride

Model: 5379

Color: Silver, Black

Material: Unknown

Style and Construction: One service stripe may be worn for each five years of service with the Bureau or in combination with another department. The stripes shall be worn on the dress uniform shirt and dress uniform jacket. The stripe(s) shall be centered on the front of the left sleeve of the shirt. The stripe(s) shall be sewn onto the apparel fabric vertically beginning one inch above the top seam of the shirt's cuff. The above specifications shall apply to the jacket with one exception: the stripe(s) shall be sewn onto the apparel fabric vertically beginning 3 ½ inches above the bottom of the sleeve. The stripe(s) shall be sewn on the garment around the outer edge with a good quality black silk or rayon thread. No cross-stitching shall be permitted.

### 12. DRESS UNIFORM EQUIPMENT BELT

Brand: Bianchi or any brand meeting specifications

Model: Not Applicable

Color: Black

Material: Leather or composite leather appearance material, SamBrowne belt, basketweave, with silver buckle.

Style and Construction: 2 ¼ inches in width

### 13. DRESS UNIFORM HOLSTER

Brand: Any brand meeting specifications as selected by the wearer

Model: Not Applicable

Color: Black

Material: Leather or composite leather appearance material, basketweave.

*Personal Appearance Standards*

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Style and Construction: Thumb break or having a weapon retention system, forward draw. All holsters shall be approved by the Range Master.

14. DRESS UNIFORM AMMUNITION CASE

Brand: Bianchi or any brand meeting specifications

Model: Not Applicable

Color: Black

Material: Leather or composite leather appearance material, basketweave, capable of carrying two vertically placed ammunition magazines, one in each of two maximum pouches, with a single silver cover snap on each cover of each pouch.

Style and Construction: Not Applicable

15. DRESS UNIFORM HANDCUFF CASE

Brand: Bianchi or any brand meeting specifications

Model: Not Applicable

Color: Black

Material: Leather or composite leather appearance material, basketweave, capable of carrying a single pair of handcuffs, with a single silver cover snap.

16. DRESS UNIFORM KEEPER STRAPS

Brand: Bianchi or any brand meeting specifications

Model: Not Applicable

Color: Black

Material: Leather or composite leather appearance material, basketweave, with two silver cover snaps on each strap.

Style and Construction: A maximum of four straps shall be worn securing the dress uniform equipment belt to the dress uniform belt.

17. DRESS UNIFORM KEY FOB (Optional)

Brand: Bianchi or any brand meeting specifications

Model: Not Applicable

Color: Black



*Personal Appearance Standards*

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Material: Leather or composite leather appearance material, basketweave.

Style and Construction: Keys shall be enclosed within the key fob and not visible.

18. RANK INSIGNIA SUPERVISING INVESTIGATOR

Brand: National Emblems

Color: Silver, blue, black

Style and Construction: Three bar type chevron, 3 7/8 inches high and 3 1/8 inches wide stripes to be silver bordered with royal blue, mounted on a black background with 1/8 inch edge border.

The insignia shall be worn on each sleeve of the shirt and jacket. The patch shall be centered on the sleeve ½ inch below the bottom edge of the shoulder patch with the arch of the bars pointing upward.

The patch shall be sewn on the garment around the outer edge with a good quality black silk or rayon thread. No cross-stitching shall be permitted.

Female investigators may wear an optional mid-size chevron, which measures 3-3/8 inches high and 2-7/8 inches wide.

19. RANK INSIGNIA INVESTIGATOR III

The insignia shall meet the specifications prescribed for the supervising investigator insignia with the following exceptions: 1) the insignia shall be a two-bar chevron; and 2) the insignia shall be a 3-1/8 inches high and 3-1/8 inches wide.

20. RANK INSIGNIA COMMANDER

The insignia shall be a single, five pointed silver star worn on each shirt collar. The silver star shall be 5/8 inches in size. The insignia shall have a catch.

One silver star shall be worn in the center of each uniform collar. One point of the star shall be oriented up. The bottom of the star shall be ¾ inch from the edge of the collar.

21. RANK INSIGNIA DEPUTY CHIEF INVESTIGATOR

The insignia shall be two, five pointed silver star worn on each shirt collar. The silver stars shall be 5/8 inches in size. The insignia shall have a catch.

Two silver stars shall be worn in the center of each uniform collar. One point of the star shall be oriented up and the stars shall be on the same line of continuum. The bottom of the star shall be ¾ inch from the edge of the collar.

## *Personal Appearance Standards*

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### 22. RANK INSIGNIA CHIEF INVESTIGATOR

The insignia shall be four, five pointed silver star worn on each shirt collar. The silver stars shall be 5/8 inches in size. The insignia shall have a catch.

Four silver stars shall be worn in the center of each uniform collar. One point of the star shall be oriented up and the stars shall be on the same line of continuum. The bottom of the star shall be 3/4 inch from the edge of the collar.

### **1024.7 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 Investigator should be advised any time a request 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.

## Peer Support Program

### 1025.1 PURPOSE AND SCOPE

- (a) To provide comfort and support for the physical and emotional health needs of all employees involved in a traumatic event and/or stressful life event whether on or off duty.
- (b) To facilitate the understanding and expression of feelings and/or perceptual distortions experienced during a traumatic event.
- (c) To assist in extinguishing and/or preventing symptoms of Post-Traumatic Stress (PTS).

### 1025.2 CONFIDENTIALITY

The objective of this section is to maintain the integrity of the program and define the term, "Confidentiality". Confidential Communication defined: Dialogue during a critical incident debrief and/or a Peer Support contact between members of the Peer Support Team and members affected by a traumatic or stressful life event.

The Ventura County District Attorney's Bureau of Investigation recognizes as confidential communication any dialogue during a critical incident debriefing and/or a peer support contact between members of the Peer Support Team while acting as a Peer Support Team Member and those employees affected by a traumatic event. Peer Support Team Members shall not divulge or discuss any dialogue between a team member and affected employee that took place as part of an authorized traumatic incident debrief or informal/formal peer support contact.

All Peer Support Team Members have an obligation to maintain integrity of the District Attorney's Office and Bureau. Although Peer Support Team Members will not divulge or discuss any dialogue between a team member and an affected employee, there are exceptions which are listed below:

- \*Fraternizing or maintaining relationships with criminals-known or currently investigated.
- \*The destruction or the malicious sabotage of a criminal case.
- \*Substance abuse at the work place.
- \*Criminal conduct or acts.
- \*Threats to harm oneself or others.
- \* Any other behavior which would require mandated reporting.
- \*General safety of the District Attorney's Office and its members.

If one of the abovementioned occurs, the Peer Support Team Supervisor will be notified by the team member. The Supervisor will then notify the Chief Investigator or a designee, not divulging the employee's name, but only the general circumstances. Peer Support Team Members will not be compelled/ordered by the Chief Investigator or designee to divulge confidential information

## *Peer Support Program*

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unless one of the above exceptions exist and are ordered to do so. To maintain the integrity of the program, all orders will be in writing and approved by the District Attorney.

### **1025.3 PRIVILEGED COMMUNICATIONS**

The Peer Support Team does not have the ability to maintain privileged conversations, and the scope of the team maintains confidentiality only. If any team member believes the affected employee should seek privileged communications, a referral to the Employee Assistance Program should be considered. The affected employee should be advised conversations are confidential but not privileged. The Peer Support Team Member should ensure the affected employee understands the difference. The admonition in Section 945.9 should be given to employees by the Peer Support Team Members working with the employee.

Privileged communication is the dialogue between; Attorney/Client, Doctor/Patient, Licensed Counselor or Therapist/Patient, Clergy/Member, Husband/Wife.

### **1025.4 SCOPE OF RESPONSIBILITY**

The Peer Support Team shall provide immediate and ongoing assistance when an employee experiences a traumatic event, on or off duty, and the employee or a bureau supervisor requests the services of the Peer Support Team. The team's scope of responsibility includes but is not limited to:

- (a) Critical events involving bureau personnel.
- (b) Infant / child deaths.
- (c) Traumatic traffic collisions.
- (d) Suicides or difficult scenes.
- (e) Great bodily harm to Bureau personnel.
- (f) Natural disasters.
- (g) Catastrophic events.
- (h) Educating spouse or involved personnel to resources available to them.
- (i) When a supervisor and/or on scene personnel recognizes that an employee has been involved in a traumatic event, on or off duty, that results in emotional shock to the degree that substantial and/or lasting emotional damage may occur.
- (j) Any situation related to work or personal life that may be deemed as a very stressful or potentially overwhelming situation where the employee would benefit from peer support.

### **1025.5 TEAM COMPOSITION**

## *Peer Support Program*

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The Peer Support Team is comprised of sworn and civilian personnel. These investigators and civilians have Bureau approved specialized on-going training in assisting fellow employees and their families in dealing with the immediate adverse psychological and physical reactions to traumatic events. All team members must have Bureau sponsored organized training before being active members. The team shall consist of one Supervising Investigator and the necessary combination of sworn and civilian employees to meet the team goals and objectives.

### **1025.6 FORMAL/INFORMAL ACTIVATION**

#### **FORMAL ACTIVATION**

Under the conditions defined herein, under scope of responsibility, the Peer Support Supervisor shall activate the Peer Support Team in the following manner:

(a) The supervisor shall notify the appropriate members of the team to provide support services. All notified team members should respond to the location designated by the team supervisor. In the event the supervisor of the Peer Support Team is unavailable, any Bureau supervisor may contact the necessary number of team members to provide the services. In the event transportation of involved employee and/or family members is needed, the Peer Support Team shall use departmental vehicles as necessary to transport involved parties.

#### **INFORMAL ACTIVATION**

Peer Support Team Members may be approached by an employee regarding a personal issue and/or crisis, or a team member may recognize the need to approach an employee. Any Peer Support Team Member may initiate a peer support contact in order to assist an employee. Team Members are authorized to use on-duty time for these contacts within reasonable time frames.

If any Peer Support Team Member is contacted while off-duty by an employee experiencing a crisis, the team member must gain authorization from the Peer Support Team Supervisor to act in an official peer support capacity. Once authorization is received, the Peer Support Team Member shall be considered on-duty during the duration of the peer contact. The Peer Support Team Supervisor shall ensure the peer contact and duration is reasonable given the specific circumstances.

#### **COMMAND RESPONSIBILITY**

A supervising investigator will be assigned by the chief investigator to provide administrative support and oversight for the Peer Support Team.

### **1025.7 TEAM SUPERVISOR**

The Peer Support Team Coordinator will be a supervising investigator. The Team Coordinator will be responsible for the following:

- (a) Supervision and administrative duties of the Peer Support Team.
- (b) Updating the appropriate Commander of any call outs or utilization of Peer Support Team members.

## *Peer Support Program*

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- (c) Updating command staff on the activities of the Peer Support Team.
- (d) Coordinating training for all team members.
- (e) The Peer Support Team Supervisor assumes the responsibility for all team functions.

In the absence of a team supervisor, any team member can notify a Bureau psychologist or chaplain and activate the Peer Support Team. These responsibilities will include, but are not limited to:

- (a) Contacting the Bureau psychologist and/or chaplain and advising him/her of the circumstances of the incident.
- (b) Assessing the need for additional team members.
- (c) Advising command staff of the circumstances of the activation, employees involved, support team members being used, and status of the debriefed personnel.
- (d) Liaison with command staff on the activities of the Peer Support Team without divulging confidential information.

### **1025.8 TRAINING**

All Peer Support Team members must attend required training classes unless otherwise excused. Optional and/or desired training will be assessed on a case by case basis depending upon the needs of the Bureau.

### **1025.9 ADMONITION**

"As a member of the Peer Support Team, I am here to assist you during this difficult time. The information you tell me will remain confidential and I will not share this information unless it is necessary to involve a psychological professional or obtain extra assistance from other peer support team members if needed. Peer support members are not exempt from the requirement to report a violation of law or policy of which they have first-hand knowledge, or significant threats to harm yourself or another person. If you want to discuss such issues with someone, I can direct you to an appropriate outside resource. Although our conversation is strictly confidential it is not considered privileged communication such as with a therapist, doctor, or clergy. This conversation will not be recorded and I will not take notes."

## Nepotism and Conflicting Relationships

### 1026.1 PURPOSE AND SCOPE

The purpose of this policy is to ensure effective supervision, safety, security, performance, assignments and discipline while maintaining positive morale by avoiding actual or perceived favoritism, discrimination, or other actual or potential conflicts of interest by or between members of this Bureau.

#### 1026.1.1 DEFINITIONS

**Immediate Family** " The husband, wife, parent, brother, sister, child, grandchild, grandparent, mother-in-law, father-in-law, brother-in-law, or sister-in-law of an employee. (Ventura County Personnel Rules and Regulations Policy)

**Personal Relationship** " Includes marriage, cohabitation, dating, or any other intimate relationship beyond mere friendship.

**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 Bureau employee's annual interest, compensation, investment, or obligation is greater than \$250.

**Conflict of Interest** " Any actual, perceived or potential conflict of interest in which it reasonably appears that a Bureau employee's action, inaction, or decisions are or may be influenced by the employee's personal or business relationship.

**Supervisor** " An employee who has temporary or ongoing direct or indirect authority over the actions, decisions, evaluation, and/or performance of a subordinate employee.

**Subordinate** " An employee who is subject to the temporary or ongoing direct or indirect authority of a supervisor.

### 1026.2 RESTRICTED DUTIES AND ASSIGNMENTS

While the office will not prohibit personal or business relationships between employees, the following reasonable restrictions shall apply (Government Code § 12940(a)):

- (a) Employees are prohibited from directly supervising, occupying a position in the line of supervision, or being directly supervised by any other employee who is a relative or with whom they are involved in a personal or business relationship.
  1. If circumstances require that such a supervisor/subordinate relationship exists temporarily, the supervisor shall make every reasonable effort to defer matters involving the involved employee to an uninvolved supervisor.
  2. When personnel and circumstances permit, the Bureau will attempt to make every reasonable effort to avoid placing employees in such supervisor/subordinate situations. The Bureau however, reserves the right to transfer or

## *Nepotism and Conflicting Relationships*

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reassign any employee to another position within the same classification as it may deem necessary in order to avoid conflicts with any provision of this policy.

- (b) Employees are prohibited from participating in, contributing to, or recommending promotions, assignments, performance evaluations, transfers or other personnel decisions affecting an employee who is a relative or with whom they are involved in a personal or business relationship.
- (c) In order to avoid actual or perceived conflicts of interest, members of the Bureau shall refrain from developing or maintaining personal or financial relationships with victims, witnesses or other individuals during the course of or as a direct result of any official contact.
- (d) Except as required in the performance of official duties or, in the case of immediate relatives, employees shall not develop or maintain personal or financial relationships with any individual(s) who they know or reasonably should know are under criminal investigation, convicted felons, parolees, fugitives, registered sex offenders, or who engage in serious violations of state or federal laws.

### 1026.2.1 EMPLOYEES RESPONSIBILITY

Prior to entering into any personal or business relationship or other circumstance which the employee knows or reasonably should know could create a conflict of interest or other violation of this policy, employees shall promptly notify his/her uninvolved, next highest level of supervisor.

Whenever any employee is placed in circumstances which would require the employee to take enforcement action or provide other official information or services to any relative or other individual(s) with whom the employee is involved in a personal or business relationship, the employee shall promptly notify his/her uninvolved, immediate supervisor. In the event that no uninvolved supervisor is immediately available, the employee shall promptly have another uninvolved employee either relieve the involved employee or minimally remain present to witness the action.

### 1026.2.2 SUPERVISORS RESPONSIBILITY

Upon being notified of or becoming aware of any circumstance(s) which could result in or constitute an actual or potential violation of this policy, a supervisor shall take all reasonable steps to mitigate or avoid such violations whenever possible. Supervisors shall also promptly notify their Division Commander of such actual or potential violations.



## Department Badges

### 1027.1 PURPOSE AND SCOPE

The Ventura County District Attorney's Office badge as well as the likeness and the name of the Ventura County District Attorney's Office are property of the District Attorney's Office and their use shall be restricted as set forth in this policy.

#### 1027.1.1 RETIREMENT BADGE

##### **Retirement Badge**

A flat replica of the District Attorney Investigator badge with the word "Retired" used in lieu of a number.

#### 1027.1.2 BADGE PLAQUE

A suitable plaque commemorating the years of service of a sworn member of the District Attorney's Office which has attached the investigator's badge.

### 1027.2 POLICY

Badges issued to Bureau members are a symbol of authority and the use and display of Bureau badges shall be in strict compliance with this policy. Only authorized badges issued by this Bureau shall be displayed, carried or worn by members while on duty or otherwise acting in an official or authorized capacity.

All badges issued to active or retired members remain the property of the District Attorney's Office.

#### 1027.2.1 NON-SWORN PERSONNEL

Badges and office identification cards issued to non-sworn personnel shall be clearly marked to reflect the position of the assigned employee (e.g. Investigative Assistant etc.).

- (a) Non-sworn personnel shall not display any office badge except while on duty and 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.

### 1027.3 UNAUTHORIZED USE

Except as required for on-duty use by current employees, no badge designed for carry or display in a wallet, badge case or similar holder shall be issued to any Bureau member other than a current or honorably retired peace officer, or a current investigative assistant.

Office badges are issued to all sworn employees and select non-sworn employees 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.

## *Department Badges*

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The use of the badge and office name for all material (printed matter, products or other items) developed for office use shall be subject to approval by the Chief Investigator.

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

### **1027.4 PERMITTED USE BY EMPLOYEE GROUPS**

The likeness of the office badge shall not be used without the expressed authorization of the Chief Investigator and shall be subject to the following:

- (a) The employee associations may use the likeness of the department badge for merchandise and official association business provided they are used in a clear representation of the association and not the 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 employee association.
  - 2. The badge number portion displays the acronym of the employee association.
- (b) The likeness of the office badge for endorsement of political candidates shall not be used without the expressed approval of the Chief Investigator.

## Modified Duty Assignments

### 1028.1 PURPOSE AND SCOPE

The purpose of this policy is to establish procedures for assigning employees to modified duty. Temporary modified-duty assignments may be available to employees who have incurred a duty-related illness or injury and, due to restrictions or limitations, are unable to perform their regular assigned duties. Non-duty related illnesses or injuries may also be considered for eligibility in accordance with this policy. Eligibility for modified-duty assignment is subject to the approval of the Chief Investigator or his/her designee.

Modified-duty assignments are intended to provide an employee with the ability to continue working within the limits of his/her restrictions and limitations on a temporary basis while providing the Bureau with a productive employee during the interim period.

The Office will engage in a good faith interactive process to consider reasonable accommodations for any employee with a temporary or permanent disability.

### 1028.2 POLICY

**Modified Duty** - Means a temporary, limited-term assignment not requiring performance of the full range of duties associated with the regular job classification. Modified duty also may be termed as light-duty assignments.

### 1028.3 GENERAL CONSIDERATIONS

Modified-duty assignments are a management prerogative and not an employee right. Modified-duty assignments shall be subject to continuous re-assessment dependent upon Bureau need and the employee's ability to perform in a modified-duty capacity.

An injured employee may be assigned to a modified-duty position outside of his/her normal assignment or duties if it becomes available. If the injury or illness is non-duty related the employee shall be given the option to either accept the position or continue to draw on applicable sick leave or other leave accounts as applicable.

- (a) If an employee cannot adequately perform in a modified-duty assignment, such assignment may be modified or terminated.
- (b) The lack of Bureau need or a change in priorities may result in the employee's removal from or modification of a modified-duty assignment.
- (c) The Bureau may place conditions as deemed appropriate upon any modified-duty assignment.

### 1028.4 PROCEDURE

Employees may request assignment to modified duty by providing a signed statement from their health care provider describing their restrictions, limitations and expected duration to the Deputy

## *Modified Duty Assignments*

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Chief Investigator. The statement must also indicate if the employee requires any workplace accommodations, mobility aids or medical devices.

The Deputy Chief Investigator will determine what modified-duty assignments may be available based on the needs of the Bureau, limitations of the employee and suitability of the employee to work a particular assignment. Requests for a modified-duty assignment of 20 hours or less may be approved and facilitated by the Deputy Chief Investigator. Assignments of longer duration are subject to the approval of the Chief Investigator or his/her designee.

Additionally, if the employee's supervisor perceives a disability but the employee has not requested modified duty, the Bureau should engage in the interactive process with the employee to determine if there is a need for modified duty.

### 1028.4.1 MODIFIED-DUTY SCHEDULES

The schedules of employees assigned to modified duty may be adjusted to suit medical appointments or Bureau needs at the discretion of the Deputy Chief Investigator.

The employee and his/her supervisors should be informed in writing of the schedule, assignment and limitations and restrictions as determined by the employee's health care provider.

### 1028.4.2 ACCOUNTABILITY

The employee's supervisor shall coordinate efforts to ensure proper time accountability and shall complete and process a change of shift/assignment form.

- (a) Employees on modified duty are responsible for coordinating required doctor visits and physical therapy appointments in advance with their supervisor to appropriately account for any duty time taken. Doctor visits and appointments for treatment of injuries or illnesses that are not work related shall be arranged during off-duty time or otherwise charged to the employee's sick leave.
- (b) Employees shall promptly submit a status report for each visit to their treating health care provider and shall immediately notify their supervisor of any change in restrictions or limitations as determined by their health care provider. An employee assigned to a modified-duty assignment shall provide a duty status report to their supervisor no less than once every 30 days while the employee is on modified duty.
- (c) Commanders shall keep the Deputy Chief Investigator apprised of the employee's status and ability to perform the modified-duty assignment. Modified-duty assignments that extend beyond 60 days will require a written status report and a request for an extension to the Deputy Chief Investigator with an update of the employee's current status and anticipated date of return to regular duty. Extensions require approval of the Chief Investigator.
- (d) When it is determined that an employee on modified duty will return to regular duty, the Commander shall notify the Deputy Chief Investigator and complete and process

## *Modified Duty Assignments*

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a change of shift/assignment form. All training and certification necessary for return to duty shall be reviewed and updated as necessary.

### **1028.4.3 MEDICAL EXAMINATIONS**

The Bureau reserves the right to require, prior to returning to full-duty status, a fitness-for-duty examination of any employee assigned to a modified-duty assignment or of any employee having been on such assignment. Such examinations shall be at the expense of the Bureau.

Prior to returning to full-duty status, employees shall be required to provide a statement signed by their health care provider indicating that they are medically cleared to perform the basic and essential job functions of their assignment without restriction or limitation.

### **1028.5 ACCOUNTABILITY**

It is the policy of the Bureau to reassign employees who are pregnant upon request by the employee or when deemed necessary by the Bureau to temporary assignments that will not routinely expose the employee to potentially hazardous environments or activities.

#### **1028.5.1 SWORN EMPLOYEE RESPONSIBILITIES**

A sworn employee who learns of her pregnancy should notify her immediate supervisor or a designated acting supervisor of the pregnancy as soon as practicable. The sworn employee must inform the Bureau of her intent regarding reassignment, job accommodations and anticipated leave for the pregnancy or prenatal care. The sworn employee shall also submit a statement from her health care provider of any job restrictions or limitations she may have.

#### **1028.5.2 SUPERVISOR RESPONSIBILITIES**

Upon receiving the medical verification of the pregnancy and a request for job accommodation, reassignment or leave, the Commander shall notify the Deputy Chief Investigator, who will consider assigning the employee to an available temporary modified-duty assignment if it is deemed appropriate by the Bureau or medically necessary by the employee's health care provider.

If at any point during the pregnancy it becomes necessary for the employee to take a leave of absence, such leave shall be granted consistent with the County's Personnel Rules and Regulations regarding family and medical care leave.

### **1028.6 MEDICAL EXAMINATIONS**

Probationary employees who are assigned to a temporary modified-duty assignment can have their probation extended by a period of time equal to the employee's assignment to modified duty.

### **1028.7 PREGNANCY**

If an employee is temporarily unable to perform regular duties due to a pregnancy, childbirth or a related medical condition, the employee will be treated the same as any other temporarily disabled employee (42 USC § 2000e(k)). A pregnant employee shall not be involuntarily transferred to a temporary modified-duty assignment. If at any point during the pregnancy it becomes necessary

## *Modified Duty Assignments*

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for the employee to take a leave of absence, such leave shall be granted in accordance with the County's personnel rules and regulations regarding family and medical care leave.

1028.7.1

# Employee Speech, Expression and Social Networking

## 1029.1 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 Ventura County District Attorney's 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 investigator associations, about matters of public concern, such as misconduct or corruption.

Employees are encouraged to consult with their supervisor regarding any questions arising from the application or potential application of this policy.

### 1029.1.1 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.

## 1029.2 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 Ventura County District Attorney's Office will carefully balance the individual employee's rights against the Ventura County District Attorney's Office's needs and interests when exercising a reasonable degree of control over its employees' speech and expression.

## 1029.3 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 Ventura 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 family, or

## *Employee Speech, Expression and Social Networking*

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associates. Examples of the type of information that could reasonably be expected to compromise safety include:

- Disclosing a photograph and name or address of an investigator who is working undercover.
- Disclosing the address of a fellow investigator.
- Otherwise disclosing where another investigator can be located off-duty.

### **1029.4 PROHIBITED SPEECH, EXPRESSION AND CONDUCT**

To meet the department's safety, performance and public-trust needs, the following are prohibited unless the speech is otherwise protected (for example, an employee speaking as a private citizen, including acting as an authorized member of a recognized bargaining unit or investigator 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 Ventura 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 Ventura County District Attorney's Office and tends to compromise or damage the mission, function, reputation or professionalism of the Ventura 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 Department. For example, a statement on a blog that provides specific details as to how and when prisoner transportations are made could reasonably be foreseen as potentially jeopardizing employees by informing criminals of details that could facilitate an escape or attempted escape.
- (e) Speech or expression that is contrary to the canons of the Law Enforcement Code of Ethics as adopted by the Ventura 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 Department



## *Employee Speech, Expression and Social Networking*

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for financial or personal gain, or any disclosure of such materials without the express authorization of the Chief Investigator or the authorized designee.

- (g) Posting, transmitting or disseminating any photographs, video or audio recordings, likenesses or images of department logos, emblems, uniforms, badges, patches, marked vehicles, equipment or other material that specifically identifies the Ventura County District Attorney's Office on any personal or social networking or other website or web page, without the express authorization of the Chief Investigator.
- (h) Accessing websites for non-authorized purposes, or use of any personal communication device, game device or media device, whether personally or department-owned, for personal purposes while on-duty, except in the following circumstances:
  1. When brief personal communication may be warranted by the circumstances (e.g., inform family of extended hours).
  2. During authorized 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).

### 1029.4.1 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 investigator associations, employees may not represent the Ventura County District Attorney's Office or identify themselves in any way that could be reasonably perceived as representing the Ventura County District Attorney's Office in order to do any of the following, unless specifically authorized by the Chief Investigator (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 investigator 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 Ventura County District Attorney's Office.

## *Employee Speech, Expression and Social Networking*

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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 investigator 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).

### **1029.5 PRIVACY EXPECTATION**

Employees forfeit any expectation of privacy with regard to e-mails, texts or anything published or maintained through file-sharing software or any Internet site (e.g., Facebook, MySpace) that is accessed, transmitted, received or reviewed on any department technology system.

The Department reserves the right to access, audit and disclose for whatever reason any message, including attachments, and any information accessed, transmitted, received or reviewed over any technology that is issued or maintained by the Department. This includes the department e-mail system, computer network or any information placed into storage on any department system or device.

It also includes records of all key strokes or web-browsing history made at any department computer or over any department network.

The fact that access to a database, service or website requires a user name or password will not create an expectation of privacy if it is accessed through a department computer or network. However, the Department may not require an employee to disclose a personal user name or password or open a personal social website, except when access is reasonably believed to be relevant to the investigation of allegations of work related misconduct (Labor Code § 980).

### **1029.6 CONSIDERATIONS**

In determining whether to grant authorization of any speech or conduct that is prohibited under this policy, the factors that the Chief Investigator or authorized designee should consider include:

- (a) Whether the speech or conduct would negatively affect the efficiency of delivering public services.
- (b) Whether the speech or conduct would be contrary to the good order of the Department or the efficiency or morale of its members.
- (c) Whether the speech or conduct would reflect unfavorably upon the Department.
- (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.

# Ventura County District Attorney's Office

Ventura County DA CA Policy Manual

## *Employee Speech, Expression and Social Networking*

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- (f) Whether the speech or conduct may be protected and outweighs any interest of the Department.

### **1029.7 TRAINING**

Subject to available resources, the Ventura County District Attorney's Office should provide training regarding employee speech and the use of social networking to all members of the Ventura County District Attorney's Office.

## Line-of-Duty Deaths

### 1030.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidance to members of the Ventura County District Attorney's Office in the event of the death of a member occurring in the line of duty and to direct the Department in providing proper support for the member's survivors.

The Chief Investigator 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.

#### 1030.1.1 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 non-sworn 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 and whether the individual was previously designated by the deceased member.

### 1030.2 POLICY

It is the policy of the Ventura 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 department to respect the requests of the survivors when they conflict with these guidelines, as appropriate.

### 1030.3 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 Deputy Chief Investigator.
  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 Chief Assistant District Attorney section of this policy).
- (b) The Deputy Chief Investigator 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 Deputy Chief Investigator or the designee should respond to the hospital to assume temporary responsibilities as the Hospital Liaison.

## *Line-of-Duty Deaths*

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- (d) The Chief Investigator 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 Department Liaison as soon as practicable (see the Notifying Survivors section and the Department Liaison and Hospital Liaison subsections in this policy).

### **1030.4 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 Investigator 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 Investigator, Deputy Chief Investigator or the authorized designee should select at least two members to conduct notification of survivors, one of which may be the Department Chaplain.

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 until an investigation has been completed.
- (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 department 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.

## *Line-of-Duty Deaths*

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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 Department 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 Department Liaison.
- (m) Inform the Chief Investigator or the authorized designee once survivor notifications have been made so that other Ventura County District Attorney's Office members may be apprised that survivor notifications are complete.

### **1030.4.1 OUT-OF-AREA NOTIFICATIONS**

The Department 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 Department Liaison should contact the appropriate jurisdiction using a secure network and provide the assisting agency with the name and telephone number of the department member that the survivors can call for more information following the notification by the assisting agency.
- (b) The Department Liaison may assist in making transportation arrangements for the member's survivors, but will not obligate the Department to pay travel expenses without the authorization of the Chief Investigator.

### **1030.5 NOTIFYING DEPARTMENT MEMBERS**

Supervisors or members designated by the Chief Investigator are responsible for notifying department 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. Members reporting for subsequent shifts within a short amount of time should be notified in person at the beginning of their shift. Members reporting for duty from their residence should be instructed to contact their supervisor as soon as practicable. 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 Department regarding the deceased member or the incident.

## *Line-of-Duty Deaths*

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### **1030.6 LIAISONS AND COORDINATORS**

The Chief Investigator 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 Department 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 department resources. The Department Liaison may assign separate liaisons and coordinators to accommodate multiple family units, if needed.

#### **1030.6.1 DEPARTMENT LIAISON**

The Department Liaison should be a Deputy Chief Investigator or of sufficient rank to effectively coordinate department resources, and should serve as a facilitator between the deceased member's survivors and the Department. The Department Liaison reports directly to the Chief Investigator. The Department 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 department members are reminded of appropriate information—sharing restrictions regarding the release of information that could undermine future legal proceedings.
- (h) Coordinating security checks of the member's residence as necessary and reasonable.

## *Line-of-Duty Deaths*

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- (i) Serving as a liaison with visiting law enforcement agencies during memorial and funeral services.

### 1030.6.2 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. Department 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 Ventura 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 Department, 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.

### 1030.6.3 SURVIVOR SUPPORT LIAISON

The Survivor Support Liaison should work with the Department 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 department contact for survivors.

The Survivor Support Liaison should be selected by the deceased member's Deputy Chief Investigator. The following should be considered when selecting the Survivor Support Liaison:



## *Line-of-Duty Deaths*

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- 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 partner or 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 Department 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 Department 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 department-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 department's Chief Assistant District Attorney ([PIO]) 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 Chief Assistant District Attorney section of this policy).
- (i) Briefing survivors on investigative processes related to the line-of-duty death, such as criminal, internal and administrative investigations.

## *Line-of-Duty Deaths*

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- (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 department 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 Department 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.

If needed, the Survivor Support Liaison should be issued a personal communication device (PCD) owned by the Department to facilitate communications necessary to the assignment. The department-issued PCD shall be used in accordance with the Personal Communication Devices Policy.

### 1030.6.4 CRITICAL INCIDENT STRESS MANAGEMENT COORDINATOR

The CISM coordinator should work with the Chief Investigator 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.

## *Line-of-Duty Deaths*

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- (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.

### 1030.6.5 FUNERAL LIAISON

The Funeral Liaison should work with the Department 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 Department, 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 Investigator and command staff concerning funeral arrangements.
- (e) Assigning an investigator 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 department vehicles and drivers.

### 1030.6.6 MUTUAL AID COORDINATOR

The mutual aid coordinator should work with the Department 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) Area coverage so that as many Ventura 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.

## *Line-of-Duty Deaths*

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### 1030.6.7 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:

- (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 bureau 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.

### 1030.6.8 FINANCE COORDINATOR

The finance coordinator should work with the Chief Investigator and the Department Liaison to manage financial matters related to the line-of-duty death. The finance coordinator's responsibilities include, but are not limited to:

## *Line-of-Duty Deaths*

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- (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.
  - 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.

### **1030.7 CHIEF ASSISTANT DISTRICT ATTORNEY**

In the event of a line-of-duty death, the department's [PIO] should be the department's contact point for the media. As such, the [PIO] should coordinate with the Department Liaison to:

- (a) Collect and maintain the most current incident information and determine what information should be released.
- (b) Ensure that department members are instructed to direct any media inquiries to the [PIO].
- (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 Department and deceased member's survivors.
- (d) Arrange for community and media briefings by the Chief Investigator 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 department 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 [PIO] should request that the media withhold the information from release until proper notification can be made to survivors. The [PIO] should ensure that media are notified when survivor notifications have been made.

## *Line-of-Duty Deaths*

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### **1030.8 DEPARTMENT CHAPLAIN**

The Department chaplain may serve a significant role in line-of-duty deaths. His/her duties may include, but are not limited to:

- Assisting with survivor notifications and assisting the survivors with counseling, emotional support or other matters, as appropriate.
- Assisting liaisons and coordinators with their assignments, as appropriate.
- Assisting department members with counseling or emotional support, as requested and appropriate.

Further information on the potential roles and responsibilities of the chaplain is in the Chaplains Policy.

### **1030.9 INVESTIGATION OF THE INCIDENT**

The Chief Investigator 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 department members should be kept informed of the progress of the investigations and provide investigators with any information that may be pertinent to the investigations.

### **1030.10 LINE-OF-DUTY DEATH OF A LAW ENFORCEMENT ANIMAL**

The Chief Investigator may authorize appropriate memorial and funeral services for law enforcement animals killed in the line of duty.

### **1030.11 NON-LINE-OF-DUTY DEATH**

The Chief Investigator may authorize certain support services for the death of a member not occurring in the line of duty.

## Attachments

## **Vienna Convention LA memo.pdf**





**STEVE COOLEY**  
**DISTRICT ATTORNEY**

LOS ANGELES COUNTY DISTRICT ATTORNEY'S OFFICE

# **ONE MINUTE BRIEF**

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**NUMBER:** 2009-20    **DATE:** 12-21-09    **BY:** Devallis Rutledge    **TOPIC:** Consular Notification

**ISSUE: What must law enforcement officers do to comply with federal treaty obligations and state law regarding consular notification of arrests?**

The United States is signatory, along with 139 other nations, to an international treaty known as the "Vienna Convention on Consular Relations." Per Article 36(1)(b), authorities are **required to do three things** when arresting a foreign national from a signatory country: (1) **advise the arrestee** "without delay" of his or her right to contact the consul of his or her country of citizenship; (2) independently **notify the consul** of those nations that have requested mandatory notification; and (3) permit reasonable contact **visits** between the prisoner and consular officials.

California Penal Code section 834c lists the 58 nations that have requested that their consul be notified whenever one of their nationals is arrested (our nearest neighbors, Mexico and Canada, are not on this list for mandatory notification). PC § 834c also mandates that officers in California make the notification required under the VCCR when a "known or suspected foreign national" is arrested or is **detained for more than two hours**.

Judicial decisions have held that an officer's failure to comply with consular notification does not create a court-enforceable remedy of evidentiary exclusion or dismissal of charges. *Medellin v. Texas* (2008) 552 US 491; *Sanchez-Llamas v. Oregon* (2006) 548 US 331; *People v. Corona* (2001) 89 Cal.App.4<sup>th</sup> 1426, 1430. However, compliance by authorities in the United States assists our State Department in obtaining reciprocal **protection for Americans** arrested abroad.

Compliance also helps protect officers and their employing agencies against civil liability claims based on alleged violations of prisoners' "liberty interests" that are created when a state statute **mandates** official action, giving rise to protection under the Fourteenth Amendment Due Process Clause. See, e.g., *Carlo v. Chino* (9<sup>th</sup> Cir. 1997) 105 F.3d 493, 497, 500: "*By placing substantive limitations on official discretion [by mandating official action toward prisoners], California has created a protected liberty interest.... We hold that by violating the California statute, [the officer] violated Carlo's constitutional rights.*" *But cf.*, *Cornejo v. County of San Diego* (9<sup>th</sup> Cir. 2007) 504 F.3d 853, finding no liability based on non-compliance with the VCCR, where plaintiffs failed to state a procedural due process claim based on violation of mandatory state law, as recognized in *Carlo*.

Lists of foreign consulates, with addresses, telephone numbers and fax numbers, may be obtained from the State Department, which will also furnish law enforcement agencies with advice-of-rights cards, informational pamphlets, training videos, and answers to specific questions. The Department can be contacted at (202) 647-4415; [http://travel.state.gov/consul\\_notify.html](http://travel.state.gov/consul_notify.html).

**BOTTOM LINE: Both federal treaty and California law require arresting agencies to provide notice to foreign nationals of their right to consult their consul, and in some cases, officials must independently notify the consulate of the arrest.**

►► ***For information on prosecutorial and law enforcement training offered by the Los Angeles County District Attorney's CRIMINAL JUSTICE INSTITUTE, please visit <http://da.lacounty.gov/CJI>***

This information was current as of publication date. It is not intended as legal advice. It is recommended that readers check for subsequent developments, and consult legal advisors to ensure currency after publication. Local policies and procedures regarding application should be observed.

## **Work schedule policy to Lexipol.pdf**

# Ventura County DA CA Policy Manual

Ventura County DA CA Policy Manual

## INDEX / TOPICS

..... 30

### A

ADMINISTRATIVE INVESTIGATION . . .	56
ADMINISTRATIVE INVESTIGATIONS	
Recorded media files. . . . .	197
ADULT ABUSE . . . . .	140
AIRCRAFT	
Ambulance. . . . .	211
ALCOHOL	
Vehicle use. . . . .	255
AMMUNITION	
Gun violence restraining order surrenders.	157
ANIMALS	
Line-of-duty deaths. . . . .	414
APPOINTMENTS	
Forfeiture reviewer. . . . .	222
Line-of-duty death liaisons and coordinators	407
ARREST OF PUBLIC SCHOOL TEACHER .	136
ARRESTS	
Consular notifications. . . . .	295
First amendment assemblies . . . .	206, 208
Seat belts. . . . .	345
ASSET FORFEITURE . . . . .	219
AUDIO/VIDEO RECORDING	
Body-worn cameras. . . . .	195
AUTOMATED EXTERNAL DEFIBRILLATORS (AED) . . . . .	212
AUTOMATED LICENSE PLATE READERS (ALPR) . . . . .	214

### B

BADGE . . . . .	393
BATON . . . . .	50
BODY ARMOR . . . . .	347
BODY-WORN CAMERAS . . . . .	195
BOMBS	
Portable audio/video recorders. . . . .	197
BRADY MATERIAL . . . . .	241

### C

CASH, CUSTODY	
Phone Calls . . . . .	299, 299
CHANGE OF ASSIGNMENT . . . . .	357
CHAPLAINS	

Line-of-duty deaths. . . . .	414
CHILD ABUSE . . . . .	105
CHILDREN	
Transporting. . . . .	346
CIVIL	
Subpoenas. . . . .	117
COMMAND STAFF	
Line-of-duty deaths. . . . .	404
COMMUNICATION OPERATIONS . . . . .	285
COMMUNICATIONS WITH HEARING	
IMPAIRED OR DISABLED . . . . .	128
CONDUCT . . . . .	113
CONFIDENTIAL INFORMANTS	
Payment Procedure. . . . .	245
CONFIDENTIALITY	
ALPR. . . . .	216
Surreptitious recording. . . . .	196
CONTROL DEVICES	
First amendment assemblies. . . . .	207
Training. . . . .	172
CONTROL DEVICES . . . . .	49
CONTROL DEVICES . . . . .	49
CONTROL DEVICES, CUSTODY	
FIREARMS, Custody. . . . .	298
CORRESPONDENCE . . . . .	30
COURT APPEARANCES . . . . .	116
COURT ORDERS	
Gun violence restraining order surrenders.	157
Subpoenas. . . . .	116
Surreptitious recording. . . . .	196
CUSTODIAL SEARCHES . . . . .	288

### D

DEATH	
Native American Graves (NAGPRA). . .	158
DEPARTMENT OWNED PROPERTY . . . . .	251
DEPARTMENT PROPERTY	
Loss Or Damage. . . . .	252
DEPARTMENTAL DIRECTIVE . . . . .	18
DESTRUCTION OF ANIMALS . . . . .	68
DISCLAIMER OF POLICIES . . . . .	13
DISCLOSING INFORMATION . . . . .	400
DOMESTIC VIOLENCE	
Reporting of Employee Convictions. . .	317
DOMESTIC VIOLENCE	
Definition Of Terms. . . . .	82

### E

ELECTRONIC CIGARETTES . . . . .	334
---------------------------------	-----

# Ventura County District Attorney's Office

Ventura County DA CA Policy Manual

EMERGENCY MANAGEMENT PLAN . . . . .	19
EMPLOYEE COMMENDATIONS . . . . .	358
EVALUATION . . . . .	308
EVIDENCE	
NAGPRA. . . . .	158
Seizing recordings. . . . .	202

## F

FIELD DETAINEES . . . . .	185
FIREARMS	
Gun violence restraining orders. . . . .	155
Retiree. . . . .	35
FIREARMS . . . . .	63
Qualifications. . . . .	64
Storage of. . . . .	63
FIRST AMENDMENT ASSEMBLIES . . . . .	204
FOREIGN	
Nationals. . . . .	295
FOREIGN DIPLOMATIC AND CONSULAR REPRESENTIVES . . . . .	167

## G

GRIEVANCE PROCEDURE . . . . .	312
GROOMING STANDARDS . . . . .	377
GUN VIOLENCE RESTRAINING ORDERS	155

## H

HEARING IMPAIRED . . . . .	128
----------------------------	-----

## I

INTERNET ACTIVITY . . . . .	400
INTERNET USE . . . . .	152

## J

JAIL SEARCHES . . . . .	295
JURISDICTION	
Consular notifications. . . . .	295
JURISDICTIONS	
Vehicle pursuits. . . . .	76
JUVENILE INFORMANTS . . . . .	244
JUVENILES	
Use as Informants. . . . .	244

## K

KINETIC PROJECTILES . . . . .	51
-------------------------------	----

## L

LIGHT DUTY ASSIGNMENTS . . . . .	395
LIMITED ENGLISH PROFICIENCY . . . . .	123
LINE-OF-DUTY DEATHS . . . . .	404

## M

MANUALS . . . . .	19
MEAL PERIODS AND BREAKS . . . . .	363
MEDIA . . . . .	120
First amendment assemblies. . . . .	208
Line-of-duty deaths. . . . .	413
MEDIA REQUEST . . . . .	120
MEDICAL	
Adult involuntary detention. . . . .	145
Examinations – Adult abuse. . . . .	145
Leave act (FMLA). . . . .	324
Releases. . . . .	211
MEDICAL, SCREENING – CUSTODY ADULTS . . . . .	297
MINIMUM STAFFING . . . . .	31
MODIFIED DUTY ASSIGNMENTS . . . . .	395
MODIFIED-DUTY ASSIGNMENTS	
Pregnancy. . . . .	397
MUTUAL AID	
First amendment assemblies. . . . .	207

## N

NATIVE AMERICAN GRAVES (NAGPRA)	158
NOTIFICATION	
Consular. . . . .	295
NOTIFICATIONS	
Line-of-duty deaths. . . . .	405
NAGPRA. . . . .	158
Sick leave. . . . .	327
NOTIFICATIONS . . . . .	55

## O

OATH OF OFFICE . . . . .	12
OC SPRAY . . . . .	50
OFFICER SAFETY	
LEOSA. . . . .	35
Seat belts. . . . .	345
OFFICER-INVOLVED SHOOTING . . . . .	53
ORGANIZATIONAL STRUCTURE . . . . .	17
OUTSIDE EMPLOYMENT	
Change in Status. . . . .	371

# Ventura County District Attorney's Office

## Ventura County DA CA Policy Manual

Obtaining Approval. . . . .	369	REPORTING OF EMPLOYEE CONVICTIONS	317
Prohibited Outside Employment. . . . .	370	REVIEWS	
Security Employment. . . . .	370	Portable audio/video. . . . .	197
<b>OVERTIME</b>		<b>S</b>	
Court. . . . .	118	SAFETY EQUIPMENT	
<b>OVERTIME PAYMENT</b> . . . . .	367	First amendment assemblies. . . . .	206
<b>P</b>		Seat belts. . . . .	345
PEPPER SPRAY . . . . .	50	SEARCH & SEIZURE . . . . .	88
PERFORMANCE EVALUATIONS		SEARCHES	
Sick leave. . . . .	327	Body scanner. . . . .	292
PERSONAL APPEARANCE . . . . .	377	Custodial. . . . .	288
PERSONAL PROPERTY . . . . .	251	Gun violence restraining orders. . . . .	156
Loss Or Damage. . . . .	252	SEAT BELTS . . . . .	345
PERSONNEL COMPLAINTS		SECURITY EMPLOYMENT . . . . .	370
Portable audio/video review. . . . .	197	SICK LEAVE . . . . .	324
PHOTOGRAPHS		SMOKING AND TOBACCO USE . . . . .	334
First amendment assemblies. . . . .	205	SOCIAL NETWORKING . . . . .	399
POLICY MANUAL . . . . .	13	STAFFING LEVELS . . . . .	31
POLITICAL ACTIVITY . . . . .	401	STANDARDS OF CONDUCT . . . . .	113
POLITICAL ENDORSEMENTS . . . . .	401	SUBPOENAS . . . . .	116
PREGNANCY . . . . .	397	SUBPOENAS AND COURT APPEARANCES	116
PREGNANCY, CUSTODY . . . . .	298	SUPERVISION DEPLOYMENTS . . . . .	31
PRIVACY EXPECTATION . . . . .	402	<b>T</b>	
PRIVACY EXPECTATIONS		TATTOOS . . . . .	378
Audio/video recordings. . . . .	195	TEMPORARY CUSTODY OF ADULTS . . . . .	293
PROHIBITED SPEECH . . . . .	400	TERMINATE A PURSUIT . . . . .	72
PROMOTIONAL PROCESS . . . . .	311	TRAINING	
PROPERTY PROCEDURES		AED. . . . .	213
Property Booking. . . . .	260	ALPR. . . . .	216
Property Handling. . . . .	260	Custodial searches. . . . .	292
Property Release. . . . .	265	First amendment assemblies. . . . .	209
PROTECTIVE CUSTODY		Rapid response and deployment. . . . .	172
Dependent adults. . . . .	144	TRANSFER PROCESS . . . . .	311
PUBLIC RECORDING OF LAW ENFORCEMENT		<b>U</b>	
ACTIVITY . . . . .	201	UNIFORMS	
<b>R</b>		Courtroom attire. . . . .	117
RAPID RESPONSE AND DEPLOYMENT . . . . .	170	UNLAWFUL ASSEMBLY . . . . .	207
RECORDS BUREAU		USE OF FORCE	
Gun violence restraining orders. . . . .	157	First amendment assemblies. . . . .	207
RECORDS RELEASE		<b>V</b>	
ALPR. . . . .	216	VIDEO RECORDINGS	
Audio/video recordings. . . . .	199	First amendment assemblies. . . . .	205
RECORDS RETENTION			
Audio/video recordings. . . . .	198		
RELIGION			
NAGPRA. . . . .	158		
REPORT CORRECTIONS . . . . .	115		