

Sonoma County District Attorney's Office

Investigations Bureau Policy Manual

CHIEF'S PREFACE

The primary purpose of the Bureau of Investigations is to provide professional investigative support for the prosecutors in the Office of the District Attorney. All District Attorney Investigators are sworn peace officers and are recognized throughout Sonoma County for their expertise in a wide array of investigative functions ranging from homicide investigations to complex environmental violations and intricate cyber-criminal activity. We are dedicated to providing exceptional investigative and prosecutorial services while maintaining the highest standards of ethics, truth, compassion, respect and integrity.

Law enforcement has always been one of the most challenging yet most rewarding, of all professions. Few occupations require split-second decisions which can save or take a life, and no occupation is as closely scrutinized as is law enforcement. As the Sonoma County District Attorney's Office Chief Investigator, I believe that one of my most important responsibilities is to minimize risk for the members of our office. Risks come in many forms, not only those which physically endanger, but also those which can result in civil suits, adverse publicity, or court rulings which prevent the introduction of relevant evidence resulting in a disservice to justice. Clear policies minimize risk by defining expectations.

Our profession changes as laws change, societal standards change, and law enforcement changes its practices, policies, and methods of operation. To stay current in an ever-changing profession, our office developed this Policy Manual. The manual is an excellent resource for our Bureau, and it will be continually updated to meet our needs in synch with changing legislative mandates, best practices and case law. The Policy Manual is meant to serve as a manner and method of practice for the Investigators of the Sonoma County District Attorney's Office. It is a living document and will inevitably change with the expectations of our community and ourselves. It will be an excellent resource as we "seek truth and justice in a professional manner, while maintaining the highest ethical standards."

Richard Celli

Chief Criminal Investigator

Sonoma County District Attorney's Office

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MISSION STATEMENT

The Sonoma County District Attorney's Office is dedicated to providing the members of our community with a safe place to live by holding the guilty accountable, protecting the innocent, and preserving the dignity of victims and their families. We shall seek truth and justice in a professional manner, while maintaining the highest ethical standards.

In pursuit of this mission, the District Attorney resolves to:

- **Promote** a work environment that emphasizes high ethical standards, professionalism and competent legal representation.
- **Establish** an atmosphere of compassion, trust and mutual respect.
- **Maintain** public confidence by creating a day-to-day operation that is efficient and effective.
- **Provide** training for employees and education for the public to be knowledgeable about the administration of justice.
- **Create** and maintain open communication to promote the best interests of the community.
- **Encourage** an environment that is positive and courteous among employees and members of the public.
- **Collaborate** with law enforcement and community groups to deter crime.
- **Ensure** the rights of victims are upheld with dedication to treating victims with dignity, respect and compassion.

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Chapter 1 - Law Enforcement Role and Authority

Law Enforcement Code of Ethics

100.1 PURPOSE AND SCOPE

The purpose of this policy is to ensure that all peace officers are aware of their individual responsibilities to maintain their integrity and that of their bureau at all times.

100.2 POLICY

The Law Enforcement Code of Ethics shall be administered to all peace officer trainees during the Basic Academy course and to all other persons at the time of appointment (11 CCR 1013).

100.3 LAW ENFORCEMENT CODE OF ETHICS

AS A LAW ENFORCEMENT OFFICER, my fundamental duty is to serve; to safeguard lives and property; to protect the innocent against deception, the weak against oppression or intimidation, and the peaceful against abuse 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; 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 in both my personal and official life, I will be exemplary in obeying the laws of the land and the regulations of my bureau. 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, 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 the police service. I will constantly strive to achieve these objectives and ideals, dedicating myself before god to my chosen profession... law enforcement.

100.3.1 OBJECTION TO RELIGIOUS AFFIRMATION

Reference to religious affirmation in the Law Enforcement Code of Ethics may be omitted where objected to by the investigator.

Law Enforcement Authority

101.1 PURPOSE AND SCOPE

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

101.2 POLICY

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

While this bureau 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 bureau does not tolerate the abuse of law enforcement authority.

101.3 PEACE OFFICER POWERS

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

101.3.1 ARREST AUTHORITY INSIDE THE JURISDICTION OF THE SONOMA COUNTY DISTRICT ATTORNEY'S OFFICE

The arrest authority within the jurisdiction of the Sonoma 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.
- (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.

On-duty arrests will not generally be made outside the jurisdiction of this bureau 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.

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101.3.2 DELIVERY TO NEAREST MAGISTRATE

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

101.3.3 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.

101.4 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).

101.5 CONSTITUTIONAL REQUIREMENTS

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

Chief District Attorney Investigator

102.1 PURPOSE AND SCOPE

The California Commission on Peace Officer Standards and Training (POST) has mandated that all sworn officers employed within the State of California shall receive certification by POST within prescribed time periods. The Chief District Attorney Investigator shall be in compliance with all POST standards as required.

Oath of Office

103.1 PURPOSE AND SCOPE

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

103.2 POLICY

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

103.3 OATH OF OFFICE

All bureau 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."

103.4 MAINTENANCE OF RECORDS

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

Policy Manual

104.1 PURPOSE AND SCOPE

The manual of the Sonoma County District Attorney's Office Bureau of Investigations is hereby established and shall be referred to as the Investigations Bureau Policy Manual or the manual. The manual is a statement of the current policies, rules and guidelines of this bureau. All members are to conform to the provisions of this manual, as well as the general policies in the District Attorney's Office Policies and Procedures 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.

104.2 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 bureau under the circumstances reasonably available at the time of any incident.

104.2.1 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 Sonoma 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 bureau administrative action, training or discipline. The Sonoma County District Attorney's Office reserves the right to revise any policy content, in whole or in part.

104.3 AUTHORITY

The District Attorney 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 District Attorney or the authorized designee is authorized to issue Interim Directives, which shall modify those provisions of the manual to which they pertain. Interim Directives shall remain in effect until such time as they may be permanently incorporated into the manual.

104.4 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.

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Bureau - The Sonoma County District Attorney's Office Investigations Bureau.

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

CHP - The California Highway Patrol.

CFR - Code of Federal Regulations.

County - The County of Sonoma.

DAI - District Attorney Investigator.

DMV - The Department of Motor Vehicles.

Employee - Any person employed by the Bureau.

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

Juvenile - Any person under the age of 18 years.

Manual - The Sonoma County District Attorney's Office Bureau of Investigations Policy Manual.

May - Indicates a permissive, discretionary or conditional action.

Member - Any person employed or appointed by the Sonoma County District Attorney's Office, including:

- Full- and part-time employees
- Sworn peace officers
- Extra help investigators
- Support staff employees
- Victim Advocates
- Volunteers or paid interns

MMBA - The Meyers-Milias-Brown Act

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.

SCDAO - The Sonoma County District Attorney's Office.

Shall or will - Indicates a mandatory action.

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

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

The term "supervisor" may also include any person (e.g., investigator-in-charge, lead or senior investigator) 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 bureau 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.

Support staff - Employees and volunteers who are not sworn peace officers.

USC - United States Code.

104.5 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 District Attorney 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 Interim Directives. Members shall seek clarification as needed from an appropriate supervisor for any provisions that they do not fully understand.

104.6 PERIODIC REVIEW OF THE POLICY MANUAL

The District Attorney will ensure that the Policy Manual is periodically reviewed and updated as necessary, by the Chief Investigator or designee.

104.7 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.

Chapter 2 - Organization and Administration

Organizational Structure and Responsibility

200.1 PURPOSE AND SCOPE

The organizational structure of the Sonoma County District Attorney's Office 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 DISTRICT ATTORNEY'S RESPONSIBILITY

The District Attorney is responsible for administering and managing the Sonoma County District Attorney's Office. The District Attorney Investigations Bureau is led by the Chief Investigator.

200.3 COMMAND PROTOCOL

200.3.1 SUCCESSION OF COMMAND

The District Attorney exercises command over all personnel in the Bureau. The District Attorney designates the Chief District Attorney Investigator to command the Investigations Bureau. During planned absences the District Attorney and Chief DAI or the Supervising DAI serves as the acting Chief of the Investigations Bureau.

200.3.2 UNITY OF COMMAND

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

200.3.3 ORDERS

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

Interim Directives

201.1 PURPOSE AND SCOPE

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

201.1.1 INTERIM DIRECTIVE PROTOCOL

Interim Directives will modify existing policies or create a new policy as appropriate and will be rescinded upon incorporation into the manual.

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

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

201.2 RESPONSIBILITIES

201.2.1 DISTRICT ATTORNEY

The District Attorney, through the Chief Investigator, shall issue all Interim Directives.

201.3 ACCEPTANCE OF INTERIM DIRECTIVES

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

Emergency Action Plan

202.1 PURPOSE AND SCOPE

The County has prepared an 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 Emergency Action Plan can be activated on the order of the official designated by local ordinance.

202.2.1 RECALL OF PERSONNEL

In the event that the Emergency Action Plan is activated, all employees of the Sonoma County District Attorney's Office are subject to immediate recall. Employees may also be subject to recall during extraordinary circumstances as deemed necessary by the District Attorney 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 Emergency Action Plan is available to all members on the District Attorney's Office internal website. All personnel should familiarize themselves with the Emergency Action Plan. The supervisors should ensure that office personnel are familiar with the roles each will play when the plan is implemented. It is the responsibility of the individual to familiarize him or herself with the Emergency Action Plan. Questions should be referred to the immediate supervisor or Department Safety Coordinator.

Training

203.1 PURPOSE AND SCOPE

It is the policy of this bureau to administer a training program that will provide for the professional growth and continued development of its personnel. By doing so, the Bureau 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 Bureau 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).

203.3 POLICY

The Bureau shall administer a training program that will meet the standards of federal, state, local, and POST training requirements. It is a priority of this bureau to provide continuing education and training for the professional growth and development of its members.

203.4 OBJECTIVES

The objectives of the 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.
- (d) Ensure compliance with POST rules and regulations concerning law enforcement training.

203.5 TRAINING PLAN

A training plan will be developed and maintained by the Chief Investigator. It is the responsibility of the Chief Investigator to maintain, review, and update the training plan on an annual basis. The plan will address the following areas:

(Agency-specific training areas)

203.5 TRAINING NEEDS ASSESSMENT

The Chief Investigator will conduct an on-going training-needs assessment to identify training necessary for the Bureau.

203.6 TRAINING

The Chief Investigator and Supervising DAI will identify training needs for the Bureau.

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The Chief and Supervising DAI will review certain incidents to determine whether training would likely improve future outcomes or reduce or prevent the recurrence of the undesirable issues related to the incident.

The Chief Investigator will determine what training should be addressed, taking into consideration the mission of the Bureau and available resources.

203.7 CHIEF INVESTIGATOR

The District Attorney shall designate a Chief Investigator who is responsible for developing, reviewing, updating, and maintaining the bureau training plan so that required training is completed. The Chief Investigator should review the training plan annually.

203.7.1 TRAINING RESTRICTION

The Chief Investigator is responsible for establishing a process to identify investigators who are restricted from training other investigators for the time period specified by law because of a sustained use of force complaint (Government Code § 7286(b)).

203.8 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. First choice vacation
 - 3. Sick leave
 - 4. Physical limitations preventing the employee's participation.
 - 5. Emergency situations
- (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 Chief Investigator to attend the required training on an alternate date.

203.10 DAILY TRAINING BULLETINS

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

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Personnel assigned to participate in DTBs should only use the password and login name assigned to them by the Chief Investigator. Personnel should not share their password with others and should frequently change their password to protect the security of the system. After each session, employees should log off the system to prevent unauthorized access. The content of the DTBs is copyrighted material and shall not be shared with others outside of the Bureau.

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

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

Electronic Mail

204.1 PURPOSE AND SCOPE

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

204.2 EMAIL RIGHT OF PRIVACY

All email messages, including any attachments, that are transmitted over Sonoma County networks are considered District Attorney's Office records and therefore are District Attorney's Office 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 email system or that is stored on any bureau system.

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

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

204.3 PROHIBITED USE OF EMAIL

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

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

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

204.4 EMAIL RECORD MANAGEMENT

Email may, depending upon the individual content, be a public record under the California Public Records Act and must be managed in accordance with the County of Sonoma's established records retention schedule and in compliance with state law.

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Electronic Mail

The Information Technology personnel shall ensure that email messages are retained and recoverable.

Staffing Levels

205.1 PURPOSE AND SCOPE

The purpose of this policy is to ensure that proper supervision is available. The Investigations Bureau intends to balance the employee's 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.

205.2 SUPERVISION DEPLOYMENTS

In order to accommodate training and other unforeseen circumstances, an investigator may be used as a supervisor.

With prior authorization from the District Attorney or Chief Investigator, an investigator may act as the Supervising Investigator for a limited period of time.

Retiree Concealed Firearms

206.1 PURPOSE AND SCOPE

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

206.2 POLICY

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

206.3 LEOSA

The District Attorney may issue an identification card for LEOSA purposes to any qualified former investigator of this bureau who (18 USC § 926C(c)):

- (a) Separated from service in good standing from this bureau 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 bureau.
- (c) Has not been disqualified for reasons related to mental health.
- (d) Has not entered into an agreement with this bureau 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.

206.3.1 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 Sonoma 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 Investigations Bureau to meet the active duty standards for qualification to carry a firearm.

206.3.2 AUTHORIZATION

Any qualified former law enforcement officer, including a former investigator of this bureau, 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:
 - 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

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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.

206.4 CALIFORNIA IDENTIFICATION CARD ISSUANCE

Any full-time sworn investigator of this bureau 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).

206.4.1 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 bureau.
- (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."

206.5 FORMER INVESTIGATOR RESPONSIBILITIES

A former investigator with a Sonoma County District Attorney's Office identification card issued shall immediately notify the Chief Investigator of his/her arrest or conviction in any jurisdiction, or that he/she is the subject of a court order, in accordance with the Reporting of Employee Convictions policy.

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206.5.1 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) Successfully pass an annual criminal history background check indicating that he/she is not prohibited by law from receiving or possessing a firearm.

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

206.6 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 Chief of the Investigations Bureau. In the event that an identification card is denied, suspended, or revoked, the former investigator may request a review by the District Attorney. The decision of the District Attorney is final.

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

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

- (a) In the event that a CCW endorsement is initially denied, the retired 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 Bureau shall provide the affected retiree with written notice of a hearing by either personal service or first class mail,

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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 District Attorney, 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 Bureau 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 Bureau 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 Chief Investigator as soon as practicable. The 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 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 District Attorney.
 3. The personal and written notification should be as follows:
 - (a) The retiree's CCW endorsement is immediately and temporarily suspended.
 - (b) The retiree has 15 days to request a hearing to determine whether the temporary suspension should become permanent revocation.
 - (c) The retiree will forfeit his/her right to a hearing and the CCW endorsement will be permanently revoked if the retiree fails to respond to the notice of hearing within the 15-day period.
 4. In the event that personal contact with the retiree cannot be reasonably achieved in a timely manner, the 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 Chief

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Investigator may request that a law enforcement officer from that agency act as the agent of the Sonoma County District Attorney's Office Investigations Bureau to deliver the written notification.

206.8 FIREARM QUALIFICATIONS

The Firearms Instructor may provide former investigators from this bureau 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 Firearms Instructor will maintain a record of the qualifications and weapons used. The Firearms Instructor shall notify the Chief and Supervising DAI of any former investigator who fails to satisfactorily qualify or whose qualification timeframe has lapsed.

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 (Government Code § 7286). This Use of Force policy adheres to all applicable federal, state and local laws.

In addition to those methods, techniques, and tools set forth below, the guidelines for the reasonable application of force contained in this policy shall apply to all policies addressing the potential use of force, including but not limited to the Control Devices and Techniques and Conducted Energy Device policies.

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).

Feasible - Reasonably capable of being done or carried out under the circumstances to successfully achieve the arrest or lawful objective without increasing risk to the investigator or another person (Government Code § 7286(a)).

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.

Serious bodily injury - A serious impairment of physical condition, including but not limited to the following: loss of consciousness; concussion; bone fracture; protracted loss or impairment of function of any bodily member or organ; a wound requiring extensive suturing; and serious disfigurement (Penal Code § 243(f)(4)).

Totality of the circumstances - All facts known to the investigator at the time, including the conduct of the officer and the subject leading up to the use of force (Penal Code § 835a).

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.

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The Bureau 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 FAIR AND UNBIASED USE OF FORCE

Investigators are expected to carry out their duties, including the use of force, in a manner that is fair and unbiased (Government Code § 7286(b)). See the Bias-Based Policing Policy for additional guidance.

300.2.2 DUTY TO INTERCEDE

Any investigator present and observing another law enforcement officer or an employee using force that is clearly beyond that which is necessary, as determined by an objectively reasonable investigator under the circumstances, shall, when in a position to do so, intercede (as defined by Government Code § 7286) to prevent the use of unreasonable force.

When observing force used by a law enforcement officer, each investigator should take into account the totality of the circumstances and the possibility that other law enforcement officers may have additional information regarding the threat posed by the subject (Government Code § 7286(b)).

300.2.3 DUTY TO REPORT EXCESSIVE FORCE

Any investigator who observes a law enforcement officer or an employee use force that potentially exceeds what the investigator reasonably believes to be necessary shall immediately report these observations to a supervisor (Government Code § 7286(b)).

As used in this subsection, "immediately" means as soon as it is safe and feasible to do so.

300.2.4 FAILURE TO INTERCEDE

An investigator who has received the required training on the duty to intercede and then fails to act to intercede when required by law, may be disciplined in the same manner as the investigator who used force beyond that which is necessary (Government Code § 7286(b)).

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 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. Investigators may only use a level of force that they

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reasonably believe is proportional to the seriousness of the suspected offense or the reasonably perceived level of actual or threatened resistance (Government Code § 7286(b)).

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 approved or authorized tools, weapons, or methods provided by the Bureau. 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 ALTERNATIVE TACTICS - DE-ESCALATION

As time and circumstances reasonably permit, and when community and officer safety would not be compromised, Investigators shall consider actions that may increase investigator safety and may decrease the need for using force:

- (a) Summoning additional resources that are able to respond in a reasonably timely manner.
- (b) Formulating a plan with responding investigators before entering an unstable situation that does not reasonably appear to require immediate intervention.
- (c) Employing other tactics that do not unreasonably increase investigator jeopardy.

In addition, when reasonable, investigators shall evaluate the totality of circumstances presented at the time in each situation and, when feasible, consider and utilize reasonably available alternative tactics and techniques that may persuade an individual to voluntarily comply or may mitigate the need to use a higher level of force to resolve the situation before applying force (Government Code § 7286(b)). Such alternatives may include but are not limited to:

- (a) Attempts to de-escalate a situation.
- (b) If reasonably available, the use of crisis intervention techniques by properly trained personnel.

300.3.2 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).

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300.3.3 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 (Government Code § 7286(b)). 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 (Penal Code § 835a).
- (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 leading up to the use of force (Penal Code § 835a).
- (e) The effects of suspected drugs or alcohol.
- (f) The individual's apparent mental state or capacity (Penal Code § 835a).
- (g) The individual's apparent ability to understand and comply with 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 prior to and at the time force is used.
- (l) Training and experience of the investigator.
- (m) Potential for injury to investigators, suspects, bystanders, 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.

300.3.4 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

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successfully completed bureau-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.

300.3.5 RESTRICTIONS ON THE USE OF CAROTID CONTROL HOLD

Investigators of this bureau are not authorized to use a carotid restraint hold. A carotid restraint means a vascular neck restraint or any similar restraint, hold, or other defensive tactic in which pressure is applied to the sides of a person's neck that involves a substantial risk of restricting blood flow and may render the person unconscious in order to subdue or control the person (Government Code § 7286.5).

300.3.6 RESTRICTIONS ON THE USE OF A CHOKE HOLD

Investigators of this bureau are not authorized to use a choke hold. A choke hold means any defensive tactic or force option in which direct pressure is applied to a person's trachea or windpipe (Government Code § 7286.5).

300.3.7 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. Investigators are encouraged to use techniques and methods taught by POST certified instructors for this specific purpose.

300.3.8 ADDITIONAL RESTRICTIONS

Terms such as "positional asphyxia," "restraint asphyxia," and "excited delirium" continue to remain the subject of debate among experts and medical professionals, are not universally recognized medical conditions, and frequently involve other collateral or controlling factors such as narcotics or alcohol influence, or pre-existing medical conditions. While it is impractical to restrict an investigator's use of reasonable control methods when attempting to restrain a combative individual, investigators are not authorized to use any restraint or transportation method which might unreasonably impair an individual's breathing or respiratory capacity for a period beyond the point when the individual has been adequately and safely controlled. Once controlled, the individual should be placed into a recovery position (e.g., supine or seated) and monitored for signs of medical distress (Government Code § 7286.5).

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300.4 DEADLY FORCE APPLICATIONS

Where feasible, the investigator shall, prior to the use of deadly force, make reasonable efforts to identify him/herself 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 (Penal Code 835a).

If an objectively reasonable investigator would consider it safe and feasible to do so under the totality of the circumstances, investigators shall evaluate and use other reasonably available resources and techniques when determining whether to use deadly force. To the extent that it is reasonably practical, investigators should consider their surroundings and any potential risks to bystanders prior to discharging a firearm (Government Code § 7286(b)).

The use of deadly force is only justified when the investigator reasonably believes it is necessary 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.

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 and may involve additional considerations and risks. When feasible, investigators should take reasonable steps to 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 imminent threat of the vehicle, or if deadly force other than the vehicle is directed at the investigator or others (Government Code § 7286(b)).

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

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300.4.2 DISPLAYING OF FIREARMS

Given that individuals might perceive the display of a firearm as a potential application of force, investigators should carefully evaluate each tactical situation and use sound discretion when drawing a firearm in public by considering the following guidelines (Government Code § 7286(b)):

- (a) If the investigator does not initially perceive a threat but reasonably believes that the potential for such threat exists, firearms should generally be kept in the low-ready or other position not directed toward an individual.
- (b) If the investigator reasonably believes that a threat exists based on the totality of circumstances presented at the time (e.g., high-risk stop, tactical entry, armed encounter), firearms may be directed toward such threat until the investigator no longer perceives such threat.

Once it is reasonably safe to do so, investigators should carefully secure all firearms.

300.5 REPORTING THE USE OF FORCE

Any use of force by a member of this bureau 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.

300.5.1 NOTIFICATION TO SUPERVISORS

Any use of force by an investigator shall be reported immediately to a supervisor, including but not limited to the following circumstances (Penal Code § 832.13):

- (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 conducted energy 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 unreasonable force was used or that any of the above has occurred.

As used in this subsection, "immediately" means as soon as it is safe and feasible to do so.

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 Records Section Policy.

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300.6 MEDICAL CONSIDERATIONS

Once it is reasonably safe to do so, properly trained investigators should promptly provide or procure medical assistance for any person injured or claiming to have been injured in a use of force incident (Government Code § 7286(b)).

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 the individual 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 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, 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.

See the Medical Aid and Response Policy for additional guidelines.

300.7 SUPERVISOR RESPONSIBILITY

A supervisor should respond to any reported use of force, if reasonably available. The responding supervisor is expected to (Government Code § 7286(b)):

- (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:

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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.

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 CHIEF INVESTIGATOR OR SUPERVISING INVESTIGATOR RESPONSIBILITY

The Chief Investigator or Supervising Investigator shall review each use of force by any personnel within his/her command to ensure compliance with this policy.

300.8 USE OF FORCE COMPLAINTS

The receipt, processing, and investigation of civilian complaints involving use of force incidents should be handled in accordance with the Personnel Complaints Policy (Government Code § 7286(b)).

300.9 TRAINING

Investigators, investigators, and supervisors will receive periodic training on this policy and demonstrate their knowledge and understanding (Government Code § 7286(b)).

Subject to available resources, the Chief Investigator should ensure that investigators receive periodic training on de-escalation tactics, including alternatives to force.

Training should also include (Government Code § 7286(b)):

- (a) Guidelines regarding vulnerable populations, including but not limited to children, elderly persons, pregnant individuals, and individuals with physical, mental, and developmental disabilities.

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- (b) Training courses required by and consistent with POST guidelines set forth in Penal Code § 13519.10.

See the Training Policy for restrictions relating to investigators who are the subject of a sustained use of force complaint.

300.9.1 TRAINING REQUIREMENTS

The Chief District Attorney Investigator is required to ensure that all sworn personnel under his/her command qualify in accordance with this policy.

- (a) Use of Force Instructors refers to Defensive Tactics and Firearms Instructors.
- (b) The Use of Force Instructors will keep a record of all those who attend training.
- (c) All sworn personnel must attend use of force training.
 - 1. Firearms-Training will consist of, at minimum, two (2) hours of training quarterly.
 - 2. Defensive Tactics- Training will consist of four (4) hours bi-annually.
- (d) The quarters will be divided as follows:
 - 1. First Quarter: January through March
 - 2. Second Quarter: April through June
 - 3. Third Quarter: July through September
 - 4. Fourth Quarter: October through December
- (e) Failure to comply with this training (attendance and/or qualification) may result in disciplinary action.
 - 1. Only the Chief, or his/her designee, may exempt a district attorney investigator from the provisions mandated in this policy.
 - 2. If a district attorney investigator fails to attend at least one use of force training during a quarter, the district attorney investigator shall attend the first training offered of the following quarter.
- (f) Management is not required to attend the defensive tactics portion of this training. Management is required to attend the firearms portion of training.

If a district attorney investigator fails to qualify after remediation, the Use of Force Instructor shall immediately notify the Chief verbally and shall prepare a memo to be sent, via chain of command, as soon as practical, for determination of action.

300.10 USE OF FORCE ANALYSIS

At least annually, the Chief Investigator or Senior Investigator should prepare an analysis report on use of force incidents. The report should be submitted to the District Attorney. The report should not contain the names of investigators, suspects or case numbers, and should include:

- (a) The identification of any trends in the use of force by members.
- (b) Training needs recommendations.

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- (c) Equipment needs recommendations.
- (d) Policy revision recommendations.

300.11 POLICY REVIEW

The District Attorney or the authorized designee should regularly review and update this policy to reflect developing practices and procedures (Government Code § 7286(b)).

300.12 POLICY AVAILABILITY

The District Attorney or the authorized designee should ensure this policy is accessible to the public (Government Code § 7286(c)).

300.13 PUBLIC RECORDS REQUESTS

Requests for public records involving an investigator's personnel records shall be processed in accordance with Penal Code § 832.7 and the Personnel Records and Records Maintenance and Release policies (Government Code § 7286(b)).

Handcuffing and Restraints

301.1 PURPOSE AND SCOPE

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

301.2 POLICY

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

301.3 USE OF RESTRAINTS

Only members who have successfully completed Sonoma 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.

301.3.1 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.

301.3.2 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.

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

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determination that such restraints are necessary for the safety of the arrestee, investigators, or others (Penal Code § 3407; Penal Code § 6030).

301.3.3 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.

301.3.4 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.

301.4 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 Bureau. 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.

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

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301.6 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.

301.7 TRAINING

Subject to available resources, the Chief Investigator 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 Bureau.
- (b) Response to complaints of pain by restrained persons.
- (c) Options for restraining those who may be pregnant without the use of leg irons, waist chains, or handcuffs behind the body.
- (d) Options for restraining amputees or those with medical conditions or other physical conditions that may be aggravated by being restrained.

Control Devices and Techniques

302.1 PURPOSE AND SCOPE

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

302.2 POLICY

In order to control subjects who are violent or who demonstrate the intent to be violent, the Sonoma 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.

302.3 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 District Attorney 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.

302.4 RESPONSIBILITIES

302.4.1 SUPERVISING INVESTIGATOR RESPONSIBILITIES

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

302.4.2 FIREARMS INSTRUCTOR RESPONSIBILITIES

The Firearms Instructor shall control the inventory and issuance of all control devices and shall ensure that all damaged, inoperative, outdated or expended control devices or munitions are properly disposed of, repaired or replaced. The firearms Instructor shall be responsible for notifying investigators of software updates and downloading requirements.

Every control device will be periodically inspected by the Firearms Instructor or the designated instructor for a particular control device. The inspection shall be documented.

302.4.3 USER RESPONSIBILITIES

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

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Any damaged, inoperative, outdated or expended control devices or munitions, along with documentation explaining the cause of the damage, shall be returned to the Firearms Instructor for disposition. Damage to County property forms shall also be prepared and forwarded through the chain of command, when appropriate, explaining the cause of damage.

302.5 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.

When carrying a baton, while in uniform, personnel shall carry the baton in its authorized holder on the equipment belt. Plainclothes and non-field personnel may carry the baton as authorized and in accordance with the needs of their assignment or at the direction of their supervisor.

302.6 OLEORESIN CAPSICUM (OC) GUIDELINES

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

302.6.1 OC SPRAY

Uniformed personnel carrying OC spray shall carry the device in its holster on the equipment belt. Plainclothes and non-field personnel may carry OC spray as authorized, in accordance with the needs of their assignment or at the direction of their supervisor.

302.6.2 TREATMENT FOR OC SPRAY EXPOSURE

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

302.7 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.

302.8 TRAINING FOR CONTROL DEVICES

The Chief Investigator 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.

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- (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.

302.9 REPORTING USE OF CONTROL DEVICES AND TECHNIQUES

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

Conducted Energy Device

303.1 PURPOSE AND SCOPE

This policy provides guidelines for the issuance and use of the conducted energy device (CED).

303.2 POLICY

The CED is used in an attempt to control a violent or potentially violent individual. The appropriate use of such a device may result in fewer serious injuries to investigators and suspects.

303.3 ISSUANCE AND CARRYING CEDS

Only members who have successfully completed bureau-approved training may be issued and may carry the CED.

The Firearms Instructor should keep a log of issued CED devices and the serial numbers of cartridges/magazines issued to members.

CEDs are issued for use during a member's current assignment. Those leaving a particular assignment may be required to return the device to the bureau inventory.

Investigators shall only use the CED and cartridges/magazines that have been issued by the Bureau. Cartridges/magazines should not be used after the manufacturer's expiration date.

Uniformed investigators who have been issued the CED shall wear the device in an approved holster.

Investigators who carry the CED while in uniform shall carry it in a holster on the side opposite the duty weapon (Penal Code § 13660).

- (a) All CEDs shall be clearly distinguishable to differentiate them from the duty weapon and any other device.
- (b) For single-shot devices, whenever practicable, investigators should carry an additional cartridge on their person when carrying the CED.
- (c) Investigators should not hold a firearm and the CED at the same time.

Non-uniformed investigators may secure the CED in a concealed, secure location in the driver's compartment of their vehicles.

303.3.1 USER RESPONSIBILITIES

Investigators shall be responsible for ensuring that the issued CED is properly maintained and in good working order. This includes a function test and battery life monitoring, as required by the manufacturer, and should be completed prior to the beginning of the investigator's shift.

CEDs that are damaged or inoperative, or cartridges/magazines that are expired or damaged, shall be returned to the Firearms Instructor for disposition. Investigators shall submit documentation stating the reason for the return and how the CED or cartridge/magazine was damaged or became inoperative, if known.

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303.4 VERBAL AND VISUAL WARNINGS

A verbal warning of the intended use of the CED 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:

- (a) Provide the individual with a reasonable opportunity to voluntarily comply.
- (b) Provide other investigators and individuals with a warning that the CED may be deployed.

If, after a verbal warning, an individual fails to voluntarily comply with an investigator's lawful orders and it appears both reasonable and feasible under the circumstances, the investigator may, but is not required to, activate any warning on the device, which may include display of the electrical arc, an audible warning, or the laser in a further attempt to gain compliance prior to the application of the CED. The laser should not be intentionally directed into anyone's eyes.

The fact that a verbal or other warning was given or the reasons it was not given shall be documented by the investigator deploying the CED in the related report.

303.5 USE OF THE CED

The CED has limitations and restrictions requiring consideration before its use. The CED should only be used when its operator can safely deploy the device within its operational range. Although the CED may be effective in controlling most individuals, investigators should be aware that the device may not achieve the intended results and be prepared with other options.

If sufficient personnel are available and can be safely assigned, an investigator designated as lethal cover for any investigator deploying a CED may be considered for officer safety.

303.5.1 APPLICATION OF THE CED

The CED may be used, when the circumstances reasonably perceived by the investigator at the time indicate that such application reasonably appears necessary to control a person who:

- (a) Is violent or is physically resisting.
- (b) Has demonstrated, by words or action, an intention to be violent or to physically resist, and reasonably appears to present the potential to harm investigators, themselves, or others.

Mere flight from a pursuing investigator, without additional circumstances or factors, is not good cause for the use of the CED to apprehend an individual.

The CED shall not be used to psychologically torment, to elicit statements, or to punish any individual.

303.5.2 SPECIAL DEPLOYMENT CONSIDERATIONS

The use of the CED on certain individuals should generally be avoided unless the totality of the circumstances indicates that other available options reasonably appear ineffective or would present a greater danger to the investigator, the subject or others, and the investigator reasonably

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believes that the need to control the individual outweighs the potential risk of using the device. This includes:

- (a) Individuals who are known to be pregnant.
- (b) Elderly individuals or obvious juveniles.
- (c) Individuals with obviously low body mass.
- (d) Individuals who are handcuffed or otherwise restrained.
- (e) Individuals known to have been recently sprayed with a flammable chemical agent or who are otherwise known to be in close proximity to any known combustible vapor or flammable material, including alcohol-based oleoresin capsicum (OC) spray.
- (f) Individuals whose position or activity is likely to result in collateral injury (e.g., falls from height, located in water, operating vehicles).

Any CED capable of being applied in the drive-stun mode (i.e., direct contact without probes as a primary form of pain compliance) should be limited to supplementing the probe-mode to complete the circuit, or as a distraction technique to gain separation between investigators and the subject, thereby giving investigators time and distance to consider other force options or actions.

303.5.3 TARGETING CONSIDERATIONS

Recognizing that the dynamics of a situation and movement of the subject may affect target placement of probes, when practicable, investigators should attempt to target the back, lower center mass, and upper legs of the subject, and avoid intentionally targeting the head, neck, area of the heart, or genitals. If circumstances result in one or more probes inadvertently striking an area outside of the preferred target zones, the individual should be closely monitored until examined by paramedics or other medical personnel.

303.5.4 MULTIPLE APPLICATIONS OF THE CED

Once an investigator has successfully deployed two probes on the subject, the investigator should continually assess the subject to determine if additional probe deployments or cycles reasonably appear necessary. Additional factors investigators may consider include but are not limited to:

- (a) Whether it is reasonable to believe that the need to control the individual outweighs the potentially increased risk posed by multiple applications.
- (b) Whether the probes are making proper contact.
- (c) Whether the individual has the ability and has been given a reasonable opportunity to comply.
- (d) Whether verbal commands or other options or tactics may be more effective.

Given that on certain devices (e.g., TASER 10™) each trigger pull deploys a single probe, the investigator must pull the trigger twice to deploy two probes to create the possibility of neuromuscular incapacitation.

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303.5.5 ACTIONS FOLLOWING DEPLOYMENTS

Investigators should take appropriate actions to control and restrain the individual as soon as reasonably practicable to minimize the need for longer or multiple exposures to the CED. As soon as practicable, investigators shall notify a supervisor any time the CED has been discharged. If needed for evidentiary purposes, the expended cartridge, along with any probes and wire, should be submitted into evidence (including confetti tags, when equipped on the device). The evidence packaging should be marked "Biohazard" if the probes penetrated the subject's skin.

303.5.6 DANGEROUS ANIMALS

The CED may be deployed against an animal if the animal reasonably appears to pose an imminent threat to human safety.

303.5.7 OFF-DUTY CONSIDERATIONS

Investigators are not authorized to carry bureau CEDs while off-duty.

Investigators shall ensure that CEDs are secured while in their homes, vehicles, or any other area under their control, in a manner that will keep the device inaccessible to others.

303.6 DOCUMENTATION

Investigators shall document all CED discharges in the related arrest/crime reports and the CED report forms. Photographs should be taken of any obvious probe impact or drive-stun application sites and attached to the CED report form. Notification shall also be made to a supervisor in compliance with the Use of Force Policy. Unintentional discharges, pointing the device at a person, audible warning, laser activation, and arcing the device, other than for testing purposes, will also be documented on the report form. Data downloads from the CED after use on a subject should be done as soon as practicable using a bureau-approved process to preserve the data.

303.6.1 CED REPORT FORM

As applicable based on the device type, items that shall be included in the CED report form are:

- (a) The brand, model, and serial number of the CED and any cartridge/magazine.
- (b) Date, time, and location of the incident.
- (c) Whether any warning, display, laser, or arc deterred a subject and gained compliance.
- (d) The number of probes deployed, CED activations, the duration of each cycle, the duration between activations, and (as best as can be determined) the duration that the subject received applications.
- (e) The range at which the CED was used.
- (f) The type of mode used (e.g., probe deployment, drive-stun).
- (g) Location of any probe impact.
- (h) Location of contact in drive-stun mode.
- (i) Description of where missed probes went.
- (j) Whether medical care was provided to the subject.

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- (k) Whether the subject sustained any injuries.
- (l) Whether any investigators sustained any injuries.

The Chief Investigator should periodically analyze the report forms to identify trends, including deterrence and effectiveness. The Chief Investigator should also conduct audits of CED device data downloaded to an approved location and reconcile CED report forms with recorded activations. CED information and statistics, with identifying information removed, should periodically be made available to the public.

303.6.2 REPORTS

The investigator should include the following in the arrest/crime report:

- (a) Identification of all personnel firing CEDs
- (b) Identification of all witnesses
- (c) Medical care provided to the subject
- (d) Observations of the subject's physical and physiological actions
- (e) Any known or suspected drug use, intoxication, or other medical problems

303.7 MEDICAL TREATMENT

Consistent with local medical personnel protocols and absent extenuating circumstances, only appropriate medical personnel or investigators trained in probe removal and handling should remove CED probes from a person's body. Used CED probes shall be treated as a sharps biohazard, similar to a used hypodermic needle, and handled appropriately. Universal precautions should be taken.

All persons who have been struck by CED probes or who have been subjected to the electric discharge of the device, or who sustained direct exposure of the laser to the eyes shall be medically assessed prior to booking. Additionally, any such individual who falls under any of the following categories should, as soon as practicable, be examined by paramedics or other qualified medical personnel:

- (a) The person is suspected of being under the influence of controlled substances and/or alcohol.
- (b) The person may be pregnant.
- (c) The person reasonably appears to be in need of medical attention.
- (d) The CED probes are lodged in a sensitive area (e.g., groin, female breast, head, face, neck).
- (e) The person requests medical treatment.

Any individual exhibiting signs of distress or who is exposed to multiple or prolonged applications shall be transported to a medical facility for examination or medically evaluated prior to booking. If any individual refuses medical attention, such a refusal should be witnessed by another investigator and/or medical personnel and shall be fully documented in related reports. If an audio/

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video recording is made of the contact or an interview with the individual, any refusal should be included, if possible.

The transporting investigator shall inform any person providing medical care or receiving custody that the individual has been subjected to the application of the CED (see the Medical Aid and Response Policy).

303.8 SUPERVISOR RESPONSIBILITIES

When possible, supervisors should respond to calls when they reasonably believe there is a likelihood the CED may be used. A supervisor should respond to all incidents where the CED was activated.

A supervisor should review each incident where a person has been exposed to a CED. The device's internal logs should be downloaded by a supervisor or Firearms Instructor and saved with the related arrest/crime report. The supervisor should arrange for photographs of probe sites to be taken and witnesses to be interviewed.

303.9 TRAINING

Personnel who are authorized to carry the CED shall be permitted to do so only after successfully completing the initial bureau-approved training. Any personnel who have not carried the CED as a part of their assignments for a period of six months or more shall be recertified by a qualified CED instructor prior to again carrying or using the device.

Proficiency training for personnel who have been issued CEDs should occur every year. A reassessment of an investigator's knowledge and/or practical skills may be required at any time, if deemed appropriate by the Chief Investigator. All training and proficiency for CEDs will be documented in the investigator's training files.

Command staff, supervisors, and investigators should receive CED training as appropriate for the investigations they conduct and review.

Investigators who do not carry CEDs should receive training that is sufficient to familiarize them with the device and with working with investigators who use the device.

The Chief Investigator is responsible for ensuring that all members who carry CEDs have received initial and annual proficiency training. Periodic audits should be used for verification.

Application of CEDs during training could result in injuries and should not be mandatory for certification.

The Chief Investigator should include the following training:

- (a) A review of this policy.
- (b) A review of the Use of Force Policy.
- (c) Performing weak-hand draws or cross-draws until proficient to reduce the possibility of unintentionally drawing and firing a firearm.

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- (d) Target area considerations, to include techniques or options to reduce the unintentional application of probes to the head, neck, area of the heart, and groin.
- (e) Scenario-based training, including virtual reality training when available.
- (f) Handcuffing a subject during the application of the CED and transitioning to other force options.
- (g) De-escalation techniques.
- (h) Restraint techniques that do not impair respiration following the application of the CED.
- (i) Proper use of cover and concealment during deployment of the CED for purposes of officer safety.
- (j) Proper tactics and techniques related to multiple applications of CEDs.

Officer-Involved Shootings and Deaths

304.1 PURPOSE AND SCOPE

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

In other incidents not covered by this policy, the District Attorney may decide that the investigation will follow the process provided in this policy.

304.2 POLICY

The Sonoma County District Attorney's Office will follow the procedures and guidelines set forth in the Sonoma County Chief's Association Policy 93-1: Employee Involved Critical Incident Protocol.

Firearms

305.1 PURPOSE AND SCOPE

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

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

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

305.2 POLICY

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

305.3 AUTHORIZED FIREARMS, AMMUNITION AND OTHER WEAPONS

Members shall only use firearms that are issued or approved by the Bureau and have been thoroughly inspected by the Firearms Instructor. 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 bureau range.

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

305.3.1 HANDGUNS

The authorized bureau-issued handgun is the Glock, Model 23 or Model 27,.40 caliber. Additional handguns are approved for on-duty use (See PERSONALLY OWNED DUTY FIREARMS):

305.3.2 PERSONALLY OWNED DUTY FIREARMS

Members desiring to carry personally owned duty firearm must receive written approval from the Chief Investigator. Once approved, personally owned duty firearms are subject to the following restrictions:

- (a) The firearm shall be in good working order and be of 9mm,.40 caliber or .45 caliber.
- (b) The firearm shall be inspected by the Firearms Instructor 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 bureau qualification schedule. Members

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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 Firearms Instructor, who will maintain a list of the information.

305.3.3 AUTHORIZED SECONDARY HANDGUN

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

- (a) The handgun shall be in good working order and of .380 caliber, 9mm, .40 caliber or .45 caliber bureau.
- (b) Only one secondary handgun may be carried at a time.
- (c) The purchase of the handgun and ammunition shall be the responsibility of the member unless the handgun and ammunition are provided by the Bureau.
- (d) The handgun shall be carried concealed at all times and in such a manner as to prevent unintentional cocking, discharge or loss of physical control.
- (e) The handgun shall be inspected by the Firearms Instructor prior to being carried and thereafter shall be subject to inspection whenever it is deemed necessary.
- (f) Ammunition shall be the same as bureau issue. If the caliber of the handgun is other than bureau issue, the District Attorney or the authorized designee shall approve the ammunition.
- (g) Prior to carrying the secondary handgun, members shall qualify under range supervision and thereafter shall qualify in accordance with the bureau qualification schedule. Members must demonstrate proficiency and safe handling, and that the handgun functions properly.
- (h) Members shall provide written notice of the make, model, color, serial number and caliber of a secondary handgun to the Firearms Instructor, who will maintain a list of the information.

305.3.4 AUTHORIZED OFF-DUTY FIREARMS

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

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

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- (b) The firearm shall be carried concealed at all times and in such a manner as to prevent accidental unintentional cocking, discharge or loss of physical control.
- (c) It will be the responsibility of the member to submit the firearm to the Firearms Instructor for inspection prior to being personally carried. Thereafter the firearm shall be subject to periodic inspection by the Firearms Instructor.
- (d) Prior to carrying any off-duty firearm, the member shall demonstrate to the Firearms Instructor that he/she is proficient in handling and firing the firearm and that it will be carried in a safe manner.
- (e) The member will successfully qualify with the firearm prior to it being carried.
- (f) Members shall provide written notice of the make, model, color, serial number and caliber of the firearm to the Firearms Instructor, who will maintain a list of the information.
- (g) If a member desires to use more than one firearm while off-duty, he/she may do so, as long as all requirements set forth in this policy for each firearm are met.
- (h) Members shall only carry bureau-authorized ammunition.
- (i) When armed, investigators shall carry their badges and Sonoma County District Attorney's Office identification cards under circumstances requiring possession of such identification.

305.3.5 AMMUNITION

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

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

305.4 EQUIPMENT

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

305.4.1 REPAIRS OR MODIFICATIONS

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

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

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

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305.4.2 HOLSTERS

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

305.4.3 TACTICAL LIGHTS

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

305.4.4 OPTICS OR LASER SIGHTS

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

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

305.5 SAFE HANDLING, INSPECTION AND STORAGE

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

- (a) Members shall not unnecessarily display or handle any firearm.
- (b) Members shall be governed by all rules and regulations pertaining to the use of the range and shall obey all orders issued by the Firearms Instructor. Members shall not dry fire or practice quick draws except as instructed by the Firearms Instructor or other firearms training staff.
- (c) Members shall not clean, repair, load or unload a firearm anywhere in the Bureau, except where clearing barrels are present.
- (d) Firearms removed from vehicles or the equipment storage room shall be loaded and unloaded in the parking lot and outside of the vehicle, using clearing barrels.
- (e) Members shall not place or store any firearm or other weapon on bureau premises except where the place of storage is locked.
- (f) Any firearm authorized by the Bureau to be carried on- or off-duty that is determined by a member to be malfunctioning or in need of service or repair shall not be carried. It shall be promptly presented to the Bureau or a Firearms Instructor approved by the Bureau for inspection and repair. Any firearm deemed in need of repair or service by the Firearms Instructor will be immediately removed from service. If the firearm is the member's primary duty firearm, a replacement firearm will be issued to the member until the duty firearm is serviceable.

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305.5.1 INSPECTION AND STORAGE

Handguns shall be inspected regularly and upon access or possession by another person. The member shall ensure that the firearm is carried in the proper condition and loaded with approved ammunition. All firearms shall be pointed in a safe direction or into clearing barrels.

Personally owned firearms shall be safely stored by the Investigator of possession. Bureau-owned firearms shall be stored in the appropriate equipment storage room. Handguns may remain loaded if they are secured in an appropriate holster.

305.5.2 STORAGE AT HOME

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

305.5.3 STORAGE IN VEHICLES

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

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

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

305.5.4 ALCOHOL AND DRUGS

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

305.6 FIREARMS TRAINING AND QUALIFICATIONS

All members who carry a firearm while on-duty are required to successfully complete training quarterly with their duty firearms. In addition to quarterly training, all members will qualify quarterly with their duty firearms. Members will qualify with off-duty and secondary firearms at least twice a year. Training and qualifications must be on an approved range course.

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

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305.6.1 NON-CERTIFICATION OR NON-QUALIFICATION

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

Those who fail to meet minimum standards or qualify on their first shooting attempt shall be provided remedial training and will be subject to the following requirements:

- (a) Additional range assignments may be scheduled to assist the member in demonstrating consistent firearm proficiency.
- (b) Members shall be given credit for a range training or qualification when obtaining a qualifying score or meeting standards after remedial training.
- (c) No range credit will be given for the following:
 - 1. Unauthorized range make-up
 - 2. Failure to meet minimum standards or qualify after remedial training

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

305.7 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 or oral 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 supervisor 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.
- (c) Peace Officers under 830.1(a) have the right to have an attorney, of the employee's choice, review the report prior to submission of the written report to the Bureau/Agency. The Investigator shall advise his/her Supervisor of exercising the option for such review and the attorney has up to 24 hours to complete any review.

305.7.1 DESTRUCTION OF ANIMALS

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

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In circumstances where there is sufficient advance notice that a potentially dangerous animal may be encountered, bureau members should develop reasonable contingency plans for dealing with the animal (e.g., fire extinguisher, conducted energy device, oleoresin capicum (OC) spray, animal control officer). Nothing in this policy shall prohibit any member from shooting a dangerous animal if circumstances reasonably dictate that a contingency plan has failed, becomes impractical, or if the animal reasonably appears to pose an imminent threat to human safety.

305.7.2 INJURED ANIMALS

With the approval of a supervisor, a member may euthanize an animal that is so badly injured that human compassion requires its removal from further suffering and where other dispositions are impractical (Penal Code § 597.1(e)).

Injured animals (with the exception of dogs and cats) may only be euthanized after a reasonable search to locate the owner has been made (Penal Code § 597.1(b)). An investigator should call County Animal Services (through Sheriff's Dispatch) upon encountering an injured dog and cat found without their owners.

305.7.3 WARNING AND OTHER SHOTS

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

305.8 FIREARMS INSTRUCTOR DUTIES

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

The range shall remain operational and accessible to bureau members during hours established by the Bureau.

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

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

The Firearms Instructor shall complete and submit to the Chief Investigator documentation of the training courses provided. Documentation shall include the qualifications of each instructor who provides the training, a description of the training provided and, a list of each member who

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completes the training. The Firearms Instructor should keep accurate records of all training shoots, qualifications, repairs, maintenance or other records as directed by the Chief Investigator.

305.9 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):

- (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 Bureau based on the law and published TSA rules.
- (b) Investigators must carry their Sonoma 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 District Attorney or the official seal of the Bureau 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 Sonoma 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 Sonoma 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 District Attorney 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 bureau-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.

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

305.10 CARRYING FIREARMS OUT OF STATE

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

- (a) The investigator shall carry his/her Sonoma 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 bureau 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.

305.11 SECTION TITLE

Vehicle Pursuits

306.1 PURPOSE AND SCOPE

Vehicle pursuits expose innocent citizens, law enforcement officers and fleeing violators to the risk of serious injury or death. The primary purpose of this policy is to provide investigators with guidance and clear direction regarding vehicle pursuits. 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.

306.1.1 VEHICLE PURSUIT DEFINED

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

306.2 INVESTIGATOR RESPONSIBILITIES

It shall be the policy of the Sonoma County District Attorney's Office that Investigators are prohibited from engaging in vehicle pursuits. Investigators shall not initiate a vehicle pursuit, nor shall an Investigator use any vehicle as an instrument to intervene in a pursuit.

306.2.1 REGULAR AND PERIODIC TRAINING

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

306.2.2 POLICY REVIEW

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

306.3 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.

Investigator Response to Calls

307.1 PURPOSE AND SCOPE

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

307.2 RESPONSE TO CALLS

Investigators responding Code-3 to any call shall continuously operate emergency lighting equipment, including at minimum a steady forward facing red light, and shall sound the siren as reasonably necessary pursuant to Vehicle Code § 21055.

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

Investigators should only respond Code-3 when so dispatched or when circumstances reasonably indicate an emergency response is required. Response to static call-out scenes does not alone authorize a Code-3 response. Investigators not authorized to respond Code-3 shall observe all traffic laws and proceed without the use of emergency lights and siren.

307.3 REQUESTING EMERGENCY ASSISTANCE

Requests for emergency assistance should be limited to those situations where the involved personnel reasonably believe that there is an immediate threat to the safety of investigators, or assistance is needed to prevent imminent serious harm to a citizen. In any event, where a situation has stabilized and emergency response is not required, the requesting investigator shall immediately notify Sheriff's Dispatch or the communications center for the agency of jurisdiction.

If circumstances permit, the requesting investigator should give the following information:

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

307.4 INITIATING CODE 3 RESPONSE

If an investigator believes a Code-3 response to any call is appropriate, the investigator shall immediately notify Sheriff's Dispatch or the communications center for the agency of jurisdiction.

307.5 RESPONSIBILITIES OF RESPONDING INVESTIGATORS

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

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The decision to continue a Code-3 response is at the discretion of the investigator. If, in the investigator's judgment, the roadway conditions, equipment failure, radio communication quality, ability of the driver or traffic congestion does not permit such a response without unreasonable risk, the investigator shall respond to the call without the use of red lights and siren at the legal speed limit.

Domestic Violence

308.1 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 bureau to take enforcement action when appropriate, to provide assistance to victims and to guide investigators in the investigation of domestic violence.

308.1.1 DEFINITIONS

Definitions related to this policy include:

Court order - All forms of orders related to domestic violence that have been issued by a court of this state or another, whether civil or criminal, regardless of whether service has been made.

308.2 POLICY

The Sonoma 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 communicate the philosophy that domestic violence is criminal behavior.

308.3 OFFICER SAFETY

The investigation of domestic violence cases often places investigators in emotionally charged and sometimes highly dangerous environments. No provision of this policy is intended to supersede the responsibility of all investigators to exercise due caution and reasonable care in providing for the safety of any investigators and parties involved.

308.4 INVESTIGATIONS

The following guidelines should be followed by investigators when investigating domestic violence cases:

- (a) Calls of reported, threatened, imminent, or ongoing domestic violence and the violation of any court order are of extreme importance and should be considered among the highest response priorities. This includes information discovered through jail phone calls.
- (b) Investigators should as soon as practical contact the law enforcement agency of jurisdiction to respond to the location of the violation to further investigate the incident and take action as appropriate.
- (c) When completing an incident or supplemental report for violation of a court order, investigators should include specific information that establishes that the offender has been served, including the date the offender was served, the name of the agency that served the order, and the provision of the order that the subject is alleged to have violated.

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308.5 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).

308.6 VERIFICATION OF COURT ORDERS

Determining the validity of a court order, particularly an order from another jurisdiction, can be challenging. Therefore, investigators should carefully review the actual order when available, and where appropriate and practicable. Investigators shall not interview a subject who is currently represented by legal counsel without expressed permission, captured in writing or other instrument of recording. Investigators should contact a supervisor for clarification when needed.

308.7 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 the victim's 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)

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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.
 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).

308.8 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 available, an explanation should be given regarding how the victim can obtain the information at a later time.
- (c) Investigators who seize any firearm, ammunition, 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)).

308.9 RECORD-KEEPING AND DATA COLLECTION

This bureau shall maintain records of court orders related to domestic violence and the service status of each (Penal Code § 13710), as well as records on the number of domestic violence

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related calls reported to the Bureau, including whether weapons were used in the incident or whether the incident involved strangulation or suffocation (Penal Code § 13730). This information is to be reported to the Attorney General monthly. It shall be the responsibility of the Records Supervisor to maintain and report this information as required.

308.10 SERVICE OF 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)).
- (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 the person 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).

308.11 PUBLIC ACCESS TO POLICY

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

308.12 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).

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308.13 DOMESTIC VIOLENCE DEATH REVIEW TEAM

This bureau should cooperate with any interagency domestic violence death review team investigation. Written and oral information relating to a domestic violence death that would otherwise be subject to release restrictions may be disclosed to the domestic violence death review team upon written request and approval of a supervisor (Penal Code § 11163.3).

Search and Seizure

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

309.2 POLICY

It is the policy of the Sonoma County District Attorney's Office to respect the fundamental privacy rights of individuals. Members of this bureau will 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 Investigations Bureau 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.

309.3 SEARCHES

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

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

- Valid consent
- Incident to a lawful arrest
- Legitimate community caretaking interests
- Vehicle searches under certain circumstances
- Exigent circumstances

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

Because case law regarding search and seizure is constantly changing and subject to interpretation by the courts, each member of this 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 supervisor to resolve questions regarding search and seizure issues prior to electing a course of action.

Senior and Disability Victimization

310.1 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 Sonoma County District Attorney's Office members as required by law.

310.1.1 DEFINITIONS

Definitions related to this policy include:

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

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

310.2 POLICY

The Sonoma 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). However, the Investigations Bureau will relinquish responsibility for the criminal investigations directly to the law enforcement agency having physical jurisdiction.

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. The Sonoma County District Attorney's Office will refer to the agency with jurisdiction all reported incidents of alleged adult abuse and to ensure proper reporting and notification as required by law.

Members of the Sonoma 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)).

Discriminatory Harassment

311.1 PURPOSE AND SCOPE

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

311.2 POLICY

The Sonoma 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 Bureau will not tolerate discrimination against a member in hiring, promotion, discharge, compensation, fringe benefits and other privileges of employment. The Bureau 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 Bureau may be more comprehensive than state or federal law. Conduct that violates this policy may not violate state or federal law but still could subject a member to discipline.

311.3 DEFINITIONS

Definitions related to this policy include:

311.3.1 DISCRIMINATION

The Bureau prohibits all forms of discrimination, including any employment-related action by a member that adversely affects an applicant or member and is based on actual or perceived race, ethnicity, national origin, religion, sex, sexual orientation, gender identity or expression, age, disability, pregnancy, genetic information, veteran status, marital status, and any other classification or status protected by law.

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

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

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311.3.2 RETALIATION

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

311.3.3 SEXUAL HARASSMENT

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

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

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

311.3.4 ADDITIONAL CONSIDERATIONS

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

- (a) Acts or omission of acts based solely upon bona fide occupational qualifications under the Equal Employment Opportunity Commission (EEOC) and the California Civil Rights Council guidelines.
- (b) Bona fide requests or demands by a supervisor that the member improve the member's work quality or output, that the member report to the job site on time, that the member comply with County or bureau rules or regulations, or any other appropriate work-related communication between supervisor and member.

311.4 RESPONSIBILITIES

This policy applies to all District Attorney's Office Investigations personnel. All members shall follow the intent of these guidelines in a manner that reflects County policy, professional standards, and the best interest of the District Attorney's Office and its mission.

Members are encouraged to promptly report any discriminatory, retaliatory, or harassing conduct or known violations of this policy to a supervisor. Any member who is not comfortable with reporting violations of this policy to the member's immediate supervisor may bypass the chain of command and make the report to a higher-ranking supervisor or manager. Complaints may also be filed with the Director of Human Resources.

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

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retaliation, is encouraged to promptly report such conduct in accordance with the procedures set forth in this policy.

Supervisors and managers receiving information regarding alleged violations of this policy shall determine if there is any basis for the allegation and shall proceed with resolution as stated within the County of Sonoma policy on Discriminatory Harassment.

Child Abuse

312.1 PURPOSE AND SCOPE

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

312.1.1 DEFINITIONS

Definitions related to this policy include:

Child - Unless otherwise specified by a cited statute, a child is any person under the age of 18 years.

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

312.2 POLICY

The Sonoma County District Attorney's Office will accept reported incidents of alleged criminal child abuse and ensure that the law enforcement agency of jurisdiction and CPS are notified as required by law.

312.3 MANDATORY NOTIFICATION

The child protection agency shall be notified when (Penal Code § 11166):

- (a) There is a known or suspected instance of child abuse or neglect reported, which is alleged to have occurred as a result of the action of a person responsible for the child's welfare, or
- (b) A person responsible for the child's welfare fails to adequately protect the child from abuse when the person knew or reasonably should have known that the child was in danger of abuse.

If a report of known or suspected child abuse or neglect that is alleged to have occurred 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 cannot be successfully transferred to the appropriate agency, a report shall be taken and immediately referred by telephone, fax or electronic transfer to the agency with proper jurisdiction (Penal Code § 11165.9).

The District Attorney, via the Chief or Supervising Investigator, should be notified in all instances of known or suspected child abuse or neglect reported to this bureau. 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 be reported to Child Protective Services (Penal Code § 11166).

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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. When the alleged abuse or neglect involves a child of a minor parent or a dependent adult, notification shall also be made to the attorney of the minor or the dependent adult within 36 hours.(Penal Code 11166.1; Penal Code 11166.2)

For purposes of notification, the abuse or neglect includes physical injury or death inflicted by other than accidental means upon a child by another person; sexual abuse (Penal Code § 11165.1); neglect (Penal Code § 11165.2); the willful harming or injuring of a child or the endangering of the person or health of a child (Penal Code § 11165.3); and unlawful corporal punishment or injury (Penal Code § 11165.4). Child abuse or neglect does not include a mutual affray between minors, nor does it include an injury caused by the reasonable and necessary force used by a peace officer acting within the course and scope of the peace officer's employment as a peace officer.

312.3.1 NOTIFICATION PROCEDURE

Notification should occur as follows (Penal Code § 11166):

- (a) Notification shall be made immediately, or as soon as practicable, by telephone, fax or electronic transmission.
- (b) A written follow-up report should be forwarded to the law enforcement agency with jurisdiction and Child Protective Services within 36 hours of receiving the information concerning the incident.

312.4 QUALIFIED INVESTIGATORS

Qualified investigators should be available for child abuse investigations. These investigators should:

- (a) Conduct interviews in child appropriate interview facilities.
- (b) Be familiar with forensic interview techniques specific to child abuse investigations.
- (c) Present all cases of alleged child abuse to the prosecutor for review.
- (d) Coordinate with other enforcement agencies, social service agencies and school administrators as needed.
- (e) Provide referrals to therapy services, victim advocates, guardians and support for the child and family as appropriate.
- (f) Participate in or coordinate with multidisciplinary investigative teams as applicable (Welfare and Institutions Code § 18961.7).

312.5 PROTECTIVE CUSTODY

Before taking any child into protective custody, the investigator should make reasonable attempts to contact CPS. Generally, removal of a child from the child's family, guardian, or other responsible

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adult should be left to the child welfare authorities when they are present or have become involved in an investigation.

Generally, members of this bureau should remove a child from the child's 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, 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.
 - 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.

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312.6 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).

312.7 CHILD DEATH REVIEW TEAM

This bureau should cooperate with any interagency child death review team investigation. Written and oral information relating to the death of a child that would otherwise be subject to release restrictions may be disclosed to the child death review team upon written request and approval of a supervisor (Penal Code § 11174.32).

312.8 TRAINING

The Bureau should provide training on best practices in child abuse investigations to members tasked with investigating these cases.

Missing Persons

313.1 PURPOSE AND SCOPE

This policy provides guidance for handling missing person investigations.

313.1.1 DEFINITIONS

At risk - Includes, but is not limited to (Penal Code § 14215):

- A victim of a crime or foul play.
- A person missing and in need of medical attention.
- A missing person with no pattern of running away or disappearing.
- A missing person who may be the victim of parental abduction.
- A mentally impaired missing person, including cognitively impaired or developmentally disabled.

Missing person - Any person who is reported missing to law enforcement when the person's location is unknown. This includes a child who has been taken, detained, concealed, enticed away or kept by a parent in violation of the law (Penal Code § 277 et seq.). It also includes any child who is missing voluntarily, involuntarily or under circumstances that do not conform to his/her ordinary habits or behavior, and who may be in need of assistance (Penal Code § 14215).

Missing person networks - Databases or computer networks available to law enforcement and that are suitable for information related to missing persons investigations. These include the National Crime Information Center (NCIC), the California Law Enforcement Telecommunications System (CLETS), Missing Person System (MPS) and the Unidentified Persons System (UPS).

313.2 POLICY

The Sonoma County District Attorney's Office does not consider any report of a missing person to be routine and assumes that the missing person is in need of immediate assistance until an investigation reveals otherwise. The Sonoma County District Attorney's Office gives missing person cases priority will not require any time frame to pass before beginning a missing person investigation (Penal Code § 14211).

313.3 ACCEPTANCE OF REPORTS

Any District Attorney's Office Investigations Bureau member encountering a person who wishes to report a missing person or runaway shall render assistance without delay (Penal Code § 14211). This can be accomplished by accepting the report via telephone or in-person and initiating the investigation. Those members shall, without delay, contact the agency of jurisdiction over the missing person or the Sonoma County Sheriff's Office dispatch center.

A report shall be accepted in all cases and regardless of where the person was last seen, where the person resides or any other question of jurisdiction (Penal Code § 14211).

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313.4 INITIAL INVESTIGATION

Investigators or other members conducting the initial investigation of a missing person should take the following investigative actions, as applicable:

- (a) Interview the reporting party and any witnesses to determine whether the person qualifies as a missing person and, if so, whether the person may be at risk.
- (b) Notify a supervisor immediately if there is evidence that a missing person is either at risk or may qualify for a public alert, or both (see the Public Alerts Policy).
- (c) Contact the agency of jurisdiction over the missing person or the Sonoma County Sheriff's Office dispatch center, in all other cases, as soon as practicable, but not later than two hours from the time of the initial report.
- (d) Provide all pertinent information to the investigating officer as well as complete a detailed supplemental written report to that officer. That written supplemental report shall also be provided to the Supervising District Attorney Investigator and Chain of Command.

313.5 WHEN A MISSING PERSON IS FOUND

When any person reported missing is found, as reported to the District Attorney's Office Investigations Bureau, the investigator shall document the information and location of the missing person in appropriate supplemental report, notify other involved agencies and refer the case for additional investigation if warranted.

Public Alerts

314.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidelines for alerting the public to important information and soliciting public aid when appropriate.

314.2 POLICY

Public alerts may be employed using the Emergency Alert System (EAS), local radio, television and press organizations and other groups to notify the public of incidents, or enlist the aid of the public, when the exchange of information may enhance the safety of the community. Various types of alerts may be available based upon each situation and the alert system's individual criteria.

314.3 RESPONSIBILITIES

314.3.1 MEMBER RESPONSIBILITIES

Members of the Sonoma County District Attorney's Office should notify their supervisor, Supervising Investigator, or Investigative Bureau Supervisor as soon as practicable upon learning of a situation where public notification, a warning, or enlisting the help of the media and public could assist in locating a missing person, apprehending a dangerous person, or gathering information.

314.3.2 SUPERVISOR RESPONSIBILITIES

A supervisor or manager apprised of the need for a public alert is responsible to make the appropriate notifications based upon the circumstances of each situation. The supervisor or manager shall promptly notify the District Attorney, the appropriate law enforcement agency of jurisdiction and the Public Information Officer before any public alert is generated.

The supervisor in charge of the investigation to which the alert relates is responsible for the following:

- (a) Updating alerts
- (b) Canceling alerts
- (c) Ensuring all appropriate reports are completed
- (d) Preparing an after-action evaluation of the investigation to be forwarded to the Investigations Chief and the District Attorney

314.4 AMBER ALERTS

The AMBER Alert™ Program is a voluntary partnership between law enforcement agencies, broadcasters, transportation agencies and the wireless industry, to activate urgent bulletins in child abduction cases.

314.4.1 CRITERIA FOR AMBER ALERT

The following conditions must be met before activating an AMBER Alert (Government Code § 8594(a)):

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- (a) A child has been abducted or taken by anyone, including but not limited to a custodial parent or guardian.
- (b) The victim is 17 years of age or younger, or has a proven mental or physical disability.
- (c) The victim is in imminent danger of serious injury or death.
- (d) There is information available that, if provided to the public, could assist in the child's safe recovery.

314.4.2 PROCEDURE FOR AMBER ALERT

The supervisor in charge will ensure the following:

- (a) An initial press release is prepared that includes all available information that might aid in locating the child:
 - 1. The child's identity, age and description
 - 2. Photograph if available
 - 3. The suspect's identity, age and description, if known
 - 4. Pertinent vehicle description
 - 5. Detail regarding location of incident, direction of travel, potential destinations, if known
 - 6. Name and telephone number of the Public Information Officer or other authorized individual to handle media liaison
 - 7. A telephone number for the public to call with leads or information
- (b) The local California Highway Patrol communications center should be contacted to initiate a multi-regional or statewide EAS broadcast, following any policies and procedures developed by CHP (Government Code § 8594).
- (c) The press release information is forwarded to the Sheriff's Office Emergency Communications Bureau so that general broadcasts can be made to local law enforcement agencies.
- (d) Information regarding the missing person should be entered into the California Law Enforcement Telecommunication System (CLETS).
- (e) Information regarding the missing person should be entered into the California Department of Justice Missing and Unidentified Persons System (MUPS)/National Crime Information Center (NCIC).
- (f) The following resources should be considered as circumstances dictate:
 - 1. The local FBI office
 - 2. National Center for Missing and Exploited Children (NCMEC)

314.5 BLUE ALERTS

Blue Alerts may be issued when an investigator is killed, injured or assaulted and the suspect may pose a threat to the public or other law enforcement personnel.

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314.5.1 CRITERIA FOR BLUE ALERTS

All of the following conditions must be met before activating a Blue Alert (Government Code § 8594.5):

- (a) A law enforcement officer has been killed, suffered serious bodily injury or has been assaulted with a deadly weapon, and the suspect has fled the scene of the offense.
- (b) The investigating law enforcement agency has determined that the suspect poses an imminent threat to the public or other law enforcement personnel.
- (c) A detailed description of the suspect's vehicle or license plate is available for broadcast.
- (d) Public dissemination of available information may help avert further harm or accelerate apprehension of the suspect.

314.5.2 PROCEDURE FOR BLUE ALERT

The supervisor in charge should ensure the following:

- (a) An initial press release is prepared that includes all available information that might aid in locating the suspect:
 - 1. The license number and/or any other available description or photograph of the vehicle
 - 2. Photograph, description and/or identification of the suspect
 - 3. The suspect's identity, age and description, if known
 - 4. Detail regarding location of incident, direction of travel, potential destinations, if known
 - 5. Name and telephone number of the Public Information Officer or other authorized individual to handle media liaison
 - 6. A telephone number for the public to call with leads or information
- (b) The local California Highway Patrol communications center is contacted to initiate a multi-regional or statewide EAS broadcast.
- (c) The information in the press release is forwarded to the Sheriff's Office Emergency Communications Bureau so that general broadcasts can be made to local law enforcement agencies.
- (d) The following resources should be considered as circumstances dictate:
 - 1. Entry into the California Law Enforcement Telecommunication System (CLETS)
 - 2. The FBI local office

314.6 SILVER ALERTS

Silver Alerts® is an emergency notification system for people who are 65 years of age or older, developmentally disabled or cognitively impaired and have been reported missing (Government Code § 8594.10).

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314.6.1 CRITERIA FOR SILVER ALERTS

All of the following conditions must be met before activating a Silver Alert (Government Code § 8594.10):

- (a) The missing person is 65 years of age or older, developmentally disabled or cognitively impaired.
- (b) The bureau has utilized all available local resources.
- (c) The investigating investigator or supervisor has determined that the person is missing under unexplained or suspicious circumstances.
- (d) The investigating investigator or supervisor believes that the person is in danger because of age, health, mental or physical disability, environment or weather conditions, that the person is in the company of a potentially dangerous person, or that there are other factors indicating that the person may be in peril.
- (e) There is information available that, if disseminated to the public, could assist in the safe recovery of the missing person.

314.6.2 PROCEDURE FOR SILVER ALERT

Requests for a Silver Alert shall be made through the California Highway Patrol (Government Code § 8594.10).

314.7 MUTUAL AID

The experiences of other law enforcement jurisdictions that have implemented similar plans indicate a public alert will generate a high volume of telephone calls to the handling agency.

The Sheriff's Office emergency communications facilities and staff can be made available in the event of a high call volume.

If the Supervising Investigator or Investigative Bureau Supervisor elects to use the services of the Sheriff's Office, the following will apply:

- (a) Notify the Sheriff's Office Supervising Investigator of the incident and the request for assistance. The Supervising Investigator will provide a telephone number for the public to call.
- (b) In the press release, direct the public to the telephone number provided by the Sheriff's Office Supervising Investigator.
- (c) The Public Information Officer will continue to handle all press releases and media inquiries. Any press inquiries received by the Sheriff's Office will be referred back to this bureau.

The Sonoma County District Attorney's Office shall assign a minimum of two detectives/investigators to respond to the Sheriff's Office emergency communications facility to screen and relay information and any clues received from incoming calls. As circumstances dictate, more staff resources from the handling law enforcement agency may be necessary to assist the staff at the emergency communications facility.

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314.8 ADDITIONAL ALERTS FOR PUBLIC SAFETY EMERGENCIES

Additional public safety emergency alerts may be authorized that utilize wireless emergency alert system (WEA) and emergency alert system (EAS) equipment for alerting and warning the public to protect lives and save property (Government Code § 8593.7).

314.8.1 CRITERIA

Public safety emergency alerts may be issued to alert or warn the public about events including but not limited to:

- (a) Evacuation orders (including evacuation routes, shelter information, key information).
- (b) Shelter-in-place guidance due to severe weather.
- (c) Terrorist threats.
- (d) HazMat incidents.

314.8.2 PROCEDURE

Public safety emergency alerts should be activated by following the guidelines issued by the Office of Emergency Services (Government Code § 8593.7).

314.9 YELLOW ALERT

A Yellow Alert may be issued when a person is killed due to a hit-and-run incident and the bureau has specified information concerning the suspect or the suspect's vehicle (Government Code § 8594.15).

314.9.1 CRITERIA FOR YELLOW ALERT

All of the following conditions must be met before activating a Yellow Alert (Government Code § 8594.15):

- (a) A person has been killed due to a hit-and-run incident.
- (b) There is an indication that a suspect has fled the scene utilizing the state highway system or is likely to be observed by the public on the state highway system.
- (c) The bureau has additional information concerning the suspect or the suspect's vehicle including but not limited to the following:
 - 1. The complete license plate number of the suspect's vehicle.
 - 2. A partial license plate number and additional unique identifying characteristics, such as the make, model, and color of the suspect's vehicle, which could reasonably lead to the apprehension of a suspect.
 - 3. The identity of a suspect.
 - 4. Public dissemination of available information could either help avert further harm or accelerate apprehension of a suspect based on any factor, including but not limited to the time elapsed between a hit-and-run incident and the request or the likelihood that an activation would reasonably lead to the apprehension of a suspect.

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314.9.2 PROCEDURE FOR YELLOW ALERT

Requests for a Yellow Alert shall be made through the California Highway Patrol (Government Code § 8594.15).

314.10 FEATHER ALERT

A Feather Alert may be issued when an indigenous person is reported missing under unexplained or suspicious circumstances (Government Code § 8594.13).

314.10.1 CRITERIA FOR FEATHER ALERT

All of the following conditions must be met before activating a Feather Alert (Government Code § 8594.13):

- (a) The missing person is an indigenous person.
- (b) The Bureau has utilized local and tribal resources.
- (c) The investigating investigator has determined the person has gone missing under unexplained or suspicious circumstances.
- (d) The investigating investigator or supervisor believes that the person is in danger because of age, health, mental or physical disability, environment or weather conditions, that the person is in the company of a potentially dangerous person, or that there are other factors indicating that the person may be in peril.
- (e) There is information available that, if disseminated to the public, could assist in the safe recovery of the missing person.

314.10.2 PROCEDURE FOR FEATHER ALERT

Requests for a Feather Alert shall be made through the California Highway Patrol (Government Code § 8594.13).

Victim and Witness Assistance

315.1 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.

315.2 POLICY

The Sonoma County District Attorney's Office is committed to providing guidance and assistance to the victims and witnesses of crime. The members of the Sonoma 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. Victims are assigned an Advocate who should accompany the victim during interviews, testimony or other court related meetings. Investigators shall make every effort to include the participation of Advocates when possible or prudent.

315.3 WITNESSES

Investigators should never guarantee a witness' safety from future harm or that his/her identity will always remain confidential. Investigators may make practical safety suggestions to witnesses who express fear of future harm or retaliation.

Investigators should investigate allegations of witness intimidation and take enforcement action when lawful and reasonable. Investigators shall communicate instances of Witness Intimidation to the Supervising District Attorney Investigator or Chief, as well as the assigned Deputy District Attorney or Chief DDA.

Hate Crimes

316.1 PURPOSE AND SCOPE

This policy is designed to assist in identifying and handling crimes motivated by hate or other bias toward individuals and groups with legally defined protected characteristics, to define appropriate steps for assisting victims, and to provide a guide to conducting related investigations. It outlines the general policy framework for prevention, response, accessing assistance, victim assistance and follow-up, and reporting as related to law enforcement's role in handling hate crimes. It also serves as a declaration that hate crimes are taken seriously and demonstrates how the Sonoma County District Attorney's Office may best use its resources to investigate and solve an offense, in addition to building community trust and increasing police legitimacy (Penal Code § 13519.6).

316.1.1 DEFINITION AND LAWS

In accordance with Penal Code § 422.55; Penal Code § 422.56; Penal Code § 422.6; and Penal Code § 422.87, for purposes of all other state law, unless an explicit provision of law or the context clearly requires a different meaning, the following shall apply:

Bias motivation - Bias motivation is a pre-existing negative attitude toward actual or perceived characteristics referenced in Penal Code § 422.55. Depending on the circumstances of each case, bias motivation may include but is not limited to hatred, animosity, discriminatory selection of victims, resentment, revulsion, contempt, unreasonable fear, paranoia, callousness, thrill-seeking, desire for social dominance, desire for social bonding with those of one's "own kind," or a perception of the vulnerability of the victim due to the victim being perceived as being weak, worthless, or fair game because of a protected characteristic, including but not limited to disability or gender.

Disability - Disability includes mental disability and physical disability as defined in Government Code § 12926, regardless of whether those disabilities are temporary, permanent, congenital, or acquired by heredity, accident, injury, advanced age, or illness.

Disability bias - In recognizing suspected disability-bias hate crimes, investigators should consider whether there is any indication that the perpetrator was motivated by hostility or other bias, occasioned by factors such as but not limited to dislike of persons who arouse fear or guilt, a perception that persons with disabilities are inferior and therefore "deserving victims," a fear of persons whose visible traits are perceived as being disturbing to others, or resentment of those who need, demand, or receive alternative educational, physical, or social accommodations.

In recognizing suspected disability-bias hate crimes, investigators should consider whether there is any indication that the perpetrator perceived the victim to be vulnerable and, if so, if this perception is grounded, in whole or in part, in anti-disability bias. This includes but is not limited to situations where a perpetrator targets a person with a particular perceived disability while avoiding other vulnerable-appearing persons, such as inebriated persons or persons with perceived disabilities different from those of the victim. Such circumstances could be evidence that the perpetrator's motivations included bias against persons with the perceived disability of

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the victim and that the crime must be reported as a suspected hate crime and not a mere crime of opportunity.

Gender - Gender means sex and includes a person's gender identity and gender expression.

Gender expression - Gender expression means a person's gender-related appearance and behavior, regardless of whether it is stereotypically associated with the person's assigned sex at birth.

Gender identity - Gender identity means each person's internal understanding of their gender, or the perception of a person's gender identity, which may include male, female, a combination of male and female, neither male nor female, a gender different from the person's sex assigned at birth, or transgender (2 CCR § 11030).

Hate crime - "Hate crime" includes but is not limited to a violation of Penal Code § 422.6, and means a criminal act committed, in whole or in part, because of one or more of the following actual or perceived characteristics of the victim:

- (a) Disability
- (b) Gender
- (c) Nationality
- (d) Race or ethnicity
- (e) Religion
- (f) Sexual orientation
- (g) Association with a person or group with one or more of these actual or perceived characteristics:
 - 1. "Association with a person or group with one or more of these actual or perceived characteristics" includes advocacy for, identification with, or being on the premises owned or rented by, or adjacent to, any of the following: a community center, educational facility, family, individual, office, meeting hall, place of worship, private institution, public agency, library, or other entity, group, or person that has, or is identified with people who have, one or more of the characteristics listed in the definition of "hate crime" under paragraphs 1 to 6, inclusive, of Penal Code § 422.55(a).

Note: A "hate crime" need not be motivated by hate but may be motivated by any bias against a protected characteristic.

Hate incident - A hate incident is an action or behavior motivated by hate or bias but legally protected by the First Amendment right to freedom of expression. Examples of hate incidents include:

- Name-calling
- Insults and epithets
- Distributing hate material in public places

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- Displaying hate material on your own property

Hate speech - The First Amendment to the U.S. Constitution protects most speech, even when it is disagreeable, offensive, or hurtful. The following types of speech are generally not protected:

- Fighting words
- True threats
- Perjury
- Blackmail
- Incitement to lawless action
- Conspiracy
- Solicitation to commit any crime

In whole or in part - "In whole or in part because of" means that the bias motivation must be a cause in fact of the offense whether or not other causes also exist. When multiple concurrent motives exist, the prohibited bias must be a substantial factor in bringing about the particular result. There is no requirement that the bias be a main factor, or that a crime would not have been committed but for the actual or perceived characteristic.

Nationality - Nationality means country of origin, immigration status, including citizenship, and national origin.

Race or ethnicity - Race or ethnicity includes ancestry, color, and ethnic background.

Religion - Religion includes all aspects of religious belief, observance, and practice and includes agnosticism and atheism.

Sexual orientation - Sexual orientation means heterosexuality, homosexuality, or bisexuality.

Victim - Victim includes but is not limited to:

- Community center
- Educational facility
- Entity
- Family
- Group
- Individual
- Office
- Meeting hall
- Person
- Place of worship

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- Private institution
- Public agency
- Library
- Other victim or intended victim of the offense

316.2 POLICY

It is the policy of this bureau to safeguard the rights of all individuals irrespective of their disability, gender, nationality, race or ethnicity, religion, sexual orientation, and/or association with a person or group with one or more of these actual or perceived characteristics. Any acts or threats of violence, property damage, harassment, intimidation, or other crimes motivated by hate or bias should be viewed very seriously and given high priority.

This bureau will employ reasonably available resources and vigorous law enforcement action to identify and arrest hate crime perpetrators. In addition, recognizing the particular fears and distress typically suffered by victims, the potential for reprisal and escalation of violence, and the far-reaching negative consequences of these crimes on the community, this bureau should take all reasonable steps to attend to the security and related concerns of the immediate victims and their families as feasible.

All investigators are required to be familiar with the policy and use reasonable diligence to carry out the policy unless directed by the District Attorney or other command-level officer to whom the District Attorney formally delegates this responsibility.

316.3 PLANNING AND PREVENTION

In order to facilitate the guidelines contained within this policy, bureau members will continuously work to build and strengthen relationships with the community, engage in dialogue, and provide education to the community about this policy. Bureau personnel are also encouraged to learn about the inherent issues concerning their communities in relation to hate crimes.

Although hate incidents may not always amount to criminal events, they can be indicators of, or precursors to, hate crimes. Hate incidents should be investigated and documented as part of an overall strategy to prevent hate crimes.

316.3.1 HATE CRIMES COORDINATOR

A bureau member appointed by the District Attorney or the authorized designee will serve as the Hate Crimes Coordinator. The responsibilities of the Hate Crimes Coordinator should include but not be limited to (Penal Code § 422.87):

- (a) Meeting with residents in target communities to allay fears; emphasizing the bureau's concern over hate crimes and related incidents; reducing the potential for counter-violence; and providing safety, security, and crime-prevention information. Cultural diversity education and immersion programs (if available) could facilitate this process.
- (b) Finding, evaluating, and monitoring public social media sources to identify possible suspects in reported hate crimes; to identify suspects or suspect groups in future hate

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crimes or hate incidents affecting individuals, groups, or communities that may be victimized; and to predict future hate-based events.

- (c) Providing direct and referral assistance to the victim and the victim's family.
- (d) Conducting public meetings on hate crime threats and violence in general.
- (e) Establishing relationships with formal community-based organizations and leaders.
- (f) Expanding, where appropriate, preventive programs such as hate, bias, and crime-reduction seminars for students.
- (g) Reviewing the Attorney General's latest opinion on hate crime statistics and targets in order to prepare and plan for future crimes, specifically for Arab/Middle Eastern and Muslim communities (Penal Code § 13519.6(b)(8)).
- (h) Providing orientation of and with communities of specific targeted victims such as immigrants, Muslims, Arabs, LGBTQ, black or African-American, Jewish, Sikh, and persons with disabilities.
- (i) Coordinating with the Chief Investigator to include in a training plan recognition of hate crime bias characteristics, including information on general underreporting of hate crimes.
- (j) Verifying a process is in place to provide this policy and related orders to investigators in the field; and taking reasonable steps to rectify the situation if such a process is not in place.
- (k) Taking reasonable steps to ensure hate crime data is provided to the Records Section for mandated reporting to the Department of Justice.
 - 1. Ensure the California Department of Justice crime data is posted monthly on the bureau website (Penal Code § 13023).
- (l) Reporting any suspected multi-mission extremist crimes to the agency Terrorism Liaison Officer, the assigned designee, or other appropriate resource; and verifying that such data is transmitted to the Joint Regional Information Exchange System in accordance with the protocols of the Records Section Policy.
- (m) Maintaining the bureau's supply of up-to-date hate crimes brochures (Penal Code § 422.92; Penal Code § 422.87).
- (n) Annually assessing this policy, including:
 - 1. Keeping abreast of the Commission on Peace Officer Standards and Training (POST) model policy framework for hate crimes for revisions or additions, including definitions, responsibilities, training resources, and planning and prevention methods.
 - 2. Analysis of the bureau's data collection as well as the available outside data (e.g., annual California Attorney General's report on hate crime) in preparation for and response to future hate crimes.

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316.3.2 RELEASE OF INFORMATION

Establishing a relationship with stakeholders, before any incident occurs, to develop a network and protocol for disclosure often assists greatly in any disclosure.

The benefit of public disclosure of hate crime incidents includes:

- (a) Dissemination of correct information.
- (b) Assurance to affected communities or groups that the matter is being properly and promptly investigated.
- (c) The ability to request information regarding the commission of the crimes from the victimized community.

Information or records relating to hate crimes subject to public disclosure shall be released as provided by the Records Maintenance and Release Policy or as allowed by law. In accordance with the Media Relations Policy, the supervisor, public information officer, or the authorized designee should be provided with information that can be responsibly reported to the media. When appropriate, the bureau spokesperson should reiterate that hate crimes will not be tolerated, will be investigated seriously, and will be prosecuted to the fullest extent of the law.

316.4 RESPONSE, VICTIM ASSISTANCE, AND FOLLOW-UP

316.4.1 INVESTIGATION

Investigators at the scene of, or performing follow-up investigation on, a suspected hate or bias crime or hate incident should take all actions deemed reasonably necessary, including but not limited to the following:

- (a) Consider typologies of perpetrators of hate crimes and incidents, including but not limited to thrill, reactive/defensive, and mission (hard core).
- (b) Utilize investigative techniques and methods to handle hate crimes or hate incidents in a professional manner.
- (c) Utilize proper techniques for interviewing people with disabilities and be aware of and provide appropriate accommodations (e.g., ADA standards, Braille, visuals, translators for the deaf or hard of hearing).
- (d) Properly investigate any report of a hate crime committed under the color of authority per Penal Code § 422.6 and Penal Code § 13519.6.
- (e) Document physical evidence or indicators of hate crimes, in accordance with the provisions of the Property and Evidence Policy, such as:
 - 1. Hate literature.
 - 2. Spray paint cans.
 - 3. Threatening letters.
 - 4. Symbols used by hate groups.
 - 5. Desecration of religious symbols, objects, or buildings.

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- (f) Request the assistance of translators or interpreters when needed to establish effective communication.
- (g) Conduct a preliminary investigation and record information regarding:
 - 1. Identity of suspected perpetrators.
 - 2. Identity of witnesses, including those no longer at the scene.
 - 3. Offer of victim confidentiality per Government Code § 7923.615.
 - 4. Prior occurrences, in this area or with this victim.
 - 5. Statements made by suspects; exact wording is critical.
 - 6. Document the victim's protected characteristics.
- (h) Provide victim assistance and follow-up.
- (i) Canvass the area for additional witnesses.
- (j) Examine suspect's social media activity for potential evidence of bias motivation.
- (k) Coordinate the investigation with bureau, state, and regional intelligence operations. These sources can provide the investigator with an analysis of any patterns, organized hate groups, and suspects potentially involved in the offense.
- (l) Coordinate the investigation with the crime scene investigation unit (if applicable) or other appropriate units of the Bureau.
- (m) Determine if the incident should be classified as a hate crime.
- (n) Take reasonable steps to provide appropriate assistance to hate crime victims, including the following measures:
 - 1. Contact victims periodically to determine whether they are receiving adequate and appropriate assistance.
 - 2. Provide ongoing information to victims about the status of the criminal investigation.
 - 3. Provide victims and any other interested persons the brochure on hate crimes per Penal Code § 422.92 and information on any local advocacy groups (if asked).
- (o) Document any suspected multi-mission extremist crimes.
- (p) Coordinate with other law enforcement agencies in the area to assess patterns of hate crimes and/or hate incidents, and determine if organized hate groups are involved.

316.5 TRAINING

All members of this bureau will receive POST-approved training on hate crime recognition and investigation as provided by Penal Code § 13519.6. Training should include (Penal Code § 422.87):

- (a) Recognition of bias motivators such as ranges of attitudes and perceptions toward a specific characteristic or group, including disability bias, gender bias, and religion bias.

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- (b) Accurate reporting by investigators, including information on the general underreporting of hate crimes.
- (c) Distribution of hate crime brochures.

Standards of Conduct

317.1 PURPOSE AND SCOPE

This policy establishes standards of conduct that are consistent with the values and mission of the Sonoma County District Attorney's Office and are expected of all bureau 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 or performance expectations that may be disseminated by this bureau or a member's supervisors.

317.2 POLICY

The continued employment or appointment of every member of the Sonoma 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.

317.3 DIRECTIVES AND ORDERS

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

317.3.1 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 bureau 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, bureau policy or other directive shall respectfully inform the issuing supervisor of the conflict. The issuing supervisor is responsible for either resolving the conflict or clarifying that the lawful order is intended to countermand the previous lawful order or directive, in which case the member is obliged to comply. Members who are compelled to follow a conflicting lawful order after having given the issuing supervisor the opportunity to correct the conflict, will not be held accountable for disobedience of the lawful order or directive that was initially issued.

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

317.3.2 SUPERVISOR RESPONSIBILITIES

The Supervising Investigator is 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.

317.4 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 adhere to the Law Enforcement Code of Ethics and the Mission Statement of the Sonoma County District Attorney's Office.

Members shall familiarize themselves with policies and procedures and are responsible for compliance with each. Members shall strive to maintain the expectations set forth by the District Attorney, Chief and Supervising District Attorney Investigator. 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. This policy is not intended to cover every possible type of misconduct.

317.5 CAUSES FOR DISCIPLINE

The following are illustrative of causes for disciplinary action. This list is not intended to cover every possible type of misconduct and does not preclude the recommendation of disciplinary action for violation of other rules, standards, ethics and specific action or inaction that is detrimental to efficient bureau service:

317.5.1 LAWS, RULES AND ORDERS

- (a) Violation of, or ordering or instructing a subordinate to violate any policy, procedure, rule, order, directive, expectation, requirement or failure to follow instructions contained in bureau or County manuals.
- (b) Disobedience of any legal directive or order issued by any bureau member of a higher rank.
- (c) Violation of federal, state, local or administrative laws, rules or regulations.

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317.5.2 ETHICS

- (a) Using or disclosing one's status as a member of the Sonoma County District Attorney's Office in any way that could reasonably be perceived as an attempt to gain influence or authority for nonbureau business or activity.
- (b) The wrongful or unlawful exercise of authority or position on the part of any member for malicious purpose, personal gain, willful deceit or any other improper purpose.
- (c) The receipt or acceptance of a reward, fee or gift from any person for service incident to the performance of the member's duties (lawful subpoena fees and authorized work permits excepted).
- (d) Acceptance of fees, gifts or money contrary to the rules of this bureau and/or laws of the state.
- (e) Offer or acceptance of a bribe or gratuity.
- (f) Misappropriation or misuse of public funds, property, personnel or services.
- (g) Any other failure to abide by the standards of ethical conduct.

317.5.3 DISCRIMINATION, OPPRESSION, OR FAVORITISM

Unless required by law or policy, discriminating against, oppressing, or providing favoritism to any person because of actual or perceived characteristics such as race, ethnicity, national origin, religion, sex, sexual orientation, gender identity or expression, age, disability, economic status, cultural group, veteran status, marital status, and any other classification or status protected by law, or intentionally denying or impeding another in the exercise or enjoyment of any right, privilege, power, or immunity, knowing the conduct is unlawful.

317.5.4 RELATIONSHIPS

- (a) Unwelcome solicitation of a personal or sexual relationship while on duty or through the use of one's official capacity.
- (b) Engaging in on-duty sexual activity, including but not limited to sexual intercourse, excessive displays of public affection, or other sexual contact.
- (c) Establishing or maintaining an inappropriate personal or financial relationship, as a result of an investigation, with a known victim, witness, suspect, or defendant while a case is being investigated or prosecuted, or as a direct result of any official contact.
- (d) Associating with or joining a criminal gang, organized crime, and/or criminal syndicate when the member knows or reasonably should know of the criminal nature of the organization. This includes any organization involved in a definable criminal activity or enterprise, except as specifically directed and authorized by this bureau.
- (e) Associating on a personal, rather than official basis with persons who demonstrate recurring involvement in serious violations of state or federal laws after the member knows, or reasonably should know of such criminal activities, except as specifically directed and authorized by this bureau.
- (f) Participation in a law enforcement gang as defined by Penal Code § 13670. Participation is grounds for termination (Penal Code § 13670).

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317.5.5 ATTENDANCE

- (a) Leaving the job to which the member is assigned during duty hours without reasonable excuse and proper permission and approval.
- (b) Unexcused or unauthorized absence or tardiness.
- (c) Excessive absenteeism or abuse of leave privileges.
- (d) Failure to report to work or to the place of assignment at the time specified and fully prepared to perform duties without reasonable excuse.

317.5.6 UNAUTHORIZED ACCESS, DISCLOSURE, OR USE

- (a) Unauthorized and inappropriate intentional release of confidential or protected information, materials, data, forms, or reports obtained as a result of the member's position with this bureau.
 - (a) Members of this bureau shall not disclose the name, address, or image of any victim of human trafficking except as authorized by law (Penal Code § 293).
 - (b) Members of this bureau shall not disclose the name, address, personal contact information, familial details, associations, location or image of any member of the Sonoma County District Attorney's Office without the knowledge and consent of that office member or specific direction from the District Attorney.
- (b) Disclosing to any unauthorized person any active investigation information.
- (c) The use of any information, photograph, video, or other recording obtained or accessed as a result of employment or appointment to this bureau for personal or financial gain or without the express authorization of the District Attorney or the authorized designee.
- (d) Loaning, selling, allowing unauthorized use, giving away, or appropriating any bureau property for personal use, personal gain, or any other improper or unauthorized use or purpose.
- (e) Using bureau resources in association with any portion of an independent civil action. These resources include but are not limited to personnel, vehicles, equipment, and nonsubpoenaed records.
- (f) Disclosing to any unauthorized person the location or activities of any member of the Sonoma County District Attorney's Office.

317.5.7 EFFICIENCY

- (a) Neglect of duty.
- (b) Unsatisfactory work performance including but not limited to failure, incompetence, inefficiency, or delay in performing and/or carrying out proper orders, work assignments, or the instructions of supervisors without a reasonable and bona fide excuse.
- (c) Concealing, attempting to conceal, removing, or destroying defective or incompetent work.

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- (d) Unauthorized sleeping during on-duty time or assignments.
- (e) Failure to notify the Bureau by the next business day of any change in residence address or contact numbers.

317.5.8 PERFORMANCE

- (a) Failure to disclose or misrepresenting material facts, or making any false or misleading statement on any application, examination form, or other official document, report or form, or during the course of any workrelated investigation.
- (b) The falsification of any work-related records, making misleading entries or statements with the intent to deceive or the willful and unauthorized removal, alteration, destruction and/or mutilation of any bureau record, public record, book, paper or document.
- (c) Failure to participate in, or giving false or misleading statements, or misrepresenting or omitting material information to a supervisor or other person in a position of authority, in connection with any investigation or in the reporting of any bureau related business.
- (d) Being untruthful or knowingly making false, misleading or malicious statements that are reasonably calculated to harm the reputation, authority or official standing of this bureau or its members.
- (e) Disparaging remarks or conduct concerning duly constituted authority to the extent that such conduct disrupts the efficiency of this bureau or subverts the good order, efficiency and discipline of this bureau or that would tend to discredit any of its members.
- (f) Unlawful gambling or unlawful betting at any time or any place. Legal gambling or betting under any of the following conditions:
 - (a) While on bureau premises.
 - (b) At any work site, while on--duty, or while using any bureau equipment or system.
 - (c) Gambling activity undertaken as part of an investigator official duties and with the express knowledge and permission of a direct supervisor is exempt from this prohibition.
- (g) Improper political activity including:
 - (a) Unauthorized attendance while on-duty at official legislative or political sessions.
 - (b) Solicitations, speeches or distribution of campaign literature for or against any political candidate or position while on duty or, on bureau property except as expressly authorized by County policy, the memorandum of understanding, or the District Attorney.
- (h) Engaging in political activities during assigned working hours except as expressly authorized by County policy, the memorandum of understanding, or the District Attorney.
- (i) Any act on- or off--duty that brings discredit to the Sonoma County District Attorney's Office or the Investigations Bureau.

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317.5.9 CONDUCT

- (a) Failure of any member to promptly and fully report activities on his/her part or the part of any other member where such activities resulted in contact with any other law enforcement agency or that may result in criminal prosecution or discipline under this policy.
- (b) Unreasonable and unwarranted force to a person encountered or a person under arrest.
- (c) Exceeding lawful peace officer powers by unreasonable, unlawful or excessive conduct.
- (d) Unauthorized or unlawful fighting, threatening or attempting to inflict unlawful bodily harm on another.
- (e) Engaging in horseplay that reasonably could result in injury or property damage.
- (f) Discourteous, disrespectful or discriminatory treatment of any member of the public or any member of the District Attorney's Office, this bureau or the County.
- (g) Unwarranted use of obscene, indecent, profane or derogatory language while on-duty or while representing the District Attorney's Office.
- (h) Criminal, dishonest, or disgraceful conduct, whether on- or off-duty, that adversely affects the member's relationship with this bureau.
- (i) Unauthorized possession of, loss of, or damage to bureau property or the property of others, or endangering it through carelessness or maliciousness.
- (j) Attempted or actual theft of bureau property; misappropriation or misuse of public funds, property, personnel or the services or property of others; unauthorized removal or possession of bureau property or the property of another person.
- (k) Activity that is incompatible with a member's conditions of employment or appointment as established by law or that violates a provision of any memorandum of understanding or contract to include fraud in securing the appointment or hire.
- (l) Initiating any civil action for recovery of any damages or injuries incurred in the course and scope of employment or appointment without first notifying the District Attorney of such action.
- (m) Any other on or off duty conduct which any member knows or reasonably should know is unbecoming a member of this bureau, is contrary to good order, efficiency or morale, or tends to reflect unfavorably upon this bureau or its members.

317.5.10 SAFETY

- (a) Failure to observe or violating bureau safety standards or safe working practices.
- (b) Failure to maintain current licenses or certifications required for the assignment or position (e.g., driver license, first aid).
- (c) Failure to maintain good physical condition sufficient to adequately and safely perform law enforcement duties.

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- (d) Unsafe firearm or other dangerous weapon handling to include loading or unloading firearms in an unsafe manner, either on- or off- duty.
- (e) Carrying, while on the premises of the work place, any firearm or other lethal weapon that is not authorized by the member's appointing authority.
- (f) Unsafe or improper driving habits or actions in the course of employment or appointment.
- (g) Any personal action contributing to a preventable traffic collision.
- (h) Concealing or knowingly failing to report any on-the-job or work-related accident or injury as soon as practicable but within 24 hours.

317.5.11 INTOXICANTS

- (a) Reporting for work or being at work while intoxicated or when the member's ability to perform assigned duties is impaired due to the use of alcohol, medication or drugs, whether legal, prescribed or illegal. The Sonoma County District Attorney's Office has a "ZERO TOLERANCE" policy and any measurable amount of alcohol or any intoxicant on-duty is a violation of this policy.
- (b) Possession or use of alcohol at any work site or while on-duty, except as authorized in the performance of an official assignment.
- (c) Unauthorized possession, use of, or attempting to bring a controlled substance, illegal drug or non-prescribed medication to any work site or county-owned vehicle.
- (d) Carrying, while on the premises of the work place, while operating a county-owned vehicle or while in the performance of duties, any firearm or other lethal weapon with any measurable amount of alcohol or intoxicant.
- (e) Violation of this policy can result in discipline, up to and including termination.

Information Technology Use

318.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidelines for the proper use of Sonoma County District Attorney's Office Investigations Bureau information technology resources, including computers, electronic devices, hardware, software and systems.

318.1.1 DEFINITIONS

Definitions related to this policy include:

Computer system - All computers (on-site and portable), electronic devices, hardware, software, and resources owned, leased, rented or licensed by the Sonoma County District Attorney's Office that are provided for official use by its members. This includes all access to, and use of, Internet Service Providers (ISP) or other service providers provided by or through the Bureau or bureau funding.

Hardware - Includes, but is not limited to, computers, computer terminals, network equipment, electronic devices, telephones, including cellular and satellite, modems or any other tangible computer device generally understood to comprise hardware.

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

Temporary file, permanent file or file - Any electronic document, information or data residing or located, in whole or in part, on the system including, but not limited to, spreadsheets, calendar entries, appointments, tasks, notes, letters, reports, messages, photographs or videos.

318.2 POLICY

It is the policy of the Sonoma County District Attorney's Office that members shall use information technology resources, including computers, software and systems, that are issued or maintained by the Investigations Bureau in a professional manner and in accordance with this policy.

318.3 PRIVACY EXPECTATION

Members forfeit any expectation of privacy with regard to emails, texts, or anything published, shared, transmitted, or maintained through file-sharing software or any internet site that is accessed, transmitted, received, or reviewed on any Sonoma County District Attorney's Office computer system.

The Sonoma County District Attorney's Office reserves the right to access, audit, and disclose, for whatever reason, any message, including attachments, and any information accessed, transmitted, received, or reviewed over any technology that is issued or maintained by the District Attorney's Office, including the bureau email system, computer network, and/or any information placed into storage on any bureau system or device. This includes records of all keystrokes or Web-browsing history made at any bureau computer or over any County network. The fact that

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access to a database, service, or website requires a username or password will not create an expectation of privacy if it is accessed through bureau computers, electronic devices, or networks.

The Investigations Bureau shall not require a member to disclose a personal username or password for accessing personal social media or to open a personal social website; however, the Bureau may request access when it is reasonably believed to be relevant to the investigation of allegations of work-related misconduct (Labor Code § 980).

318.4 RESTRICTED USE

Members shall not access computers, devices, software or systems for which they have not received prior authorization or the required training. Members shall immediately report unauthorized access or use of computers, devices, software or systems by another member to their supervisors or Supervising Investigators.

Members shall not use another person's access passwords, logon information and other individual security data, protocols and procedures unless directed to do so by a supervisor. Members shall not divulge their own or another person's access passwords, logon information and other individual security data, protocols and procedures unless directed to do so by a supervisor. Members shall immediately report to a supervisor or manager any real or perceived breach of information systems.

318.4.1 SOFTWARE

Members shall not copy or duplicate any copyrighted or licensed software in accordance with the software company's copyright and license agreement.

To reduce the risk of a computer virus or malicious software, members shall not install any unlicensed or unauthorized software on any bureau computer. Members shall not install personal copies of any software onto any bureau computer.

When related to criminal investigations, software program files may be downloaded only with the approval of the information systems technology (IT) staff and with the authorization of the District Attorney or the authorized designee.

No member shall knowingly make, acquire or use unauthorized copies of computer software that is not licensed to the Bureau while on bureau premises, computer systems or electronic devices.

Any other introduction of software on County computer systems or electronic devices requires prior authorization from IT staff and a full scan for malicious attachments.

318.4.2 HARDWARE

Access to technology resources provided by or through the Sonoma County District Attorney's Office Investigations Bureau shall be strictly limited to bureau-related activities. Data stored on or available through bureau computer systems shall only be accessed by authorized members who are engaged in an active investigation or assisting in an active investigation, or who otherwise have a legitimate law enforcement or bureau-related purpose to access such data. Any exceptions to this policy must be approved by a supervisor.

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318.4.3 INTERNET USE

Internet access provided by or through the Sonoma County District Attorney's Office Investigations Bureau shall be strictly limited to bureau-related activities. Internet sites containing information that is not appropriate or applicable to bureau use and which shall not be intentionally accessed include but are not limited to adult forums, pornography, gambling, chat rooms, and similar or related internet sites. Certain exceptions may be permitted with the express approval of a supervisor as a function of a member's assignment.

Downloaded information shall be limited to messages, mail, and data files.

318.4.4 OFF-DUTY USE

Members shall only use technology resources provided by the Bureau while on-duty or in conjunction with specific on-call assignments unless specifically authorized by a supervisor. This includes the use of telephones, cell phones, texting, email or any other "off the clock" work-related activities. This also applies to personally owned devices that are used to access bureau resources.

Refer to the Personal Communication Devices Policy for guidelines regarding off-duty use of personally owned technology.

318.5 PROTECTION OF AGENCY SYSTEMS AND FILES

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

Members shall ensure bureau computers and access terminals are not viewable by persons who are not authorized users. Computers and terminals should be secured, users logged off and password protections enabled whenever the user is not present. Access passwords, logon information, and other individual security data, protocols, and procedures are confidential information and are not to be shared. Password length, format, structure, and content shall meet the prescribed standards required by the computer system or as directed by a supervisor and shall be changed at intervals as directed by IT staff or a supervisor.

It is prohibited for a member to allow an unauthorized user to access the computer system at any time or for any reason. Members shall promptly report any unauthorized access to the computer system or suspected intrusion from outside sources (including the internet) to a supervisor.

318.6 INSPECTION OR REVIEW

A manager, supervisor or the authorized designee has the express authority to inspect or review the computer system, all temporary or permanent files, related electronic systems or devices, and any contents thereof, whether such inspection or review is in the ordinary course of his/her supervisory duties or based on cause. Any such inspection or review shall require the prior direction of or with the full knowledge of the District Attorney or the Chief Investigator.

Reasons for inspection or review may include, but are not limited to, computer system malfunctions, problems or general computer system failure, a lawsuit against the County, District Attorney's Office or the Investigations Bureau involving one of its members or a member's duties,

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an alleged or suspected violation of any bureau policy, a request for disclosure of data, or a need to perform or provide a service.

The IT staff may extract, download or otherwise obtain any and all temporary or permanent files residing or located in or on the bureau computer system when requested by a supervisor or during the course of regular duties that require such information.

Bureau Use of Social Media

319.1 PURPOSE AND SCOPE

This policy provides guidelines to ensure that any use of social media on behalf of the Sonoma County District Attorney's Office Investigations Bureau is consistent with the mission.

This policy does not address all aspects of social media use. Specifically, it does not address:

- Personal use of social media by bureau members (see the Employee Speech, Expression and Social Networking Policy).
- Use of social media in personnel processes (see the Recruitment and Selection Policy).
- Use of social media as part of a criminal investigation, other than disseminating information to the public on behalf of this bureau (see the Investigation and Prosecution Policy).

319.1.1 DEFINITIONS

Definitions related to this policy include:

Social media - Any of a wide array of Internet-based tools and platforms that allow for the sharing of information, such as the bureau website or social networking services

319.2 POLICY

The Sonoma County District Attorney's Office may use social media as a method of effectively informing the public about bureau services, issues, investigations and other relevant events.

Bureau members shall ensure that the use or access of social media is done in a manner that protects the constitutional rights of all.

319.3 AUTHORIZED USERS

Only members authorized by the District Attorney or the authorized designee may utilize social media on behalf of the Investigations Bureau.

The District Attorney may develop specific guidelines identifying the type of content that may be posted.

Requests to post information over the Sonoma County District Attorney's Office social media by members who are not authorized to post should be made through the member's chain of command.

Report Preparation

320.1 PURPOSE AND SCOPE

Report preparation is a major part of each investigator's job. The purpose of reports is to document information for follow-up investigation and successful prosecution.

320.1.1 REPORT PREPARATION

District Attorney Investigators should be exemplary report writers. DAIs should ensure that reports are sufficiently detailed for their purpose and free from errors prior to submission. It is the responsibility of the assigned employee to complete and submit all reports in a timely manner so as not to impede the judicial process.

Handwritten reports are prohibited. All reports shall be completed electronically, on the appropriate forms, and submitted to the Supervising DAI for approval. DAIs shall not enter unapproved or editable reports into the system.

All reports shall accurately reflect the identity of the persons involved, all pertinent information seen, heard or assimilated by any other sense, and any actions taken. Employees shall not suppress, conceal or distort the facts of any reported incident, nor shall any employee make a false report orally or in writing. Generally, the reporting employee's opinions should not be included in reports unless specifically identified as such.

320.2 REQUIRED REPORTING

Written reports are required in all of the following situations on the appropriate bureau approved form unless otherwise approved by a supervisor.

320.2.1 CRIMINAL ACTIVITY

When a member becomes aware of any activity where a crime has occurred, the member shall document the incident regardless of whether a victim desires prosecution. Activity to be documented in a written report includes:

- (a) All arrests
- (b) All felony crimes
- (c) Non-Felony incidents involving threats or stalking behavior
- (d) Situations covered by separate policy. These include:
 - 1. Use of Force Policy
 - 2. Domestic Violence Policy
 - 3. Child Abuse Policy
 - 4. Senior and Disability Victimization Policy
 - 5. Hate Crimes Policy
 - 6. Suspicious Activity Reporting Policy

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- (e) All misdemeanor crimes where the victim desires a report

320.2.2 NON-CRIMINAL ACTIVITY

The following incidents shall be documented using the appropriate approved report or memorandum:

- (a) Anytime an investigator points a firearm at any person to effect compliance
- (b) Any use of force against any person, to effect compliance, by a member of this bureau (see the Use of Force Policy)
- (c) Any firearm discharge except when attending range training (see the Firearms Policy)
- (d) Anytime a person is reported missing, regardless of jurisdiction (see the Missing Persons Policy)
- (e) Any found property or found evidence
- (f) Any traffic collisions involving the DAI's assigned county vehicle or personal vehicle used for county business (see Traffic Collision Reporting Policy)
- (g) Suspicious incidents that may indicate a potential for crimes against children or that a child's safety is in jeopardy
- (h) All protective custody detentions
- (i) Suspicious incidents that may place the public or others at risk
- (j) Whenever the employee believes the circumstances should be documented or at the direction of a supervisor

320.2.3 INJURY OR DAMAGE BY COUNTY PERSONNEL

Reports shall be taken if an injury occurs that is a result of an act of a County employee. Additionally, reports shall be taken involving damage to County property or County equipment.

The above reporting requirements are not intended to be all-inclusive. A supervisor may direct an employee to document any incident he/she deems necessary.

320.3 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.

320.4 REPORT CORRECTIONS

The Supervising DAI or Chief Investigator shall review reports for content and accuracy. If a correction is necessary, the reviewing supervisor should contact the DAI and explain reasons for rejection and corrections necessary. It shall be the responsibility of the originating investigator to ensure that any report returned for correction is processed in a timely manner.

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320.5 REPORT CHANGES OR ALTERATIONS

Reports that have been approved by a supervisor and uploaded into the system shall not be modified or altered except by way of a supplemental report. Reports may be corrected or unsubstantially modified by the reviewing supervisor for correction of minor grammar, spelling or syntactical errors.

320.6 ELECTRONIC SIGNATURES

The Sonoma County District Attorney's Office has established an electronic signature procedure for use by all employees of the Sonoma County District Attorney's Office.

- Employees may only use their electronic signature for official reports or other official communications.
- Each employee shall be responsible for the security and use of his/her electronic signature and shall promptly notify a supervisor if the electronic signature has or may have been compromised or misused.

Media Relations

321.1 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.

321.2 RESPONSIBILITIES

The ultimate authority and responsibility for the release of information to the media shall remain with the District Attorney. In situations not warranting immediate notice to the District Attorney and in situations where the District Attorney has given prior approval, the Chief Investigator,, and designated Public Information Officers (PIOs) may prepare and release information to the media in accordance with this policy and the applicable laws regarding confidentiality.

321.3 ACCESS

Authorized media representatives shall be provided access to scenes of disasters, criminal investigations, emergencies, and other law enforcement activities as required by law.

Access by the media is 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. Based upon available resources, reasonable effort should be made to provide a safe staging area for the media that is near the incident and that will not interfere with emergency or criminal investigation operations. All information released to the media should be coordinated through the PIO or other designated spokesperson.
- (c) No member of this bureau who is under investigation shall be subjected to media visits or interviews without the consent of the involved member (Government Code § 3303(e)).
- (d) Media interviews with individuals who are in custody should not be permitted without the approval of the District Attorney and the express consent of the person in custody.

321.3.1 CRITICAL OPERATIONS

A critical incident or tactical operation should be handled in the same manner as a crime scene, except the media should not be permitted within the inner perimeter of the incident, subject to any restrictions as determined by the supervisor in charge. Bureau members shall not jeopardize a critical incident or tactical operation in order to accommodate the media. All comments to the media shall be coordinated through a supervisor or the PIO.

321.3.2 TEMPORARY FLIGHT RESTRICTIONS

Whenever the presence of media or other aircraft pose a threat to public or member safety or significantly hamper incident operations, the field supervisor should consider requesting

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a Temporary Flight Restriction (TFR). All requests for a TFR should be routed through the Supervising 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 (FAA) should be contacted (14 CFR 91.137).

321.4 POLICY

It is the policy of the Sonoma County District Attorney's Office to protect the privacy rights of individuals, while releasing non-confidential information to the media regarding topics of public concern. Information that has the potential to negatively affect investigations will not be released.

321.5 PROVIDING ADVANCE INFORMATION

To protect the safety and rights of investigators and other persons, advance information about planned actions by law enforcement personnel, such as movement of persons in custody or the execution of an arrest or search warrant, should not be disclosed to the media, nor should media representatives be invited to be present at such actions except with the prior approval of the District Attorney.

Any exceptions to the above should only be considered for the furtherance of legitimate law enforcement purposes. Prior to approving any exception, the District Attorney will consider, at a minimum, whether the release of information or presence of the media would unreasonably endanger any individual, prejudice the rights of any person, or is otherwise prohibited by law.

321.6 MEDIA REQUESTS

Any media request for information or access to a law enforcement incident shall be referred to the PIO, or if unavailable, to the first available supervisor. Prior to releasing any information to the media, members shall consider the following:

- (a) At no time shall any member of this bureau make any comment or release any official information to the media without prior approval from a supervisor or the PIO.
- (b) In situations involving multiple agencies or government departments, 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 bureau.
- (c) Under no circumstance should any member of this bureau make any comments to the media regarding any law enforcement incident not involving this bureau without prior approval of the District Attorney. Under these circumstances the member should direct the media to the agency handling the incident.

321.7 CONFIDENTIAL OR RESTRICTED INFORMATION

It shall be the responsibility of the PIO to ensure that confidential or restricted information is not inappropriately released to the media (see the Records Maintenance and Release and Personnel Records policies). When in doubt, authorized and available legal counsel should be consulted prior to releasing any information.

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321.7.1 EMPLOYEE INFORMATION

The identities of investigators involved in shootings or other critical incidents may only be released to the media upon the consent of the involved investigator or upon a formal request filed.

Any requests for copies of related reports or additional information not contained in the information log (see the Information Log section in this policy), including the identity of investigators involved in shootings or other critical incidents, shall be referred to the PIO.

Requests should be reviewed and fulfilled by the Custodian of Records, or if unavailable, the Supervising Investigator or the authorized designee. Such requests will be processed in accordance with the provisions of the Records Maintenance and Release Policy and public records laws.

321.8 RELEASE OF INFORMATION

The Bureau may routinely release information to the media without receiving a specific request. This may include media releases regarding critical incidents, information of public concern, updates regarding significant incidents, or requests for public assistance in solving crimes or identifying suspects. This information may also be released through the bureau website or other electronic data sources.

Subpoenas and Court Appearances

322.1 PURPOSE AND SCOPE

This policy establishes the guidelines for bureau members who must appear in court.

322.2 POLICY

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

322.3 SUBPOENAS

Only District Attorney's Office members authorized to receive a subpoena on behalf of this bureau 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 bureau 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)).

322.3.1 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.
- (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.

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- (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 Sonoma 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 Sonoma County District Attorney's Office.

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

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

322.3.2 CIVIL SUBPOENA

The County 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. DAIs who appear in their official capacities on civil matters arising out of their official duties should attend court during normal business hours.

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

322.3.3 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.

322.4 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.

322.5 STANDBY

To facilitate standby agreements, members are required to provide and maintain current information on their addresses and contact telephone numbers with the Bureau and the District Attorney's Office.

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.

322.6 COURTROOM PROTOCOL

When appearing in court, members shall:

- (a) Be punctual and prepared to proceed immediately with the case for which they are scheduled to appear.

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- (b) Dress in business attire.
- (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.

322.6.1 TESTIMONY

Before the date of testifying, the subpoenaed member shall become familiar with the content in order to be prepared for court.

322.7 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

323.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidance to members when requesting or responding to a request for mutual aid or when assisting another law enforcement agency.

323.2 POLICY

It is the policy of the Sonoma County District Attorney's Office to promptly respond to requests for assistance by other law enforcement agencies, subject to available resources and consistent with the applicable laws and policies of the Investigations bureau.

323.3 ASSISTING OUTSIDE AGENCIES

When another law enforcement agency requests assistance from this bureau, the Chief or Supervising Investigator may authorize, if available, an appropriate number of personnel to assist. Members are reminded that their actions when rendering assistance must conform with applicable laws and be consistent with the policies of this bureau.

Investigators may respond to a request for emergency assistance, however, they shall notify a supervisor of their activity as soon as practicable.

Arrestees and probation violators may be temporarily detained by this bureau until arrangements for transportation are made by the outside agency. Only in exceptional circumstances, and subject to supervisor approval, will this bureau provide transportation of arrestees to other facilities on behalf of another agency.

When transportation assistance is rendered, a report shall be prepared and submitted by the handling member unless otherwise directed by a supervisor.

323.3.1 INITIATED ACTIVITY

Any on-duty investigator who engages in law enforcement activities of any type that are not part of a mutual aid request shall notify his/her supervisor or the Supervising Investigator and Sheriff's Dispatch as soon as practicable. This requirement does not apply to special enforcement details or multi-agency units that regularly work in multiple jurisdictions.

323.4 REQUESTING OUTSIDE ASSISTANCE

If assistance is needed from another agency, the member requesting assistance should, if practicable, first notify a supervisor. The handling member or supervisor should direct assisting personnel to where they are needed and to whom they should report when they arrive.

The requesting member should arrange for appropriate radio communication capabilities, if necessary and available, so that communication can be coordinated among personnel.

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323.5 REPORTING REQUIREMENTS

Incidents of outside assistance or law enforcement activities that are not documented in a supplemental report to the original crime report of the agency of jurisdiction shall be documented in a memorandum or as directed by the Supervising Investigator.

Major Incident Notification

324.1 PURPOSE AND SCOPE

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

324.2 POLICY

The Sonoma County District Attorney's Office recognizes that certain incidents should be brought to the attention of supervisors or other specified personnel of this bureau to facilitate the coordination of activities and ensure that inquiries from the media and the public may be properly addressed.

324.3 MINIMUM CRITERIA FOR NOTIFICATION

Most situations where the media show a strong interest are also of interest to the District Attorney and the affected law enforcement agency jurisdiction. It is expected that all District Attorney Investigators use sound judgment in evaluating incidents and the necessity for advising appropriate supervisory personnel. The following list of incident types is provided as a guide for notification and is not intended to be all inclusive:

- Homicides
- Traffic accidents with fatalities
- Officer-involved shooting - on or off duty (see Officer-Involved Shootings and Deaths Policy for special notifications)
- Significant injury or death to employee - on or off duty
- Death of a prominent County of Sonoma official
- Arrest of a DA's Office employee or prominent County of Sonoma official
- Aircraft crash with major damage and/or injury or death
- In-custody deaths

324.4 SUPERVISING INVESTIGATOR RESPONSIBILITY

Upon receiving the initial notification, the Supervising Investigator is responsible for making the appropriate notifications to the Chain of Command. The Supervising Investigator shall make reasonable attempts to obtain as much information on the incident as possible before notification. The Supervising Investigator shall attempt to make the notifications as soon as practicable. Notification should be made by calling the available contact numbers for the Investigations Chief and District Attorney's Office managers. In some instances, the Supervising Investigator may contact the District Attorney directly.

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324.4.1 STAFF NOTIFICATION

In the event an incident occurs described in the Major Incident Notification Policy, the District Attorney shall be notified along with the Investigations Chief. Additional notifications and response requests will be determined by the District Attorney Managers.

Communications with Persons with Disabilities

325.1 PURPOSE AND SCOPE

This policy provides guidance to members when communicating with individuals with disabilities, including those who are deaf or hard of hearing, have impaired speech or vision, or are blind.

325.1.1 DEFINITIONS

Definitions related to this policy include:

Auxiliary aids - Tools used to communicate with people who have a disability or impairment. They include, but are not limited to, the use of gestures or visual aids to supplement oral communication; a notepad and pen or pencil to exchange written notes; a computer or typewriter; an assistive listening system or device to amplify sound; a teletypewriter (TTY) or videophones (video relay service or VRS); taped text; qualified readers; or a qualified interpreter.

Disability or impairment - A physical or mental impairment that substantially limits a major life activity, including hearing or seeing, regardless of whether the disabled person uses assistive or adaptive devices or auxiliary aids. Individuals who wear ordinary eyeglasses or contact lenses are not considered to have a disability (42 USC § 12102).

Qualified interpreter - A person who is able to interpret effectively, accurately and impartially, both receptively and expressively, using any necessary specialized vocabulary. Qualified interpreters include oral interpreters, translators, sign language interpreters and intermediary interpreters.

325.2 POLICY

It is the policy of the Sonoma County District Attorney's Office to reasonably ensure that people with disabilities, including victims and witnesses, have equal access to our services, programs and activities. Members must make efforts to communicate effectively with individuals with disabilities.

The Bureau will not discriminate against or deny any individual access to services, rights or programs based upon disabilities.

325.3 FACTORS TO CONSIDER

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

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- (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.

325.4 INITIAL AND IMMEDIATE CONSIDERATIONS

Members should remain alert to the possibility of communication problems.

Members should exercise special care in the use of all gestures, and verbal and written communication to minimize initial confusion and misunderstanding when dealing with any individual with known or suspected disabilities.

In a non-emergency situation, when a member knows or suspects an individual requires assistance to effectively communicate, the member shall identify the individual's choice of auxiliary aid or service.

The individual's preferred communication method must be honored unless another effective method of communication exists under the circumstances (28 CFR 35.160).

Factors to consider when determining whether an alternative method is effective include:

- (a) The methods of communication usually used by the individual.
- (b) The nature, length and complexity of the communication involved.
- (c) The context of the communication.

In emergency situations involving an imminent threat to the safety or welfare of any person, members may use whatever auxiliary aids and services that reasonably appear effective under the circumstances.

325.5 TYPES OF ASSISTANCE AVAILABLE

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

325.6 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

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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 bureau-approved procedures to request a qualified interpreter at the earliest reasonable opportunity, and no individual who is disabled shall be required to provide his/her own interpreter (28 CFR 35.160). DAIs should communicate early and frequently with the assigned Deputy District Attorney and/or assigned Victim Advocate to ensure that a person with a disability is supported throughout the judicial process.

325.7 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).

Adults may be relied upon when (28 CFR 35.160):

- (a) There is an emergency or critical situation and there is no qualified interpreter reasonably available.
- (b) The person with the disability requests that the adult interpret or facilitate communication and the adult agrees to provide such assistance, and reliance on that adult for such assistance is reasonable under the circumstances.

325.8 REPORTING

Whenever any member of this bureau 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 Bureau or some other identified source. If the individual's express preference is not honored, the member must document why another method of communication was used.

All written communications exchanged in a criminal case shall be attached to the report or placed into evidence.

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325.9 IN-FIELD ACTION

In-Field actions will generally include such contacts as serving warrants and restraining orders and other routine field contacts that may involve individuals with disabilities. The scope and nature of these activities and contacts will inevitably vary.

The Bureau recognizes that it would be virtually impossible to provide immediate access to complete communication services to every member of this bureau. 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 in-field action.

325.10 COMPLAINTS

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

Investigations into such complaints shall be handled in accordance with the County of Sonoma Personnel Complaints Policy. Qualified interpreters used during the investigation of a complaint should not be members of this Bureau.

Private Persons Arrests

326.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidance for the handling of private person's arrests made pursuant to Penal Code § 837.

326.1.1 INVESTIGATOR RESPONSIBILITIES

Sonoma County District Attorney's Office Investigators should use sound discretion in determining whether or not to advise an individual of the Private Persons Arrest process. In all instances, the Investigator should request a response from the law enforcement agency of jurisdiction. The investigator can, if requested, provide the responding agency a supplemental to the arrest report or other documentation.

Limited English Proficiency Services

328.1 PURPOSE AND SCOPE

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

328.1.1 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 Sonoma County District Attorney's Office, designated by the Bureau, who has the 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).

328.2 POLICY

It is the policy of the Sonoma County District Attorney's Office to reasonably ensure that LEP individuals have meaningful access to law enforcement services provided by the District Attorney's Office through the Investigations Bureau, 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.

328.3 WRITTEN FORMS AND GUIDELINES

Vital documents or those that are frequently used should be translated into languages most likely to be encountered. The District Attorney's Office will make efforts to have translated documents available to members and other appropriate individuals, as necessary.

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328.4 QUALIFIED BILINGUAL MEMBERS

Bilingual members may be qualified to provide LEP services when they have demonstrated through established bureau procedures a sufficient level of skill and competence to fluently communicate in both English and a non-English language. Members utilized for LEP services must demonstrate knowledge of the functions of an interpreter/translator and be certified by the County of Sonoma as having successfully passed their qualification standards.

When a qualified bilingual member from this bureau is not available, personnel from other County departments, who have been identified by the Bureau as having the requisite skills and competence, may be requested.

328.5 SOURCES OF AUTHORIZED INTERPRETERS

The Bureau 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 bureau 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 bureau, and with whom the Bureau has a resource-sharing or other arrangement that they will interpret according to bureau guidelines.

328.6 RECEIVING AND RESPONDING TO REQUESTS FOR ASSISTANCE

The Sonoma 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.

328.7 IN-FIELD ACTIONS

In-Field action will generally include such contacts as serving subpoenas and restraining orders 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.

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

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.

328.8 COMPLAINTS

The Bureau shall ensure that LEP individuals who wish to file a complaint regarding members of this bureau are able to do so. The Bureau may provide an authorized interpreter, email in a language-accessible manner 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.

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.

Biological Samples

329.1 PURPOSE AND SCOPE

This policy provides guidelines for the collection of biological samples from those individuals required to provide samples upon conviction or arrest for certain offenses. This policy does not apply to biological samples collected at a crime scene or taken from a person in conjunction with a criminal investigation. Nor does it apply to biological samples from those required to register, for example, sex offenders.

329.2 POLICY

The Sonoma County District Attorney's Office will assist in the expeditious collection of required biological samples from offenders in accordance with the laws of this state and with as little reliance on force as practicable. The Sonoma District Attorney's Office does not have the physical capacity to store biological samples as evidence, nor the personnel specifically trained for the collection of biological samples. Investigators should coordinate the collection, storage and submission of biological samples with outside agencies so that the chain of custody is respected and maintained.

Public Safety Video Surveillance System

330.1 PURPOSE AND SCOPE

This policy provides guidance for the placement and monitoring of Sonoma County District Attorney's Office Investigations bureau public safety video surveillance, as well as the storage and release of the captured images.

This policy only applies to the covert, unmarked public safety video surveillance systems operated by the Bureau within the District Attorney's Office. It does not apply to mobile audio/video systems, covert audio/video systems or any other image-capturing devices used by the Bureau.

330.2 POLICY

The Sonoma County District Attorney's Office operates a public safety video surveillance system to complement its strategy, to effectively allocate and deploy personnel, and to enhance public safety and security in public lobby areas. Cameras may be placed in strategic locations throughout the District Attorney's Office and Sonoma County Family Justice Center public access areas to detect and deter crime, to help safeguard against potential threats to the public, to help manage emergency response situations during natural and man-made disasters and to assist County officials in providing services to the community.

Video surveillance in public areas will be conducted in a legal and ethical manner while recognizing and protecting constitutional standards of privacy.

There is no expectation of privacy in the public lobby of the District Attorney's Office or the Sonoma County Family Justice Center where the camera system is installed and operational.

330.3 OPERATIONAL GUIDELINES

330.3.1 PLACEMENT AND MONITORING

Camera placement will be guided by the underlying purpose or strategy associated with the overall video surveillance plan. Environmental factors, including lighting, location of ingress/egress, presence of computer screens, or other obstructions, should also be evaluated when determining placement.

The cameras shall only record video images and not sound. Recorded images may be used for a variety of purposes, including criminal investigations and monitoring of activity around high-value or high-threat areas. The public video surveillance system may be useful for the following purposes:

- (a) To prevent, deter, and identify criminal activity.
- (b) To respond to critical incidents.
- (c) To assist in identifying, unknown visitors to the HOJ or FJC.
- (d) To document personnel's conduct during interactions to safeguard the rights of the public and investigators.

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- (e) To augment resources in a cost-effective manner.
- (f) To monitor pedestrian activity.

Images from each camera should be recorded in a manner consistent with the underlying purpose of the particular camera. Images should be transmitted to monitors installed in the Officer of the Day room or monitors within the Family Justice Center. When activity warranting further investigation is reported or detected at any camera location, the available information should be provided to responding investigators in a timely manner. The Supervising Investigator or trained personnel are authorized to adjust the cameras to more effectively view a particular area for any legitimate public safety purpose.

The District Attorney may authorize video feeds from the public safety video surveillance system to be forwarded to a specified location for monitoring by other than district attorney investigator personnel, such as allied government agencies, or fire or emergency operations personnel.

Unauthorized recording, viewing, reproduction, dissemination, or retention is prohibited.

330.4 PROHIBITED ACTIVITY

Public safety video surveillance systems will not intentionally be used to invade the privacy of individuals or observe areas where a reasonable expectation of privacy exists.

Public video surveillance equipment shall not be used in an unequal or discriminatory manner and shall not target protected individual characteristics including, but not limited to race, ethnicity, national origin, religion, disability, gender or sexual orientation.

Video surveillance equipment shall not be used to harass, intimidate or discriminate against any individual or group.

330.5 STORAGE AND RETENTION OF MEDIA

All downloaded media shall be stored in a secure area with access restricted to authorized persons. A recording needed as evidence shall be copied to a suitable medium and uploaded into evidence.com in accordance with established evidence procedures. All actions taken with respect to retention of media shall be appropriately documented.

The recordings should be stored and retained in accordance with the established records retention schedule as set forth by the County of Sonoma. Prior to destruction, written consent shall be obtained from the County Counsel. If recordings are evidence in any claim filed or any pending litigation, they shall be preserved until pending litigation is resolved (Government Code § 34090.6).

330.5.1 EVIDENTIARY INTEGRITY

All downloaded and retained media shall be treated in the same manner as other evidence. Media shall be accessed, maintained, stored and retrieved in a manner that ensures its integrity as evidence, including strict adherence to chain of custody requirements. Electronic trails, including encryption, digital masking of innocent or uninvolved individuals to preserve anonymity, authenticity certificates and date and time stamping, shall be used as appropriate to preserve

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individual rights and to ensure the authenticity and maintenance of a secure evidentiary chain of custody.

330.6 RELEASE OF VIDEO IMAGES

All recorded video images gathered by the public safety video surveillance equipment are for the official use of the Sonoma County District Attorney's Office.

Requests for recorded video images from the public or the media shall be processed in the same manner as requests for public records.

Requests for recorded images from other law enforcement agencies shall be referred to the Assistant District Attorney for release in accordance with a specific and legitimate law enforcement purpose. The Supervising Investigator will consult with District Attorney's Office Management as needed.

Recorded video images that are the subject of a court order or subpoena shall be processed in accordance with the established subpoena process.

330.7 TRAINING

All bureau members authorized to operate or access public video surveillance systems shall receive appropriate training. Training should include guidance on the use of cameras, interaction with dispatch and patrol operations and a review regarding relevant policies and procedures, including this policy. Training should also address state and federal law related to the use of video surveillance equipment and privacy.

Service Animals

331.1 PURPOSE AND SCOPE

The purpose of this policy is to provide the guidelines necessary to ensure the rights of individuals who use service animals to assist with disabilities are protected in accordance with Title II of the Americans with Disabilities Act of 1990 (ADA).

331.1.1 DEFINITIONS

Definitions related to this policy include:

Service animal - A dog that is trained to do work or perform tasks for the benefit of an individual with a disability, including a physical, sensory, psychiatric, intellectual or other mental disability. The work or tasks performed by a service animal must be directly related to the individual's disability (28 CFR 35.104; Health and Safety Code § 113903).

An emotional support, therapy, comfort or companion animal is not a service animal and is not subject to the provisions and protections of the ADA.

Service animal also includes a miniature horse if the horse is trained to do work or perform tasks for people with disabilities, provided the horse is housebroken, is under the handler's control, the facility can accommodate the horse's type, size and weight, and the horse's presence will not compromise legitimate safety requirements necessary for safe operation of the facility (28 CFR 35.136(i)).

331.2 POLICY

It is the policy of the Sonoma County District Attorney's Office to provide services and access to persons with service animals in the same manner as those without service animals. Bureau members shall protect the rights of persons assisted by service animals in accordance with state and federal law.

331.3 IDENTIFICATION AND USE OF SERVICE ANIMALS

Some service animals may be readily identifiable. However, many do not have a distinctive symbol, harness or collar.

Service animals may be used in a number of ways to provide assistance, including:

- Guiding people who are blind or have low vision.
- Alerting people who are deaf or hard of hearing.
- Retrieving or picking up items, opening doors or flipping switches for people who have limited use of their hands, arms or legs.
- Pulling wheelchairs.
- Providing physical support and assisting with stability and balance.

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- Doing work or performing tasks for persons with traumatic brain injury, intellectual disabilities or psychiatric disabilities, such as reminding a person with depression to take medication.
- Alerting a person with anxiety to the onset of panic attacks, providing tactile stimulation to calm a person with post-traumatic stress disorder, assisting people with schizophrenia to distinguish between hallucinations and reality, and helping people with traumatic brain injury to locate misplaced items or follow daily routines.

331.4 MEMBER RESPONSIBILITIES

Service animals that are assisting individuals with disabilities are permitted in all public facilities and areas where the general public is allowed. Bureau members are expected to treat individuals with service animals with the same courtesy and respect that the Sonoma County District Attorney's Office affords to all members of the public (28 CFR 35.136).

331.4.1 INQUIRY

If it is apparent or if a member is aware that an animal is a service animal, the individual generally should not be asked any questions as to the status of the animal. If it is unclear whether an animal meets the definition of a service animal, the member should ask the individual only the following questions (28 CFR 35.136(f)):

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

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

331.4.2 CONTACT

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

331.4.3 REMOVAL

If a service animal is not housebroken or exhibits vicious behavior, poses a direct threat to the health of others, or unreasonably disrupts or interferes with normal business operations, an investigator may direct the handler to remove the animal from the premises. Barking alone is not a threat nor does a direct threat exist if the person takes prompt, effective action to control the service animal (28 CFR 35.136(b)).

Each incident must be considered individually and past incidents alone are not cause for excluding a service animal. Removal of a service animal may not be used as a reason to refuse or delay service to an individual with disabilities. Members of this bureau are expected to provide all services as are reasonably available to an individual with a disability, with or without a service

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animal. Members of this bureau may direct the removal of an emotional support, therapy, comfort or companion animal.

331.4.4 COMPLAINTS

When handling calls of a complaint regarding a service animal, members of this bureau should remain neutral and should be prepared to explain the ADA requirements concerning service animals to the concerned parties. Sonoma County's Courthouses and the Family Justice Center are required to allow service animals to accompany their handlers into the same areas that other members of the public are allowed (28 CFR 36.302).

Absent a violation of law independent of the ADA, investigators should take no enforcement action beyond keeping the peace. Individuals who believe they have been discriminated against as a result of a disability should be referred to the Civil Rights Division of the U.S. Department of Justice (DOJ).

Off-Duty Law Enforcement Actions

332.1 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 Sonoma County District Attorney's Office with respect to taking law enforcement action while off-duty.

332.2 POLICY

Initiating law enforcement action while off-duty is strongly 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 bureau 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 only as a last resort.

332.3 FIREARMS

Investigators of this bureau may carry firearms while off-duty in accordance with federal regulations and bureau policy. All firearms and ammunition must meet guidelines as described in the bureau Firearms Policy. When carrying firearms while off-duty investigators shall also carry their bureau-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.

332.4 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, prudent 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.
- (c) The lack of equipment, such as handcuffs, OC or baton.

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- (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 law enforcement personnel to arrive, and gather as much accurate intelligence as possible instead of immediately intervening.

332.4.1 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 the name and the description of the investigator if possible.

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

332.4.2 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 of jurisdiction to handle the matter.

332.5 REPORTING

Any off-duty investigator who engages in any law enforcement activity, regardless of jurisdiction, shall notify the Supervising Investigator or Chief Investigator as soon as practicable. The Supervising Investigator may direct the investigator to submit an inter-office memorandum detailing the circumstances and actions surrounding the incident..

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

Community Relations

333.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidelines for community relationship-building.

Additional guidance on community relations and outreach is provided in other policies, including the:

- Hate Crimes Policy.
- Limited English Proficiency Services Policy.
- Communications with Persons with Disabilities Policy.
- Patrol Function Policy.
- Suspicious Activity Reporting Policy.

333.2 POLICY

It is the policy of the Sonoma County District Attorney's Office to promote positive relationships between members of the bureau and the community by treating community members with dignity and respect and engaging them in public safety strategy development and relationship-building activities, and by making relevant policy and operations information available to the community in a transparent manner.

333.4 COMMUNITY RELATIONS COORDINATOR

The District Attorney or the Chief Investigator may designate a member of the Bureau to serve as the community relations coordinator. He/she should report directly to the District Attorney or authorized designee and is responsible for:

- (a) Responding to requests from bureau members and the community for assistance in identifying issues and solving problems related to community relations and public safety.
- (b) Working with community groups, bureau members and other community resources to:
 - (a) Identify public safety concerns within the community.
 - (b) Build positive relationships between bureau members and the community and provide community members with an improved understanding of bureau operations.
- (c) Recognizing bureau and community members for exceptional work or performance in community relations efforts.
- (d) Attending County Board of Supervisors and other community meetings to obtain information on community relations needs.
- (e) Assisting with the bureau's response to events that may affect community relations, such as an incident where the conduct of a peace officer is called into public question.

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- (f) Informing the District Attorney and others of developments and needs related to the furtherance of the bureau's community relations goals, as appropriate.

333.4 INFORMATION SHARING

The community relations coordinator should work with the Public Information Officer to develop methods and procedures for the convenient sharing of information between the Bureau and community members. Examples of information-sharing methods include:

- (a) Community meetings.
- (b) Social media (see the Bureau Use of Social Media Policy).
- (c) Bureau website postings.

Information should be regularly refreshed, to inform and engage community members continuously.

333.5 TRANSPARENCY

The Bureau should periodically publish statistical data and analysis regarding the bureau's operations. The reports should not contain the names of investigators, suspects or case numbers. The community relations coordinator should work with the community advisory committee to identify information that may increase transparency regarding bureau operations.

Parental Child Abductions & Custody Disputes

334.1 PURPOSE

To provide general guidelines and procedures for the investigation and documentation of domestic and international parental child abduction cases as well as child custody disputes.

334.2 SECTION TITLE

It is the policy of this office to assist the courts pursuant to the mandates stated in the California Family Law Code sections, 3130 and 3131. When necessary, this office will pursue prosecution in certain cases for the appropriate criminal violations.

334.2.1 FAMILY CODE DEFINITIONS

A. 3130 If a petition to determine custody of a child has been filed in a court of competent jurisdiction, or if a temporary order pending determination of custody has been entered in accordance with Chapter 3 (commencing with Section 3060), and the whereabouts of a party in possession of the child are not known, or there is reason to believe that the party may not appear in the proceedings although ordered to appear personally with the child pursuant to Section 3411, the district attorney shall take all actions necessary to locate the party and the child and to procure compliance with the order to appear with the child for purposes of adjudication of custody. The petition to determine custody may be filed by the district attorney.

B. 3131 If a custody or visitation order has been entered by a court of competent jurisdiction and the child is taken or detained by another person in violation of the order, the district attorney shall take all actions necessary to locate and return the child and the person who violated the order and to assist in the enforcement of the custody or visitation order or other order of the court by use of an appropriate civil or criminal proceeding.

334.2.2 PENAL CODE DEFINITIONS

A. 278 Taking, Enticing Away, Keeping, Withholding, or Concealing Child by Person Without Right of Custody

1. Every person, not having a right to custody, who maliciously takes, entices away, keeps, withholds, or conceals any child with the intent to detain or conceal that child from a lawful custodian shall be punished by imprisonment in a county jail not exceeding one year, a fine not exceeding one thousand dollars (\$1,000), or both that fine and imprisonment, or by imprisonment in the state prison for two, three, or four years, a fine not exceeding ten thousand dollars (\$10,000), or both that fine and imprisonment.

B. 278.5 Taking, Enticing Away, Keeping, Withholding, or Concealing Child In Order to Deprive Lawful Custodian of Custody or Visitation Rights

(a) Every person who takes, entices away, keeps, withholds, or conceals a child and maliciously deprives a lawful custodian of a right to custody, or a person of a right to visitation, shall be punished by imprisonment in a county jail not exceeding one year, a fine not exceeding one thousand dollars (\$1,000), or both that fine and imprisonment, or by imprisonment in the state

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prison for 16 months, or two or three years, a fine not exceeding ten thousand dollars (\$10,000), or both that fine and imprisonment.

(b) Nothing contained in this section limits the court's contempt power.

(c) A custody order obtained after the taking, enticing away, keeping, withholding, or concealing of a child does not constitute a defense to a crime charged under this section.

C. 278.7 Exception for Custodian Having Reasonable Belief That Child Will Suffer Injury or Harm; Reporting Requirements

(a) Section 278.5 does not apply to a person with a right to custody of a child who, with a good faith and reasonable belief that the child, if left with the other person, will suffer immediate bodily injury or emotional harm, takes, entices away, keeps, withholds, or conceals that child.

(b) Section 278.5 does not apply to a person with a right to custody of a child who has been a victim of domestic violence who, with a good faith and reasonable belief that the child, if left with the other person, will suffer immediate bodily injury or emotional harm, takes, entices away, keeps, withholds, or conceals that child. "Emotional harm" includes having a parent who has committed domestic violence against the parent who is taking, enticing away, keeping, withholding, or concealing the child.

(c) The person who takes, entices away, keeps, withholds, or conceals a child shall do all of the following:

(1) Within a reasonable time from the taking, enticing away, keeping, withholding, or concealing, make a report to the office of the district attorney of the county where the child resided before the action. The report shall include the name of the person, the current address and telephone number of the child and the person, and the reasons the child was taken, enticed away, kept, withheld, or concealed.

(2) Within a reasonable time from the taking, enticing away, keeping, withholding, or concealing, commence a custody proceeding in a court of competent jurisdiction consistent with the federal Parental Kidnapping Prevention Act (Section 1738A, Title 28, United States Code) or the Uniform Child Custody Jurisdiction Act (Part 3 (commencing with Section 3400) of Division 8 of the Family Code).

(3) Inform the district attorney's office of any change of address or telephone number of the person and the child.

(d) For the purposes of this article, a reasonable time within which to make a report to the district attorney's office is at least 10 days and a reasonable time to commence a custody proceeding is at least 30 days. This section shall not preclude a person from making a report to the district attorney's office or commencing a custody proceeding earlier than those specified times.

(e) The address and telephone number of the person and the child provided pursuant to this section shall remain confidential unless released pursuant to state law or by a court order that contains appropriate safeguards to ensure the safety of the person and the child.

D. 279.6 Circumstances for Protective Custody; Return to Lawful Custodian

(a) A law enforcement officer may take a child into protective custody under any of the following circumstances:

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- (1) It reasonably appears to the officer that a person is likely to conceal the child, flee the jurisdiction with the child, or, by flight or concealment, evade the authority of the court.
- (2) There is no lawful custodian available to take custody of the child.
- (3) There are conflicting custody orders or conflicting claims to custody and the parties cannot agree which party should take custody of the child.
- (4) The child is an abducted child.
- (b) When a law enforcement officer takes a child into protective custody pursuant to this section, the officer shall do one of the following:
 - (1) Release the child to the lawful custodian of the child, unless it reasonably appears that the release would cause the child to be endangered, abducted, or removed from the jurisdiction.
 - (2) Obtain an emergency protective order pursuant to Part 3 (commencing with Section 6240) of Division 10 of the Family Code ordering placement of the child with an interim custodian who agrees in writing to accept interim custody.
 - (3) Release the child to the social services agency responsible for arranging shelter or foster care.
 - (4) Return the child as ordered by a court of competent jurisdiction.
- (c) Upon the arrest of a person for a violation of Section 278 or 278.5, a law enforcement officer shall take possession of an abducted child who is found in the company of, or under the control of, the arrested person and deliver the child as directed in subdivision (b).

E. 784.5 Jurisdiction for Prosecution of Child Concealment or Detention in Violation of Custody Order: The jurisdiction of a criminal action for a violation of Section 277, 278, or 278.5 shall be in any one of the following jurisdictional territories:

- (a) Any jurisdictional territory in which the victimized person resides, or where the agency deprived of custody is located, at the time of the taking or deprivation.
- (b) The jurisdictional territory in which the minor child was taken, detained, or concealed.
- (c) The jurisdictional territory in which the minor child is found. When the jurisdiction lies in more than one jurisdictional territory, the district attorneys concerned may agree which of them will prosecute the case.

334.3 PROCEDURE

The following subsections provide guidance related to the Sonoma County District Attorney's procedures in handling parental abduction matters.

334.3.1 CASE INTAKE CRITERIA

A. CASE INTAKE CRITERIA

1. Sufficient facts exist to establish that Sonoma County is the residence of the complainant at the time of the taking or deprivation pursuant to Penal Code §784.5(a); and
 - i. The complainant has a current valid, enforceable custody order. (If the order is not sufficiently clear regarding custody and visitation, or the parties have agreed to custody or visitation

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arrangements which are not in compliance with the order, the complaining witness must obtain a modification which clarifies custody and visitation); or

- ii. No custody order exists and the complainant and the abductor are the parents of the child; or
- iii. The complainant has a valid right to physical custody and the abductor does not.

2. Sufficient facts exist to establish that the minor child was taken to, detained, concealed, or found in Sonoma County pursuant to Penal Code §784.5(b) or (c); and

(i) The complainant has a currently valid, enforceable custody order. [If the order is not sufficiently clear regarding custody and visitation, or the parties have agreed to custody or visitation arrangements which are not in compliance with the order, the complaining witness must obtain a modification which clarifies custody and visitation.]; or

(ii) No custody order exists and the complainant and the abductor are the parents of the child; or

(iii) The complainant has a valid right to physical custody and the abductor does not; or

(iv) The jurisdictional authority where the complainant resides declines to take the case.

2. Any case assigned to this office by the California Attorney General acting as the California Central Authority for incoming cases pursuant to the Hague Convention on the Civil Aspects of International Child Abduction.

3. Any case determined by this office to meet the intake criteria as defined in section I.A., and where the child is located outside the United States.

334.3.2 EMERGENCY ASSISTANCE

1. Emergency assistance to victim parents or local law enforcement agencies will be provided as necessary by the Child Abduction Unit during regular office hours, or after regular business hours when authorized by a supervisor, in situations including, but not limited to:

- i. Actual threat of imminent injury to the child
- ii. Imminent health risk to the child
- iii. Separation of an unweaned child from the mother
- iv. Actual, imminent risk of molest to the child
- v. Suicide threats by the abductor
- vi. Threat of an immediate abduction or an in-progress abduction of a child out of the county, state, or country

2. Additional Resources: Agencies and Organizations

Investigators may consider utilization of the Critical Reach System and: [Sonoma County District Attorney's Office Policy Manual: 314.4 AMBER ALERTS](#)

334.3.3 OUTSIDE AGENCY ASSISTS

Assists to agencies outside of the county or state regarding recoveries and/or arrests may be provided based upon the receipt from such agencies of all relative and necessary warrants, custody orders, or other documentation that provides a sufficient legal basis for action and is in

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compliance with the State of California Family Law Code and the Federal laws under the Uniform Child Custody Jurisdiction and Enforcement Act governing out of state registration requirements.

334.3.4 REPORTING REQUIREMENTS - PENAL CODE SECTION 278.7 "GOOD CAUSE REPORT"

1. Bureau investigators will accept information from parties who are taking, enticing away, keeping, withholding, or concealing a child and are reporting such actions in accordance with the provisions of Penal Code §278.7, (belief of bodily injury or emotional harm; domestic violence; report by person taking or concealing).
2. Such documentation will be recorded on an "Exception to 278.5 PC" report form.
3. The reporting party will be advised of their obligations pursuant to Penal Code §278.7 and that the reporting requirements do not necessarily absolve them from criminal or civil charges.
4. The Child Abduction Unit will maintain the "Exception" reports and keep them confidential, unless released pursuant to state law or by a court order that contains appropriate safeguard to ensure the safety of the reporting party and the child.

334.3.5 CUSTODY/VISITATION DISPUTES

1. The Child Abduction Unit will not routinely intercede in visitation disputes which do not involve an abduction. Parties with disputes regarding failures to comply with visitation orders will be advised to do the follow
 - i. File an Order to Show Cause or a Motion in Family Law Court and ask for appropriate modification and/or sanctions.
 - ii. Seek assistance from a private Family Law Attorney, the county's Family Law Facilitator, or Sonoma County Legal Aid.
2. The Child Abduction Unit will not routinely seek criminal sanctions for minor violations of custody and visitation orders as the remedies for these problems exist in the Family Law Courts and through the mediation process.
3. A person who has obtained an adjudication of contempt against a person who is violating a visitation order may seek assistance of the Unit if the violations continue despite the contempt adjudication, or if a particularly egregious violation has occurred.
4. Visitation violations that come to the attention of the unit through a local law enforcement agency will be evaluated using the aforementioned criteria. Records will be maintained of such cases for present and future reference.

334.3.6 RECORD KEEPING OF MANDATED FUNCTIONS

The Child Abduction Unit will maintain records of all investigator and prosecutor work hours associated with recovering and prosecuting individuals charged with child abduction for eventual inclusion in the office reimbursement claims procedure for mandated functions, pursuant to California Senate Bill 90.

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334.3.7 NOTIFICATION OF THE VICTIM ASSISTANCE CENTER

1. In cases where the deprivation of custody has endured for more than 30 calendar days, the abducted child may be eligible for compensation from the California Victim Compensation Program, pursuant to California Government Code §13955(f)(3)(D). Eligible children may receive assistance with psychotherapy, medical expenses and other financial losses.
2. In such eligible cases, the Child Abduction Unit will ensure that the proper notification and/or referral is made to the Sonoma County Victim Services Office at 565-8250.

Chapter 4 - Patrol Operations

Bias-Based investigations

400.1 PURPOSE AND SCOPE

This policy provides guidance to bureau members that affirms the Sonoma County District Attorney's Office's commitment to law enforcement investigations that are fair and objective.

Nothing in this policy prohibits the use of specified characteristics in law enforcement activities designed to strengthen the bureau's relationship with its diverse communities (e.g., cultural and ethnicity awareness training, youth programs, community group outreach, partnerships).

400.1.1 DEFINITIONS

Definitions related to this policy include:

Bias-based policing - An inappropriate reliance on actual or perceived characteristics such as race, ethnicity, national origin, religion, sex, sexual orientation, gender identity or expression, economic status, age, cultural group, disability, or affiliation with any non-criminal group (protected characteristics) as the basis for providing differing law enforcement service or enforcement (Penal Code § 13519.4).

400.2 POLICY

The Sonoma County District Attorney's Office is committed to providing investigative services with due regard for the racial, cultural or other differences of those served. It is the policy of this bureau to provide investigative services and to enforce the law equally, fairly, objectively and without discrimination toward any individual or group.

400.3 BIAS-BASED INVESTIGATIONS PROHIBITED

Bias-based investigations are strictly prohibited.

District Attorney Investigators are not to engage in traffic enforcement or typical police patrol functions wherein they are likely to proactively contact members of the public regarding on-going criminal activity or crime prevention. However, nothing in this policy is intended to prohibit an investigator from considering protected characteristics in combination with credible, timely and distinct information connecting a person or people of a specific characteristic to a specific unlawful incident, or to specific unlawful incidents, specific criminal patterns or specific schemes.

400.4 TRAINING

Training on fair and objective policing and review of this policy should be conducted as directed by the Chief Investigator.

- (a) All sworn members of this bureau will participate in Peace Officer Standards and Training (POST)-approved training on the subject of bias-based policing.
- (b) Pending participation in such POST-approved training and at all times, all members of this bureau are encouraged to familiarize themselves with and consider racial and cultural differences among members of this community.

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- (c) Each sworn member of this bureau who received initial bias-based policing training will thereafter be required to complete an approved refresher course every five years, or sooner if deemed necessary, in order to keep current with changing racial, identity and cultural trends (Penal Code § 13519.4(i)).

Hostage and Barricade Incidents

401.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidelines for situations where investigators have legal cause to contact, detain or arrest a person, and the person refuses to submit to the lawful requests of the investigators by remaining in a structure or vehicle and/or by taking a hostage.

The scope of this policy is not intended to address all variables that investigators encounter during their initial response or when a hostage or barricade situation has developed. This policy does not require or purport to recommend specific strategies or tactics for resolution as each incident is a dynamic and rapidly evolving event.

401.1.1 DEFINITIONS

Definitions related to this policy include:

Barricade situation - An incident where a person maintains a position of cover or concealment and ignores or resists law enforcement personnel, and it is reasonable to believe the subject is armed with a dangerous or deadly weapon.

Hostage situation - An incident where it is reasonable to believe a person is:

- (a) Unlawfully held by a hostage-taker as security so that specified terms or conditions will be met.
- (b) Unlawfully held against his/her will under threat or actual use of force.

401.2 POLICY

It is the policy of the Sonoma County District Attorney's Office to address hostage and barricade situations with due regard for the preservation of life and balancing the risk of injury, while obtaining the safe release of hostages, apprehending offenders and securing available evidence.

401.3 COMMUNICATION

When circumstances permit, initial responding investigators should try to establish and maintain lines of communication with a barricaded person or hostage-taker. Investigators should attempt to identify any additional subjects, inquire about victims and injuries, seek the release of hostages, gather intelligence information, identify time-sensitive demands or conditions and obtain the suspect's surrender.

401.4 FIRST ON SCENE CONSIDERATIONS

First responding investigators should promptly and carefully evaluate all available information to determine whether an incident involves, or may later develop into, a hostage or barricade situation.

The first responding investigator should immediately request a supervisor's response as soon as it is determined that a hostage or barricade situation exists. The first responding investigator shall assume the duties of the supervisor until relieved by a supervisor or a more qualified responder.

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The investigator shall continually evaluate the situation, including the level of risk to investigators, to the persons involved and to bystanders, and the resources currently available.

The handling investigator should brief the arriving supervisor of the incident, including information about suspects and victims, the extent of any injuries, additional resources or equipment that may be needed, and current perimeters and evacuation areas.

401.4.1 BARRICADE SITUATION

Unless circumstances require otherwise, investigators handling a barricade situation should attempt to avoid a forceful confrontation in favor of stabilizing the incident by establishing and maintaining lines of communication while awaiting the arrival of specialized personnel and trained negotiators. During the interim the following options, while not all-inclusive or in any particular order, should be considered:

- (a) Ensure injured persons are evacuated from the immediate threat area if it is reasonably safe to do so. Request medical assistance.
- (b) Assign personnel to a contact team to control the subject should he/she attempt to exit the building, structure or vehicle, and attack, use deadly force, attempt to escape or surrender prior to additional resources arriving.
- (c) Request additional personnel, resources and equipment as needed (e.g., canine team, air support).
- (d) Evacuate uninjured persons in the immediate threat area if it is reasonably safe to do so.
- (e) Attempt or obtain a line of communication and gather as much information on the subject as possible, including weapons, other involved parties, additional hazards or injuries.
- (f) Establish an inner and outer perimeter as circumstances require and resources permit to prevent unauthorized access.
- (g) Evacuate bystanders, residents and businesses within the inner and then outer perimeter as appropriate. Check for injuries, the presence of other involved subjects, witnesses, evidence or additional information.
- (h) Determine the need for and notify the appropriate persons within and outside the Bureau, such as command officers.
- (i) If necessary and available, establish a tactical or exclusive radio frequency for the incident.

401.4.2 HOSTAGE SITUATION

Investigators presented with a hostage situation should attempt to avoid a forceful confrontation in favor of controlling the incident in anticipation of the arrival of specialized personnel and trained hostage negotiators. However, it is understood that hostage situations are dynamic and can require that investigators react quickly to developing or changing threats. The following options, while not all-inclusive or in any particular order, should be considered:

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- (a) Ensure injured persons are evacuated from the immediate threat area if it is reasonably safe to do so. Request medical assistance.
- (b) Assign personnel to a contact team to control the subject should he/she attempt to exit the building, structure or vehicle, and attack, use deadly force, attempt to escape or surrender prior to additional resources arriving.
- (c) Assist hostages or potential hostages to escape if it is reasonably safe to do so. Hostages should be kept separated if practicable pending further interview.
- (d) Request additional personnel, resources and equipment as needed (e.g., canine team, air support).
- (e) Evacuate uninjured persons in the immediate threat area if it is reasonably safe to do so.
- (f) Attempt to obtain a line of communication and gather as much information about the suspect as possible, including any weapons, victims and their injuries, additional hazards, other involved parties and any other relevant intelligence information.
- (g) Establish an inner and outer perimeter as resources and circumstances permit to prevent unauthorized access.
- (h) Evacuate bystanders, residents and businesses within the inner and then outer perimeter as appropriate. Check for injuries, the presence of other involved subjects, witnesses, evidence or additional information.
- (i) Notify the appropriate persons within the District Attorney's Office.

401.5 SUPERVISOR RESPONSIBILITIES

Upon being notified that a hostage or barricade situation exists, the supervisor should immediately respond to the scene, assess the risk level of the situation, establish a proper chain of command, assume the role of Incident Commander until properly relieved and apprising the Chief Investigator of the circumstances. In addition, the following options should be considered:

- (a) Ensure injured persons are evacuated and treated by medical personnel.
- (b) Request additional personnel, resources or equipment as appropriate.

Crisis Intervention Incidents

402.1 PURPOSE AND SCOPE

This policy provides guidelines for interacting with those who may be experiencing a mental health or emotional crisis. Interaction with such individuals has the potential for miscommunication and violence. It often requires an investigator to make difficult judgments about a person's mental state and intent in order to effectively and legally interact with the individual.

402.1.1 DEFINITIONS

Definitions related to this policy include:

Person in crisis - A person whose level of distress or mental health symptoms have exceeded the person's internal ability to manage his/her behavior or emotions. A crisis can be precipitated by any number of things, including an increase in the symptoms of mental illness despite treatment compliance; non-compliance with treatment, including a failure to take prescribed medications appropriately; or any other circumstance or event that causes the person to engage in erratic, disruptive or dangerous behavior that may be accompanied by impaired judgment.

402.2 POLICY

The Sonoma County District Attorney's Office is committed to providing a consistently high level of service to all members of the community and recognizes that persons in crisis may benefit from intervention. The Bureau will collaborate, where feasible, with mental health professionals to develop an overall intervention strategy to guide its members' interactions with those experiencing a mental health crisis. This is to ensure equitable and safe treatment of all involved.

402.3 PROCEDURE

Safety is a priority for all persons involved in any crisis. It is important to recognize that individuals under the influence of alcohol, drugs or both may exhibit symptoms that are similar to those of a person in a mental health crisis. These individuals may still present a serious threat to investigators; such a threat should be addressed with reasonable tactics. Nothing in this policy shall be construed to limit an investigator's authority to use reasonable force when interacting with a person in crisis.

Investigators are reminded that mental health issues, mental health crises and unusual behavior alone are not criminal offenses. Investigators should inform the law enforcement agency of jurisdiction by the most expeditious manner available to respond to the scene. That agency representative will determine the course of action.

Supervising Investigators

403.1 PURPOSE AND SCOPE

District Attorney Investigators are capable of making decisions and communicating in a manner consistent with bureau policies, procedures, practices, functions and objectives. The Supervising Investigator manages the daily operational duties of the Investigators and is responsible for the effective use of personnel and resources. The Supervising Investigator reports to the Chief Investigator.

403.2 DESIGNATION AS ACTING SUPERVISING INVESTIGATOR

An Investigator may be temporarily designated as Supervising Investigator for an isolated incident under unexpected circumstances will make decisions and communicate with personnel and District Attorney's Office management. When the Supervising Investigator is unavailable for duty, in most instances the most qualified senior investigator may be designated as acting Supervising Investigator. This policy does not preclude designating a less senior investigator as an acting Supervising Investigator when operational needs require it. An acting Supervising Investigator will lead in a manner consistent with bureau policies, procedures, practices, functions and objectives.

Public Recording of Law Enforcement Activity

404.1 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 bureau. In addition, this policy provides guidelines for situations where the recordings may be evidence.

404.2 POLICY

The Sonoma County District Attorney's Office 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.

404.3 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.

404.4 INVESTIGATOR RESPONSE

Investigators should remain focused on safety whenever it appears that anyone recording activities may be interfering with an investigation or it is believed that the recording may be evidence.

Whenever practicable, investigators 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

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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.

404.5 INVESTIGATOR RESPONSIBILITIES

The investigator should:

- (a) Request any additional assistance as needed to ensure a safe environment.
- (b) Communicate 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 Bureau members, such as how and where to file a complaint.

404.6 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.
 - 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 bureau-owned device.

Recording devices and media that are seized will be submitted within the guidelines of the Property and Evidence Policy.

Foot Pursuits

405.1 PURPOSE AND SCOPE

This policy provides guidelines to assist investigators in making the decision to initiate or continue the pursuit of suspects on foot.

405.2 POLICY

It is the policy of this bureau that investigators, when deciding to initiate a foot pursuit, continuously balance the objective of apprehending the suspect with the risk and potential for injury to bureau members, the public or the suspect. Investigators are expected to act reasonably, based on the totality of the circumstances. Investigators are not equipped to safely engage in a foot pursuit and should not chase an offender on foot, absent any exigent circumstances.

The safety of bureau members and the public should be the primary consideration when determining whether a foot pursuit should be initiated or continued. Investigators must be mindful that immediate apprehension of a suspect is rarely more important than the safety of the public and bureau members.

Investigators shall notify by radio the law enforcement of jurisdiction:

- (a) Call sign identifier
- (b) Location and direction of travel
- (c) Reason for the foot pursuit, such as the crime classification
- (d) Number of suspects and description, to include name if known
- (e) Whether the suspect is known or believed to be armed with a dangerous weapon

The investigator should not attempt to overtake and confront the suspect but should attempt to keep the suspect in sight until sufficient peace officers are present to safely apprehend the suspect. The investigator shall complete a supplemental report for the agency that responds to the incident, as well as complete a memo detailing the circumstances surrounding the event to the District Attorney, via the chain of command.

First Amendment Assemblies

406.1 PURPOSE AND SCOPE

This policy provides guidance for responding to public assemblies or demonstrations.

406.2 POLICY

The Sonoma County District Attorney's Office respects the rights of people to peaceably assemble. It is the policy of this bureau 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, maintaining the safe operation of the office and preventing the destruction of property.

406.3 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 or views 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. 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) Harass, confront or intimidate participants.
- (b) Seize the cameras, cell phones or materials of participants or observers.

Supervisors should continually observe bureau members under their commands to ensure that members' interaction with participants and their response to crowd dynamics is appropriate.

406.3.1 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 bureau

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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.

406.4 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 Sheriff's Dispatch, 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 another, 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.

406.5 PLANNED EVENT PREPARATION

The Sonoma County District Attorney's Office will refer all planned events to the appropriate local law enforcement agency.

406.5.1 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.
- Information about past and potential unlawful conduct associated with the event or similar events.
- The potential time, duration, scope, and type of planned activities.

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- 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 Sheriff's Office, District Attorney's Office management and the administration of the Superior Court 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 actual or perceived characteristics such as race, ethnicity, national origin, religion, sex, sexual orientation, gender identity or expression, economic status, age, cultural group, or disability of the participants (or any other characteristic that is unrelated to criminal conduct or the identification of a criminal subject).

Investigators should communicate information to the Sheriff's Office by the most expeditious manner available. Investigators will not participate in the response to planned or spontaneous assemblies unless directed by a supervisor or the incident commander of the law enforcement agency in operational control of the incident.

406.6 ANTI-REPRODUCTIVE RIGHTS CALLS

Investigator response to public assemblies or demonstrations relating to anti-reproductive rights should be consistent with this policy (Penal Code § 13778.1).

Medical Aid and Response

407.1 PURPOSE AND SCOPE

This policy recognizes that members may encounter persons in need of medical aid and establishes a response to such situations.

407.2 POLICY

It is the policy of the Sonoma 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.

407.3 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 Sheriff's Dispatch 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 Sheriff's Dispatch 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 extreme agitation or is engaging in violent irrational behavior accompanied by profuse sweating, extraordinary strength beyond their physical characteristics, and imperviousness to pain.

Members should stabilize the scene whenever practicable while awaiting the arrival of EMS.

Members should not direct EMS personnel whether to transport the person for treatment.

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Medical Aid and Response

407.4 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).

407.4.1 AED USER RESPONSIBILITY

Members who are assigned as the Officer of the Day 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 Chief Investigator 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.

Any member who uses an AED should contact Sheriff's Dispatch as soon as possible and request response by EMS.

407.4.2 AED TRAINING AND MAINTENANCE

The Chief Investigator should ensure appropriate training and refresher training is provided to members authorized to use an AED. A list of authorized members and training records shall be made available for inspection by the local EMS agency (LEMSA) or EMS authority upon request (22 CCR 100021; 22 CCR 100022; 22 CCR 100029).

The Chief Investigator is responsible for ensuring AED devices are appropriately maintained and will retain records of all maintenance in accordance with the established records retention schedule (22 CCR 100021).

407.4.3 AED REPORTING

Any member who provided medical aid or used an AED will complete an incident report detailing the response and actions taken.

407.5 FIRST AID TRAINING

The Chief Investigator or 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).

Chapter 5 - Investigation Operations

Investigation and Prosecution

500.1 PURPOSE AND SCOPE

The purpose of this policy is to set guidelines and requirements pertaining to the handling and disposition of criminal investigations.

500.2 POLICY

It is the policy of the Sonoma County District Attorney's Office Investigations Bureau to investigate crimes thoroughly and with due diligence, and to evaluate and prepare criminal cases for appropriate clearance or submission to a prosecutor.

500.3 INITIAL INVESTIGATION

500.3.1 INVESTIGATOR RESPONSIBILITIES

An investigator responsible for an initial investigation shall complete no less than the following:

- (a) Make a preliminary determination of whether a crime has been committed by completing, at a minimum:
 - 1. An initial statement from any witnesses or complainants.
 - 2. A cursory examination for evidence.
- (b) If information indicates a crime has occurred, the investigator shall:
 - 1. Preserve the scene and any evidence as required to complete the initial and follow-up investigation.
 - 2. Determine if additional investigative resources (e.g., investigators or scene processing) are necessary and request assistance as required.
 - 3. If assistance is warranted, or if the incident is not routine, notify a supervisor or the Supervising Investigator.
 - 4. Make reasonable attempts to locate, identify and interview all available victims, complainants, witnesses and suspects.
 - 5. Collect any evidence.
 - 6. Take any appropriate law enforcement action.
 - 7. Complete and submit the appropriate reports and documentation.
- (c) If the preliminary determination is that no crime occurred, determine what other action may be necessary, what other resources may be available, and advise the informant or complainant of this information.

500.4 CUSTODIAL INTERROGATION REQUIREMENTS

Suspects who are in custody and subjected to an interrogation shall be given the *Miranda* warning, unless an exception applies. Interview or interrogation of a juvenile shall be in accordance with the Federal, State and case law standards.

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500.4.1 AUDIO/VIDEO RECORDINGS

Any custodial interrogation of an individual who is suspected of having committed any violent felony offense should be recorded (audio or video with audio as available) in its entirety. Regardless of where the interrogation occurs, every reasonable effort should be made to secure functional recording equipment to accomplish such recordings.

Consideration should also be given to recording a custodial interrogation, or any investigative interview, for any other offense when it is reasonable to believe it would be appropriate and beneficial to the investigation and is otherwise allowed by law.

No recording of a custodial interrogation should be destroyed or altered without written authorization from the prosecuting attorney and the Investigative Bureau supervisor. Copies of recorded interrogations or interviews may be made in the same or a different format as the original recording, provided the copies are true, accurate and complete and are made only for authorized and legitimate law enforcement purposes.

Recordings should not take the place of a thorough report and investigative interviews. Written statements from suspects should continue to be obtained when applicable.

500.4.2 MANDATORY RECORDING OF ADULTS

Any custodial interrogation of an adult who is suspected of having committed any murder shall be recorded in its entirety. The recording should be video with audio if reasonably feasible (Penal Code § 859.5).

This recording is not mandatory when (Penal Code § 859.5):

- (a) Recording is not feasible because of exigent circumstances that are later documented in a report.
- (b) The suspect refuses to have the interrogation recorded, including a refusal any time during the interrogation, and the refusal is documented in a report. If feasible, the refusal shall be electronically recorded.
- (c) The custodial interrogation occurred in another state by law enforcement officers of that state, unless the interrogation was conducted with the intent to avoid the requirements of Penal Code § 859.5.
- (d) The interrogation occurs when no member conducting the interrogation has a reason to believe that the individual may have committed murder. Continued custodial interrogation concerning that offense shall be electronically recorded if the interrogating member develops a reason to believe the individual committed murder.
- (e) The interrogation would disclose the identity of a confidential informant or would jeopardize the safety of 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.

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- (h) The suspect is in custody for murder and the interrogation is unrelated to a murder. However, if any information concerning a murder is mentioned during the interrogation, the remainder of the interrogation shall be recorded.

The Bureau shall maintain an original or an exact copy of the recording until a conviction relating to the interrogation is final and all appeals are exhausted or prosecution is barred by law (Penal Code § 859.5).

500.5 DISCONTINUATION OF INVESTIGATIONS

The investigation of a criminal case or efforts to seek prosecution should only be discontinued if one of the following applies:

- (a) All reasonable investigative efforts have been exhausted, no reasonable belief that the person who committed the crime can be identified, and the incident has been documented appropriately.
- (b) The perpetrator of a misdemeanor has been identified and a warning is the most appropriate disposition.
 - 1. In these cases, the investigator shall document that the person was warned and why prosecution was not sought.
 - 2. Warnings shall not be given for felony offenses or other offenses identified in this policy or by law that require an arrest or submission of a case to a prosecutor.
- (c) The case has been submitted to the appropriate prosecutor but no charges have been filed. Further investigation is not reasonable nor has the prosecutor requested further investigation.
- (d) The case has been submitted to the appropriate prosecutor, charges have been filed, and further investigation is not reasonable, warranted, or requested, and there is no need to take the suspect into custody.
- (e) Suspects have been arrested, there are no other suspects, and further investigation is either not warranted, or requested.
- (f) Investigation has proven that a crime was not committed (see the Sexual Assault Investigations Policy for special considerations in these cases).

The Domestic Violence, Child Abuse Sexual Assault Investigations, and Senior and Disability Victimization policies may also require an arrest or submittal of a case to a prosecutor.

500.6 COMPUTERS AND DIGITAL EVIDENCE

The collection, preservation, transportation and storage of computers, cell phones and other digital devices may require specialized handling to preserve the value of the related evidence. If it is anticipated that computers or similar equipment will be seized, investigators should request that computer forensic examiners assist with seizing computers and related evidence. If a forensic examiner is unavailable, investigators should take reasonable steps to prepare for such seizure and use the resources that are available.

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500.7 INVESTIGATIVE USE OF SOCIAL MEDIA AND INTERNET SOURCES

Use of social media and any other internet source to access information for the purpose of criminal investigation shall comply with applicable laws and policies regarding privacy, civil rights, and civil liberties. Information gathered via the internet should only be accessed by members while on-duty and for purposes related to the mission of this bureau. If a member encounters information relevant to a criminal investigation while off-duty or while using the member's own equipment, the member should note the dates, times, and locations of the information and report the discovery to the member's supervisor as soon as practicable. The member, or others who have been assigned to do so, should attempt to replicate the finding when on-duty and using bureau equipment.

Information obtained via the internet should not be archived or stored in any manner other than bureau-established record keeping systems (see the Records Maintenance and Release and the Criminal Organizations policies).

500.7.1 ACCESS RESTRICTIONS

Information that can be accessed from any bureau computer, without the need of an account, password, email address, alias, or other identifier (unrestricted websites), may be accessed and used for legitimate investigative purposes without supervisory approval.

Accessing information from any internet source that requires the use or creation of an account, password, email address, alias or other identifier, or the use of nongovernment IP addresses, requires supervisor approval prior to access. The supervisor will review the justification for accessing the information and consult with legal counsel as necessary to identify any policy or legal restrictions. Any such access and the supervisor approval shall be documented in the related investigative report.

Accessing information that requires the use of a third party's account or online identifier requires supervisor approval and the consent of the third party. The consent must be voluntary and shall be documented in the related investigative report.

Information gathered from any internet source should be evaluated for its validity, authenticity, accuracy, and reliability. Corroborative evidence should be sought and documented in the related investigative report.

Any information collected in furtherance of an investigation through an internet source should be documented in the related report. Documentation should include the source of information and the dates and times that the information was gathered.

500.7.2 INTERCEPTING ELECTRONIC COMMUNICATION

Intercepting social media communications in real time may be subject to federal and state wiretap laws. Investigators must seek legal counsel before any such interception.

500.8 CELLULAR COMMUNICATIONS INTERCEPTION TECHNOLOGY

The Investigator is responsible for ensuring the following for cellular communications interception technology operations (Government Code § 53166):

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- (a) Security procedures are developed to protect information gathered through the use of the technology.
- (b) A usage and privacy policy is developed that includes:
 - 1. The purposes for which using cellular communications interception technology and collecting information is authorized.
 - 2. Identification by job title or other designation of employees who are authorized to use or access information collected through the use of cellular communications interception technology.
 - 3. Training requirements necessary for those authorized employees.
 - 4. A description of how the Bureau will monitor the use of its cellular communications interception technology to ensure the accuracy of the information collected and compliance with all applicable laws.
 - 5. Process and time period system audits.
 - 6. Identification of the existence of any memorandum of understanding or other agreement with any other local agency or other party for the shared use of cellular communications interception technology or the sharing of information collected through its use, including the identity of signatory parties.
 - 7. The purpose of, process for and restrictions on the sharing of information gathered through the use of cellular communications interception technology with other local agencies and persons.
 - 8. The length of time information gathered through the use of cellular communications interception technology will be retained, and the process the local agency will utilize to determine if and when to destroy retained information.

Members shall only use approved devices and usage shall be in compliance with bureau security procedures, the bureau's usage and privacy procedures and all applicable laws.

500.9 USE OF CERTAIN DNA SAMPLES

Known samples of DNA collected from a victim of a crime or alleged crime, and known reference samples of DNA from any individual that were voluntarily provided for the purpose of exclusion are to be used only for the purpose directly related to the incident being investigated and in compliance with the procedures identified in Penal Code § 679.12.

500.10 ANTI-REPRODUCTIVE RIGHTS CRIMES

A member should take a report any time a person living within the jurisdiction of the Sonoma County District Attorney's Office reports that the person has been a victim of an anti-reproductive rights crime as defined by Penal Code § 13776 and Penal Code § 423.3. This includes:

- (a) Taking a report, even if the location of the crime is outside the jurisdiction of this bureau or has not been determined (e.g., online harassment).
- (b) Providing the victim with the appropriate information, as set forth in the Victim and Witness Assistance Policy. Members should encourage the person to review the material and should assist with any questions.

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A report should also be taken if a person living outside bureau jurisdiction reports an anti-reproductive rights crime that may have been committed or facilitated within this jurisdiction (e.g., use of a post office box in the [city/county] to facilitate the crime).

A member investigating an anti-reproductive rights crime should ensure that the case is referred to the appropriate agency if it is determined that this bureau should not be the investigating agency. The victim should be advised that the case is being transferred to the agency of jurisdiction. The appropriate entries should be made into any databases that have been authorized for bureau use and are specific to this type of investigation.

The Investigative Bureau supervisor should provide the Records Supervisor with enough information regarding the number of calls for assistance and number of arrests to meet the reporting requirements to the California Department of Justice as required by Penal Code § 13777. See the Records Section Policy for additional guidance.

Sexual Assault Investigations

501.1 PURPOSE AND SCOPE

The purpose of this policy is to establish guidelines for the investigation of sexual assaults. These guidelines will address some of the unique aspects of such cases and the effects that these crimes have on the victims.

Mandatory notifications requirements are addressed in the Child Abuse and Senior and Disability Victimization policies.

501.1.1 DEFINITIONS

Definitions related to this policy include:

Sexual assault - Any crime or attempted crime of a sexual nature, to include but not limited to offenses defined in Penal Code § 243.4, Penal Code § 261 et seq., and Penal Code § 285 et seq.

Sexual Assault Response Team (SART) - A multidisciplinary team generally comprised of advocates; law enforcement officers; forensic medical examiners, including sexual assault forensic examiners (SAFEs) or sexual assault nurse examiners (SANEs) if possible; forensic laboratory personnel; and prosecutors. The team is designed to coordinate a broad response to sexual assault victims.

501.2 POLICY

It is the policy of the Sonoma County District Attorney's Office that its investigators, when investigating reports of sexual assaults, will strive to minimize the trauma experienced by the victims, and will aggressively investigate sexual assaults, pursue expeditious apprehension and conviction of perpetrators, and protect the safety of the victims and the community.

501.3 QUALIFIED INVESTIGATORS

Qualified investigators should be available for assignment of sexual assault investigations. These investigators should:

- (a) Have specialized training in, and be familiar with, interview techniques and the medical and legal issues that are specific to sexual assault investigations.
- (b) Conduct follow-up interviews and investigation.
- (c) Present appropriate cases of alleged sexual assault to the prosecutor for review.
- (d) Coordinate with other enforcement agencies, social service agencies and medical personnel as needed.
- (e) Provide referrals to therapy services, victim advocates and support for the victim.
- (f) Participate in or coordinate with SART.

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501.4 VICTIM INTERVIEWS

The primary considerations in sexual assault investigations, should be the health and safety of the victim, the preservation of evidence, and preliminary interviews to determine if a crime has been committed and to attempt to identify the suspect.

Any in-depth follow-up interviews conducted by a District Attorney's Office Investigator should not be conducted until after the investigation efforts of the original law enforcement officer is complete and has been submitted to the District Attorney's Office for review and filing.

No opinion of whether the case is unfounded shall be included in the report.

Victims shall not be asked or required to take a polygraph examination (34 USC § 10451; Penal Code § 637.4).

501.4.1 VICTIM RIGHTS

Whenever there is an alleged sexual assault, the assigned investigator shall accomplish the following:

- (a) Prior to the commencement of the initial interview, advise the victim in writing of the right to have a victim advocate and a support person of the victim's choosing present at any interview or contact by law enforcement, about any other rights of a sexual assault victim pursuant to the sexual assault victim card described in Penal Code § 680.2, and the right to have a person of the same or opposite gender present in the room during any interview with a law enforcement official unless no such person is reasonably available (Penal Code § 679.04).
- (b) If the victim is transported to a hospital for any medical evidentiary or physical examination, the investigator shall immediately cause the local rape victim counseling center to be notified (Penal Code § 264.2).
 1. The investigator shall not discourage a victim from receiving a medical evidentiary or physical examination (Penal Code § 679.04).
 2. A support person may be excluded from the examination by the investigator or the medical provider if the support person's presence would be detrimental to the purpose of the examination (Penal Code § 264.2).

501.4.2 VICTIM CONFIDENTIALITY

Except as authorized by law, members of this bureau shall not publicly disclose the name of any victim of a sex crime who has exercised his/her right to confidentiality (Penal Code § 293).

Provided that the sexual assault victim or the victim's authorized designee has kept the assigned investigator informed with regard to current address, telephone number, and email address (if available), any victim or the victim's authorized designee shall, upon request, be advised of any known significant changes regarding the victim's case (Penal Code § 680).

- (a) Although such information may be communicated orally, the assigned investigator should thereafter follow-up with and retain a copy of confirmation by either written or electronic mail.

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- (b) No investigator shall be required or expected to release any information which might impede or compromise any ongoing investigation.

501.5 DISPOSITION OF CASES

When a victim has recanted his/her original statement, there must be corroborating evidence that the allegations were false or baseless (i.e., no crime occurred) before the case should be determined as unfounded. Should the facts of the investigation have significant irregularities with reported information and that the incident could not have happened as it was reported, the Investigator should document the findings and inform the Supervising Investigator.

501.6 RELEASING INFORMATION TO THE PUBLIC

In cases where the perpetrator is not known to the victim, and especially if there are multiple crimes where more than one appear to be related, consideration should be given to releasing information to the public whenever there is a reasonable likelihood that doing so may result in developing helpful investigative leads. The Investigative Bureau supervisor should weigh the risk of alerting the suspect to the investigation with the need to protect the victim and the public, and to prevent more crimes.

Informants

502.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidelines for the use of informants.

502.1.1 DEFINITIONS

Definitions related to this policy include:

Informant - A person who covertly interacts with other individuals or suspects at the direction of, request of, or by agreement with, the Sonoma County District Attorney's Office for law enforcement purposes. This also includes a person agreeing to supply information to the Sonoma County District Attorney's Office for a benefit (e.g., a quid pro quo in the form of a reduced criminal penalty, money).

502.2 POLICY

The Sonoma County District Attorney's Office recognizes the value of informants to law enforcement efforts and will strive to protect the integrity of the informant process. It is the policy of this bureau that all funds related to informant payments will be routinely audited and that payments to informants will be made according to the criteria outlined in this policy.

502.3 USE OF INFORMANTS

502.3.1 INITIAL APPROVAL

Before using an individual as an informant, an investigator must receive approval from his/her supervisor. The investigator shall compile sufficient information through a background investigation and experience with the informant in order to determine the suitability of the individual, including age, maturity and risk of physical harm, as well as any indicators of his/her reliability and credibility.

Members of this bureau should not guarantee absolute safety or confidentiality to an informant.

502.3.2 JUVENILE INFORMANTS

The use of informants under the age of 13 is prohibited.

Except for the enforcement of laws related to the commercial sale of alcohol, marijuana or tobacco products, a juvenile 13 years of age or older may only be used as an informant with the written consent of each of the following:

- (a) The juvenile's parents or legal guardians
- (b) The juvenile's attorney, if any
- (c) The court in which the juvenile's case is being handled, if applicable (Penal Code § 701.5)
- (d) The District Attorney or the authorized designee

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502.3.3 INFORMANT AGREEMENTS

All informants are required to sign and abide by the provisions of the designated bureau informant agreement. The investigator using the informant shall discuss each of the provisions of the agreement with the informant.

Details of the agreement are to be approved in writing by a supervisor before being finalized with the informant.

502.4 INFORMANT INTEGRITY

To maintain the integrity of the informant process, the following must be adhered to:

- (a) The identity of an informant acting in a confidential capacity shall not be withheld from the District Attorney, Chief Investigator, Investigations Bureau supervisor or their authorized designees.
 - 1. Identities of informants acting in a confidential capacity shall otherwise be kept confidential.
- (b) Criminal activity by informants shall not be condoned.
- (c) Informants shall be told they are not acting as District Attorney investigators, employees or agents of the Sonoma County District Attorney's Office, and that they shall not represent themselves as such.
- (d) The relationship between bureau investigators and informants shall always be ethical and professional.
 - (a) Members shall not become intimately involved with an informant.
 - (b) Social contact shall be avoided unless it is necessary to conduct an official investigation, and only with prior approval of the Investigations Bureau supervisor.
 - (c) Members shall neither solicit nor accept gratuities or engage in any private business transaction with an informant.
- (e) Investigators shall not meet with informants in a private place unless accompanied by at least one additional investigator.
 - (a)
- (f) When contacting informants for the purpose of making payments, investigators shall arrange for the presence of another investigator.
- (g) In all instances when bureau funds are paid to informants, a voucher shall be completed in advance, itemizing the expenses.
- (h) Since the decision rests with the appropriate prosecutor, investigators shall not promise that the informant will receive any form of leniency or immunity from criminal prosecution.

502.4.1 UNSUITABLE INFORMANTS

The suitability of any informant should be considered before engaging him/her in any way in a covert or other investigative process. Members who become aware that an informant may

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be unsuitable will notify the supervisor, who will initiate a review to determine suitability. Until a determination has been made by a supervisor, the informant should not be used by any member. The supervisor shall determine whether the informant should be used by the Bureau and, if so, what conditions will be placed on his/her participation or any information the informant provides. The supervisor shall document the decision and conditions in file notes and mark the file "unsuitable" when appropriate.

Considerations for determining whether an informant is unsuitable include, but are not limited to, the following:

- (a) The informant has provided untruthful or unreliable information in the past.
- (b) The informant behaves in a way that may endanger the safety of an investigator.
- (c) The informant reveals to suspects the identity of an investigator or the existence of an investigation.
- (d) The informant appears to be using his/her affiliation with this bureau to further criminal objectives.
- (e) The informant creates officer-safety issues by providing information to multiple law enforcement agencies simultaneously, without prior notification and approval of each agency.
- (f) The informant engages in any other behavior that could jeopardize the safety of investigators or the integrity of a criminal investigation.
- (g) The informant commits criminal acts subsequent to entering into an informant agreement.

502.5 INFORMANT FILES

Informant files shall be utilized as a source of background information about the informant, to enable review and evaluation of information provided by the informant, and to minimize incidents that could be used to question the integrity of bureau members or the reliability of the informant.

Informant files shall be maintained in a secure area within the Investigations Bureau supervisor's office. The Investigations Bureau supervisor or the authorized designee shall be responsible for maintaining informant files. Access to the informant files shall be restricted to the District Attorney, Chief Investigator and Investigations Bureau supervisor.

The Investigations Bureau supervisor should arrange for an audit using a representative sample of randomly selected informant files on a periodic basis, but no less than one time per year. If the Investigations Bureau supervisor is replaced, the files will be audited before the new supervisor takes over management of the files. The purpose of the audit is to ensure compliance with file content and updating provisions of this policy. The audit should be conducted by a supervisor who does not have normal access to the informant files.

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502.5.1 FILE SYSTEM PROCEDURE

A separate file shall be maintained on each informant and shall be coded with an assigned informant control number. An informant history that includes the following information shall be prepared for each file:

- (a) Name and aliases
- (b) Date of birth
- (c) Physical description: sex, race, height, weight, hair color, eye color, scars, tattoos or other distinguishing features
- (d) Photograph
- (e) Current home address and telephone numbers
- (f) Current employers, positions, addresses and telephone numbers
- (g) Vehicles owned and registration information
- (h) Places frequented
- (i) Briefs of information provided by the informant and his/her subsequent reliability
 - 1. If an informant is determined to be unsuitable, the informant's file is to be marked "unsuitable" and notations included detailing the issues that caused this classification.
- (j) Name of the investigator initiating use of the informant
- (k) Signed informant agreement
- (l) Update on active or inactive status of informant

502.6 INFORMANT PAYMENTS

No informant will be told in advance or given an exact amount or percentage for his/her service. The amount of funds to be paid to any informant will be evaluated against the following criteria:

- The extent of the informant's personal involvement in the case
- The significance, value or effect on crime
- The value of assets seized
- The quantity of the drugs or other contraband seized
- The informant's previous criminal activity
- The level of risk taken by the informant

The Investigations Bureau supervisor will discuss the above factors with the Chief Investigator and recommend the type and level of payment subject to approval by the District Attorney.

502.6.1 PAYMENT PROCESS

Approved payments to an informant should be in cash using the following process:

- (a) Payments of \$500 and under may be paid in cash from a buy/expense fund.

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- (a) The supervisor shall sign the voucher for cash payouts from the buy/expense fund.
- (b) Payments exceeding \$500 shall be made by issuance of a money order, payable to the investigator who will be delivering the payment.
 - (a) A written statement of the informant's involvement in the case shall be placed in the informant's file.
 - (b) The statement shall be signed by the informant verifying the statement as a true summary of his/her actions in the case.
 - (c) Authorization signatures from the District Attorney and the County Administrator are required for disbursement of the funds.
- (c) To complete the payment process for any amount, the investigator delivering the payment shall complete a cash transfer form.
 - 1. The cash transfer form shall include the following:
 - (a) Date
 - (b) Payment amount
 - (c) Sonoma County District Attorney's Office case number
 - (d) A statement that the informant is receiving funds in payment for information voluntarily rendered.
 - 2. The cash transfer form shall be signed by the informant.
 - 3. The cash transfer form will be kept in the informant's file.

502.6.2 AUDIT OF PAYMENTS

The Investigations Bureau supervisor or the authorized designee shall be responsible for compliance with any audit requirements associated with grant provisions and applicable state and federal law.

At least once every six months, the District Attorney or the authorized designee should conduct an audit of all informant funds for the purpose of accountability and security of the funds. The funds and related documents (e.g., buy/expense fund records, cash transfer forms, invoices, receipts and logs) will assist with the audit process.

Eyewitness Identification

503.1 PURPOSE AND SCOPE

This policy sets forth guidelines to be used when members of this bureau employ eyewitness identification techniques (Penal Code § 859.7).

503.1.1 DEFINITIONS

Definitions related to the policy include:

Eyewitness identification process - Any field identification, live lineup or photographic identification.

Field identification - A live presentation of a single individual to a witness following the commission of a criminal offense for the purpose of identifying or eliminating the person as the suspect.

Live lineup - A live presentation of individuals to a witness for the purpose of identifying or eliminating an individual as the suspect.

Photographic lineup - Presentation of photographs to a witness for the purpose of identifying or eliminating an individual as the suspect.

503.2 POLICY

The Sonoma County District Attorney's Office will strive to use eyewitness identification techniques, when appropriate, to enhance the investigative process and will emphasize identifying persons responsible for crime and exonerating the innocent.

503.3 INTERPRETIVE SERVICES

Members should make a reasonable effort to arrange for an interpreter before proceeding with eyewitness identification if communication with a witness is impeded due to language or hearing barriers.

Before the interpreter is permitted to discuss any matter with the witness, the investigating member should explain the identification process to the interpreter. Once it is determined that the interpreter comprehends the process and can explain it to the witness, the eyewitness identification may proceed as provided for within this policy.

503.4 EYEWITNESS IDENTIFICATION PROCESS AND FORM

The Investigative Bureau supervisor shall be responsible for the development and maintenance of an eyewitness identification process for use by members when they are conducting eyewitness identifications. Whenever possible, eyewitness identification procedures should be conducted by the investigating law enforcement agency that has original jurisdiction.

The process should include appropriate forms or reports that provide (Penal Code § 859.7):

- (a) The date, time and location of the eyewitness identification procedure.
- (b) The name and identifying information of the witness.

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- (c) The name of the person administering the identification procedure.
- (d) If applicable, the names of all of the individuals present during the identification procedure.
- (e) An instruction to the witness that it is as important to exclude innocent persons as it is to identify a perpetrator.
- (f) An instruction to the witness that the perpetrator may or may not be among those presented and that the witness is not obligated to make an identification.
- (g) If the identification process is a photographic or live lineup, an instruction to the witness that the perpetrator may not appear exactly as he/she did on the date of the incident.
- (h) An instruction to the witness that the investigation will continue regardless of whether an identification is made by the witness.
- (i) A signature line where the witness acknowledges that he/she understands the identification procedures and instructions.
- (j) A statement from the witness in the witness's own words describing how certain he/she is of the identification or non-identification. This statement should be taken at the time of the identification procedure.
- (k) Any other direction to meet the requirements of Penal Code § 859.7, including direction regarding blind or blinded administrations and filler selection.

The process and related forms should be reviewed at least annually and modified when necessary.

503.5 EYEWITNESS IDENTIFICATION

Members are cautioned not to, in any way, influence a witness as to whether any subject or photo presented in a lineup is in any way connected to the case.

Members should avoid mentioning that:

- The individual was apprehended near the crime scene.
- The evidence points to the individual as the suspect.
- Other witnesses have identified or failed to identify the individual as the suspect.

In order to avoid undue influence, witnesses should view suspects or a lineup individually and outside the presence of other witnesses. Witnesses should be instructed to avoid discussing details of the incident or of the identification process with other witnesses.

The eyewitness identification procedure should be audio and video recorded and the recording should be retained according to current evidence procedures. When it is not feasible to make a recording with both audio and visual representations, an audio recording should be made (Penal Code § 859.7).

503.6 PHOTOGRAPHIC LINEUP AND LIVE LINEUP CONSIDERATIONS

When practicable, the member presenting the lineup should not be involved in the investigation of the case or know the identity of the suspect. In no case should the member presenting a lineup

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to a witness know which photograph or person in the lineup is being viewed by the witness (Penal Code § 859.7). Techniques to achieve this include randomly numbering photographs, shuffling folders, or using a computer program to order the persons in the lineup.

Individuals in the lineup should reasonably match the description of the perpetrator provided by the witness and should bear similar characteristics to avoid causing any person to unreasonably stand out. In cases involving multiple suspects, a separate lineup should be conducted for each suspect. The suspects should be placed in a different order within each lineup (Penal Code § 859.7).

The member presenting the lineup should do so sequentially (i.e., show the witness one person at a time) and not simultaneously. The witness should view all persons in the lineup.

A live lineup shall not be conducted by District Attorney's Office Investigators.

503.6.1 OTHER SAFEGUARDS

Witnesses should be asked for suspect descriptions as close in time to the incident as possible and before conducting an eyewitness identification. No information concerning a suspect should be given prior to obtaining a statement from the witness describing how certain he/she is of the identification or non-identification. Members should not say anything to a witness that may validate or invalidate an eyewitness' identification. In photographic lineups, writings or information concerning any previous arrest of a suspect shall not be visible to the witness (Penal Code § 859.7).

503.6 DOCUMENTATION

A thorough description of the eyewitness process and the result of any eyewitness identification should be documented in the case report.

If a photographic lineup is utilized, a copy of the photographic lineup presented to the witness should be included in the case report. In addition, the order in which the photographs were presented to the witness should be documented in the case report.

503.6.1 DOCUMENTATION RELATED TO RECORDINGS

The handling member shall document the reason that a video recording or any other recording of an identification was not obtained (Penal Code § 859.7).

503.6.2 DOCUMENTATION RELATED TO BLIND ADMINISTRATION

If a presentation of a lineup is not conducted using blind administration, the handling member shall document the reason (Penal Code § 859.7).

Brady Material Disclosure

504.1 PURPOSE AND SCOPE

This policy establishes guidelines for identifying and releasing potentially exculpatory or impeachment information (so-called "*Brady* information") to a prosecuting attorney.

504.1.1 DEFINITIONS

Definitions related to this policy include:

Brady information - Information known to or possessed by any member of the "prosecution team" that is both favorable and material to the current prosecution or defense of a criminal defendant.

504.2 POLICY

The Sonoma 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 Investigations Bureau 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 assigned prosecutor potentially exculpatory information, as provided in this policy.

504.3 DISCLOSURE OF INVESTIGATIVE INFORMATION

Investigators must include in their investigative reports adequate investigative information and reference to all known 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 assigned prosecutor.

If information is believed to be privileged or confidential (e.g., confidential informant or attorney-client information, attorney work product), 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.

504.4 DISCLOSURE OF PERSONNEL INFORMATION

Whenever it is determined that *Brady* information is located in the personnel file of a member of this bureau who is a witness in a criminal case, the following procedure shall apply:

- (a) In the event that a *Pitchess* motion has not already been filed by the criminal defendant or other party pursuant to Evidence Code § 1043, the prosecuting attorney shall be

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notified of the potential presence of *Brady* information in the investigator's personnel file.

- (b) The prosecuting attorney should then be requested to file a *Pitchess* motion in order to initiate an in-camera review by the court.
- (c) Any member of the Investigations Bureau who is the subject of such a motion shall be notified in writing that a motion has been filed.
- (d) The Investigations Chief shall accompany all relevant files during any in-camera inspection and address any issues or questions raised by the court in determining whether any information contained in the files is discoverable pursuant to *Brady*.
- (e) If the court determines that there is relevant *Brady* information contained in the files, only that information ordered released will be copied and released to the parties filing the motion.
 - 1. Prior to the release of any information pursuant to this process, the Custodian of Records should request a protective order from the court limiting the use of such information to the involved case and requiring that the materials remain in the District Attorney's Office file subject to a sealing order.

504.5 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, with all rights respected pursuant to the Peace Officer Bill of Rights (POBR) where applicable. Should the investigation not sustain a finding of issues of credibility, dishonesty, moral turpitude or criminal conduct, yet the result of which reveals good cause why this potential Brady material should be brought before the Brady Review Committee, the member has the right to appeal that committee's decision whether to place the member on a Brady list.

Warrant Service

505.1 PURPOSE AND SCOPE

This policy establishes guidelines for the planning and serving of arrest and search warrants by members of this bureau. It is understood that this policy cannot address every variable or circumstance that can arise in the service of a search or arrest warrant, as these tasks can involve rapidly evolving and unique circumstances.

This policy is not intended to address the service of search warrants on locations or property already secured or routine field warrant arrests by patrol investigators.

505.2 POLICY

It is the policy of the Sonoma County District Attorney's Office to balance the safety needs of the public, the safety of bureau members, privacy interests and other relevant factors when making decisions related to the service of search and arrest warrants.

505.3 OPERATIONS DIRECTOR

The Supervising Investigator and Chief Investigator shall review all operation plans with the involved investigator to determine the risk level of the warrant service.

The Supervising Investigator will also have the responsibility to coordinate service of those warrants that are categorized as high risk. Deconfliction, risk assessment, operational planning, briefing and debriefing should follow each warrant service.

505.4 SEARCH WARRANTS

Investigators prepare the affidavit and search warrant, consulting with the applicable prosecuting attorney as needed. He/she will, submit the search warrant to the Supervising Investigator for review and evaluation of risk.

505.5 ARREST WARRANTS

If an investigator reasonably believes that serving an arrest warrant may pose a higher risk than commonly faced on a daily basis, the investigator shall submit the arrest warrant to the Supervising Investigator for review and evaluation of risk.

If the warrant is classified as high risk, service will be coordinated by the Supervising Investigator and the law enforcement agency of jurisdiction. If the warrant is not classified as high risk, the supervisor should facilitate arresting the person outside the residence where circumstances may pose a lower risk. In every warrant service, the Investigator should provide reasonable advance notice to the applicable agency, request assistance as needed and work cooperatively on operational planning and the mitigation of risks detailed in this policy.

505.6 WARRANT PREPARATION

An investigator who prepares a warrant should ensure the documentation in support of the warrant contains as applicable:

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- (a) Probable cause to support the search or arrest, including relevant dates and times to demonstrate timeliness and facts to support any request for nighttime warrant execution.
- (b) A clear explanation of the affiant's training, experience and relevant education.
- (c) Adequately supported opinions, when relevant, that are not left to unsubstantiated conclusions.
- (d) A nexus between the place to be searched and the persons or items central to the investigation. The facts supporting this nexus should be clear and current. For example, the affidavit shall explain why there is probable cause to believe that a particular person is currently residing at a particular location or that the items sought are present at a particular location.
- (e) Full disclosure of known or suspected residents at the involved location and any indication of separate living spaces at the involved location. For example, it should be disclosed that several people may be renting bedrooms at a single location, even if the exact location of the rooms is not known.
- (f) A specific description of the location to be searched, including photographs of the location, if reasonably available.
- (g) A sufficient description of the items to be seized.
- (h) Full disclosure of any known exculpatory information relevant to the warrant application (refer to the Brady Material Disclosure Policy).

505.7 HIGH-RISK WARRANT SERVICE

Under no circumstance should District Attorney's Office Investigators serve high-risk warrants without uniformed law enforcement support. District Attorney's Office Investigators shall not force entry for service of any warrant except upon exigent circumstance.

505.8 DETENTIONS DURING WARRANT SERVICE

Investigators must be sensitive to the safety risks of all persons involved with the service of a warrant. Depending on circumstances and facts present, it may be appropriate to control movements of any or all persons present at a warrant service, including those who may not be the subject of a warrant or suspected in the case. However, investigators must be mindful that only reasonable force may be used and weapons should be displayed no longer than the investigator reasonably believes is necessary (see the Use of Force Policy).

As soon as it can be determined that an individual is not subject to the scope of a warrant and that no further reasonable suspicion or safety concerns exist to justify further detention, the person should be promptly released.

Investigators should, when and to the extent reasonable, accommodate the privacy and personal needs of people who have been detained.

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505.9 ACTIONS AFTER WARRANT SERVICE

The District Attorney Investigator who authored the warrant shall ensure that all affidavits, warrants, receipts and returns, regardless of any associated cases, are filed with the issuing judge or magistrate as soon as reasonably possible, but in any event no later than any date specified on the warrant.

505.10 OUTSIDE AGENCIES AND CROSS-JURISDICTIONAL WARRANTS

The Supervising Investigator will ensure that cooperative efforts with other agencies in the service of warrants conform to existing mutual aid agreements or other memorandums of understanding and will work cooperatively to mitigate risks including, but not limited to, the following:

- Identity of team members
- Roles and responsibilities
- Familiarity with equipment
- Rules of engagement
- Asset forfeiture procedures

Any outside agency requesting the assistance of District Attorney's Office Investigators in the service of a warrant with jurisdiction should be referred to the Supervising Investigator. The Supervising Investigator should review and confirm the warrant, including the warrant location, and should discuss the service with the appropriate supervisor from the other agency. The Supervising Investigator will report to the Chief Investigator with all information and recommendation. The Supervising Investigator should ensure that members of the Sonoma County District Attorney's Office are utilized appropriately. Any concerns regarding the requested use of Sonoma County District Attorney's Office members should be brought to the attention of the Chief Investigator, District Attorney or the authorized designee. The actual service of the warrant will remain the responsibility of the agency requesting assistance.

Investigators will remain subject to the policies of the Sonoma County District Attorney's Office when assisting outside agencies.

505.11 MEDIA ACCESS

No advance information regarding warrant service operations shall be released without the approval of the District Attorney. Any media inquiries or press release after the fact shall be referred to the District Attorney's Office designee for media relations and public information.

505.12 TRAINING

The Chief Investigator or Training Manager should ensure investigators receive periodic training on this policy and associated topics, such as legal issues, warrant preparation, warrant service and reporting requirements.

Access to Inmate Telephone Recordings

506.1 PURPOSE AND SCOPE

The purpose of this policy is to set procedures for Sonoma County District Attorney's Office Investigations Bureau Investigators to access inmate telephone recordings and the corresponding procedures for obtaining those recordings for use as evidence in criminal investigations.

506.2 POLICY

It is the policy of the Sonoma County District Attorney's Office Investigations Bureau that Investigators may monitor inmate telephone recordings for law enforcement purposes in conjunction with a criminal investigation. In order to comply with best practices regarding discovery of Defendant statements and exculpatory evidence, District Attorney Investigators will maintain written documentation of all telephone recordings they monitor and make copies of those recordings.

506.3 ACCESSING INMATE TELEPHONE RECORDINGS

District Attorney Investigators may access inmate recordings via a computer link established at their work stations located inside the secured access offices operated by the Office of the District Attorney. The system is called the GTL Phone System and may be accessed by the Investigator's user name and password.

District Attorney Investigators shall log in to their own accounts on their respective computer terminals with the computer links to access inmate recordings. Investigators shall not use another investigator's open account to access inmate recordings. Investigators shall not allow uninvolved third parties to listen to recordings the Investigator has accessed on their own account.

506.4 DOCUMENTATION AND PRESERVATION

When a Deputy District Attorney requests a District Attorney Investigator to monitor recordings for a filed case, the Investigator shall document the specific recordings monitored in a supplemental report. The report shall specify the particular recordings monitored by either the date and time the recording was made, or by the administrative file number given to the recording by the phone monitoring system. Such supplements shall be completed at 30 day intervals unless the Deputy District Attorney assigned to the case deems the reports are needed sooner. All supplemental reports require supervisory approval in keeping with best practices for all investigative reports.

The District Attorney Investigator shall preserve copies of each telephone recording monitored and preserve the recordings in Evidence.com. The Investigator will periodically provide the assigned Deputy District Attorney with a written report that references copies of the recordings having been preserved in Evidence.com so the Deputy District Attorney may ensure recordings are discovered to defense. The Investigator shall ensure the Deputy District Attorney has been provided with up to date information in advance of the trial date, and in particular, at least 60 days prior to the date the matter is set for trial.

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Access to Inmate Telephone Recordings

In cases involving active criminal investigations, such as witness intimidation, threats being made to witnesses, etc., the telephone monitoring shall be documented in the same manner. However, the District Attorney Investigator shall consult with their supervisor and with the Deputy DA about the circumstances for discovery so as not to compromise the investigation.

506.5 RISK INFORMATION REQUIRING IMMEDIATE ACTION

Whenever District Attorney Investigators become aware of information while listening to inmate recordings that may compromise the safety and/or security of the Detention Facilities, the staff or the inmates, Investigators must notify their supervisor immediately. Additionally, Investigators shall contact the Sonoma County Sheriff's Office Custody Sergeant immediately by dialing 565-1600. Safety and security issues may include, but are not limited to, matters such as:

- Statements indicating plans to assault staff or other inmates.
- Plans for escape.
- Plans to smuggle contraband (drugs, weapons, cell phone, etc.) into the detention facilities.
- Plans indicating group disturbance/riots, or anything else you overhear that indicates an unsafe environment.
- Suicidal or self-injurious statements

The Investigator shall prepare a written report to include the name of the jail supervisor contacted in cases involving the disclosure of information described in this section.

506.6 PROFESSIONAL CALLS

The Inmate phone system is designed to prevent monitoring of calls made between defendants and known phone numbers of defense attorneys. It is always possible that a defendant can make a call to an attorney that is not detected by the system. Therefore, in cases in which a DA Investigator discovers a communication between attorney and client, the DA Investigator shall immediately stop listening to the recording. The DA Investigator shall notify the Deputy District Attorney assigned to the case as soon as practical. The DA Investigator shall also notify a Senior Investigator or the Chief Investigator. Additionally, the DA Investigator shall notify the Sonoma County Jail staff so the phone number can be added to the jail database. A supplemental report shall be completed describing the discovery of the communication, the names of the persons notified, and the date and time of the notification. The supplemental report will be supplied to the Deputy District Attorney assigned to the case.

Chapter 6 - Equipment

Bureau Owned and Personal Property

600.1 PURPOSE AND SCOPE

Bureau employees are expected to properly care for bureau property assigned or entrusted to them. Employees may also suffer occasional loss or damage to personal or bureau property while performing their assigned duty.

600.2 CARE OF BUREAU PROPERTY

Employees shall be responsible for the safekeeping, serviceable condition, proper care, use and replacement of bureau property assigned or entrusted to them. An employee's intentional or negligent abuse or misuse of bureau property may lead to any level of 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.

600.3 FILING CLAIMS FOR PERSONAL PROPERTY

Claims for reimbursement for damage or loss of personal property must be made in a memo and submitted to the employee's immediate supervisor. The supervisor may require a separate written report of the loss or damage.

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

Upon review by staff and a finding that no misconduct or negligence was involved, repair or replacement may be recommended by the District Attorney who will then forward the claim to the Accounting Division.

The District Attorney's Office Investigations Bureau will not replace or repair luxurious or overly expensive items (jewelry, exotic equipment, etc.) that are not reasonably required as a part of

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work. The District Attorney's Office Investigations Bureau will not replace or repair a firearm carried on-duty or off-duty that is not the firearm issued by this agency.

600.3.1 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.

600.4 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.

600.4.1 DAMAGE BY PERSON OF ANOTHER AGENCY

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

These written reports, accompanied by the supervisor's written report, shall promptly be forwarded to the appropriate District Attorney's Office Manager.

Personal Communication Devices

601.1 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 Bureau 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.

601.2 POLICY

The Sonoma County District Attorney's Office allows members to utilize bureau-issued or funded PCDs and to possess personally owned PCDs in the workplace, subject to certain limitations. Any PCD used while on-duty, or used off-duty in any manner reasonably related to the business of the Bureau, will be subject to monitoring and inspection consistent with the standards set forth in this policy.

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

601.3 PRIVACY EXPECTATION

Members forfeit any expectation of privacy with regard to any communication accessed, transmitted, received or reviewed on any PCD issued or funded by the District Attorney's Office Investigations Bureau and shall have no expectation of privacy in their location should the device be equipped with location detection capabilities (see the Information Technology Use Policy for additional guidance).

601.3.1 CALIFORNIA ELECTRONIC COMMUNICATIONS PRIVACY ACT (CALECPA)

No member is authorized to be the sole possessor of a bureau-issued PCD. Bureau-issued PCDs can be retrieved, reassigned, accessed or used by any member as directed by a supervisor without notice. Member use of a bureau-issued PCD and use of a personal PCD at work or for work-related business constitutes specific consent for access for bureau purposes. Prior to conducting an administrative search of a PCD, supervisors should consult legal counsel to ensure access is consistent with CalECPA (Penal Code § 1546; Penal Code § 1546.1).

601.4 BUREAU-ISSUED PCD

Depending on a member's assignment and the needs of the position, the Investigations Bureau may, at its discretion, issue or fund a PCD. Bureau-issued or funded PCDs are provided as a

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convenience to facilitate on-duty performance only. Such devices and the associated telephone number 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 cause.

601.5 PERSONALLY OWNED PCD

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

- (a) Permission to carry a personally owned PCD may be revoked if it is used contrary to provisions of this policy.
- (b) The PCD and any associated services shall be purchased, used and maintained solely at the member's expense.
- (c) The device should not be used for work-related purposes except in exigent circumstances (e.g., unavailability of radio communications). Members will have a reduced expectation of privacy when using a personally owned PCD in the workplace and have no expectation of privacy with regard to any bureau business-related communication.
 - 1. Members may use personally owned PCDs on-duty for routine administrative work as authorized by the District Attorney.
- (d) The device shall not be utilized to record or disclose any business-related information, including photographs, video or the recording or transmittal of any information or material obtained or made accessible as a result of employment with the Bureau, without the express authorization of the District Attorney or the authorized designee.
- (e) Use of a personally owned PCD while at work or for work-related business constitutes consent for the Bureau to access the PCD to inspect and copy data to meet the needs of the Bureau, which may include litigation, public records retention and release obligations and internal investigations. If the PCD is carried on-duty, members will provide the Bureau with the telephone number of the device.
- (f) All work-related documents, emails, photographs, recordings or other public records created or received on a member's personally owned PCD should be transferred to the Sonoma County District Attorney's Office and deleted from the member's PCD as soon as reasonably practicable but no later than the end of the member's shift.

601.6 USE OF PCD

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

- (a) A PCD may not be used to conduct personal business while on-duty, except for brief personal communications (e.g., informing family of extended hours).
- (b) Members may use a PCD to communicate with other personnel in situations where the use of radio communications is either impracticable or not feasible. PCDs should not be used as a substitute for, as a way to avoid, or in lieu of regular radio communications.

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- (c) Members are prohibited from taking pictures, audio or video recordings or making copies of any such picture or recording media unless it is directly related to official bureau business. Disclosure of any such information to any third party through any means, without the express authorization of the District Attorney or the authorized designee, may result in discipline.
- (d) Using PCDs to harass, threaten, coerce or otherwise engage in inappropriate conduct with any third party is prohibited. Any member having knowledge of such conduct shall promptly notify a supervisor.

601.7 SUPERVISOR RESPONSIBILITIES

The responsibilities of supervisors include, but are not limited to:

- (a) Ensuring that members under their command are provided appropriate training on the use of PCDs consistent with this policy.
- (b) Monitoring, to the extent practicable, PCD use in the workplace and taking prompt corrective action if a member is observed or reported to be improperly using a PCD.
 - (a) An investigation into improper conduct should be promptly initiated when circumstances warrant.
 - (b) Before conducting any administrative search of a member's personally owned device, supervisors should consult with the District Attorney or the authorized designee.

601.8 OFFICIAL USE

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

601.9 USE WHILE DRIVING

The use of a PCD while driving can adversely affect safety, cause unnecessary distractions and present a negative image to the public. Investigators operating 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 bureau vehicles should 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 Bureau 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 Maintenance

602.1 PURPOSE AND SCOPE

Employees are responsible for assisting in maintaining Bureau vehicles so that they are properly equipped, properly maintained, properly refueled and present a clean appearance.

602.2 DEFECTIVE VEHICLES

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, in accordance with County Fleet Operations reporting requirements. The paperwork shall be promptly forwarded to the Supervising Investigator who will forward it on to vehicle maintenance for repair.

602.2.1 DAMAGE OR POOR PERFORMANCE

Vehicles that may have been damaged, or perform poorly shall be removed from service for inspections and repairs as soon as practicable.

602.2.2 SEVERE USE

Vehicles shall not be operated under severe-use conditions, which include operations for which the vehicle is not designed or that exceed the manufacturer's parameters. Such conditions may include rough roadway or off-road driving, hard or extended braking, pursuits or prolonged high-speed operation.

602.2.3 REMOVAL OF WEAPONS

All firearms, weapons and control devices shall be removed from a vehicle and properly secured prior to the vehicle being released for maintenance, service or repair.

602.3 VEHICLE EQUIPMENT

602.3.1 UNMARKED VEHICLES

An investigator driving unmarked bureau vehicles shall ensure that items and equipment for emergency situations as well as routine duties are present in the vehicle.

602.4 VEHICLE REFUELING

Vehicles shall only be refueled at the authorized county locations.

602.5 UPKEEP OF VEHICLES

All units shall be kept clean at all times and weather conditions permitting, shall be washed as necessary to enhance their appearance. Investigators shall maintain the vehicle sufficiently fueled to respond to unforeseen events.

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Employees using a vehicle shall remove any trash or debris. regularly and maintain the vehicles' interior and sanitary. Confidential material shall be placed in a designated receptacle provided for the shredding of this matter.

Vehicle Use

603.1 PURPOSE AND SCOPE

The purpose of this policy is to establish a system of accountability to ensure bureau vehicles are used appropriately. This policy provides guidelines for on- and off-duty use of bureau vehicles and shall not be construed to create or imply any contractual obligation by the County of Sonoma to provide assigned take-home vehicles.

603.2 POLICY

The Sonoma County District Attorney's Office Investigations Bureau members are to adhere to the mandates with thin County of Sonoma 5-1 Vehicle Use Policy. The Sonoma County District Attorney's Office provides vehicles for bureau-related business and may assign unmarked vehicles based on a determination of operational efficiency, economic impact to the Bureau, requirements for tactical deployments and other considerations.

603.3 USE OF VEHICLES

603.3.1 OTHER USE OF VEHICLES

District Attorney's Office Investigations Bureau members shall adhere to the County of Sonoma Vehicle Use policy and all sections contained therein. Members utilizing a vehicle for any purpose other than their normally assigned duties or normal vehicle assignment (e.g., transportation to training) shall first notify the Supervising Investigator.

603.3.2 INSPECTIONS

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

The interior of any vehicle that has been used to transport any person other than a member of this bureau should be inspected prior to placing another person in the vehicle and again after the person is removed.

When transporting any victim, witness or person not an employee of the County of Sonoma, the transporting member shall search all areas of the vehicle that are accessible by the person before and after that person is transported. DAIs shall not transport any suspect, prisoner or arrestee unless under exigent circumstances.

All bureau vehicles are subject to inspection and/or search at any time by a supervisor without notice and without cause. No member assigned to or operating such vehicle shall be entitled to any expectation of privacy with respect to the vehicle or its contents.

603.3.3 SECURITY AND UNATTENDED VEHICLES

Unattended vehicles should be locked and secured at all times. No key should be left in the vehicle.

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Members shall ensure all weapons are secured while the vehicle is unattended.

603.3.4 VEHICLE LOCATION SYSTEM

Vehicles, at the discretion of the District Attorney, may be equipped with a system designed to track the vehicle's location. While the system may provide vehicle location and other information, members are not relieved of their responsibility to use required communication practices to report their location and status.

Members shall not make any unauthorized modifications to the system. Members shall not use any information about the system in any manner that may interfere with the safe operational duties of DAIs, the District Attorney's Office or other public safety partners.

All data captured by the system shall be retained in accordance with the established records retention schedule. No person, other than authorized Administrators, shall access the data without prior approval of the District Attorney or Chief Investigator. No person shall release any data without prior approval of the District Attorney. Malicious, capricious or arbitrary misuse of the data is a violation of this policy and can result in discipline.

603.3.5 KEYS

Members are issued a vehicle key as part of their initial equipment distribution.

Members shall not duplicate keys. The loss of a key shall be promptly reported in writing through the member's chain of command.

603.3.6 AUTHORIZED PASSENGERS

Members operating bureau vehicles shall not permit persons other than County personnel or persons required to be conveyed in the performance of duty, or as otherwise authorized, to ride as passengers in the vehicle.

603.3.7 ALCOHOL

Members who have consumed alcohol are prohibited from operating any bureau vehicle. Regardless of assignment, members may not violate state law regarding vehicle operation while intoxicated. The Sonoma County District Attorney's Office has a "ZERO TOLERANCE" regarding the use of alcohol or any intoxicants during duty hours.

603.3.8 PARKING

Except when responding to an emergency or when urgent bureau-related business requires otherwise, members driving bureau vehicles should obey all parking regulations at all times.

Bureau vehicles should be parked in assigned stalls with the County Parking Permit displayed when required. Members shall not park privately owned vehicles in stalls assigned to bureau vehicles unless authorized by a supervisor.

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603.3.9 ACCESSORIES AND/OR MODIFICATIONS

There shall be no modifications, additions or removal of any equipment or accessories without written permission from the Investigations Chief and Fleet Operations Manager. Members shall not tamper with equipment or devices affixed or installed on county owned vehicles.

603.4 INDIVIDUAL MEMBER ASSIGNMENT TO VEHICLES

Bureau vehicles may be assigned to individual members at the discretion of the District Attorney. Vehicles may be assigned for on-duty and/or take-home use. Assigned vehicles may be changed at any time by the Investigations Chief or Supervising Investigator. Permission to take home a vehicle may be withdrawn at any time.

The assignment of vehicles may be suspended when the member is unable to perform his/her regular assignment.

603.4.1 ON-DUTY USE

Vehicle assignments shall be based on the nature of the member's duties, job description and essential functions, and employment or appointment status. Vehicles shall be used for the District Attorney's Office business only. Vehicles may be reassigned or utilized by other bureau members at the discretion of the District Attorney, Chief Investigator or the authorized designee. Vehicles should not be driven outside of the County of Sonoma without permission from the Supervising DAI or other District Attorney's Office manager.

603.4.2 ENFORCEMENT ACTIONS

When driving a take-home vehicle to and from work outside of the jurisdiction of the Sonoma County District Attorney's Office or while off-duty, an investigator shall not initiate enforcement actions except in those circumstances where a potential threat to life or serious property damage exists (see the Off-Duty Law Enforcement Actions and Law Enforcement Authority policies).

Investigators may render public assistance when it is deemed prudent (e.g., to a stranded motorist).

Investigators driving take-home vehicles shall be armed, appropriately attired and carry their bureau-issued identification. Investigators should also ensure that bureau radio communication capabilities are maintained to the extent feasible.

603.4.3 MAINTENANCE

Members are responsible for the cleanliness (exterior and interior) and overall maintenance of their assigned vehicles. Failure to adhere to these requirements may result in discipline and loss of vehicle assignment. The following should be performed as outlined below:

- (a) Members shall make daily inspections of their assigned vehicles for service/maintenance requirements and damage.
- (b) It is the member's responsibility to ensure that his/her assigned vehicle is maintained according to the established service and maintenance schedule.

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- (c) All scheduled vehicle maintenance shall be performed as necessary at County of Sonoma Fleet Operations, or other location determined by the Fleet Operations Manager.
- (d) The Chief Investigator shall be notified of problems with the vehicle and approve any major repairs before they are performed.
- (e) All weapons shall be removed from any vehicle left for maintenance.
- (f) Members shall report any suspicious or concerning issues regarding bureau vehicles.

603.4.4 UTILIZATION AND SAFETY REPORT

The Chief Investigator will provide to each Investigator a monthly report detailing their use of their assigned vehicle. The report contains information on utilization and safety issues pertaining to the individual vehicle assigned to the Investigator.

603.4.5 TAKE-HOME VEHICLE AUTHORIZATION/OPT-OUT FORM

The Chief Investigator will provide to each Investigator a form assigning the County vehicle for the Take-Home privilege and responsibilities in addition to any and all obligations in County and Department Vehicle Use Policies. This form is required to allow an Investigator to take their assigned vehicle home nightly.

The form also allows an Investigator to elect to not take a County vehicle home, and Opt-Out of the Take-Home agreement. Investigators who choose to Opt-Out will have their assigned vehicle available during regular duty hours only, and the Investigator will leave the vehicle parked and secured at the Hall of Justice in a permitted County lot.

The completed form, bearing the signatures of the Investigator, Chief Investigator and District Attorney shall be maintained in the Investigator's personnel file. A new form must be completed whenever a different vehicle is assigned to an Investigator.

603.5 DAMAGE, ABUSE AND MISUSE

When any bureau vehicle is involved in a traffic collision or otherwise incurs damage, the involved member shall promptly notify the Supervising Investigator or Chief Investigator. Any traffic collision report shall be filed with the agency having jurisdiction.

Damage to any bureau vehicle that was not caused by a traffic collision shall be immediately reported during the shift in which the damage was discovered, documented in a written memorandum containing all pertinent details of the damage and forwarded to the Supervising Investigator. The investigator shall complete a County of Sonoma Accident/Incident Form and forwarded to the Supervising Investigator.

603.6 TOLL CHARGES

Bureau vehicles are not exempted from incurring toll charges. The county maintains FasTrak accounts for the vehicle's operation. Members should be mindful of areas with tolls collections that differ from the FasTrak system.

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603.6 ATTIRE AND APPEARANCE

When operating any bureau vehicle while on-duty, members should dress in a manner appropriate for their intended activity. Whenever in view of or in contact with the public, attire and appearance, regardless of the activity, should be suitable to reflect positively upon the Bureau.

Personal Protective Equipment

604.1 PURPOSE AND SCOPE

This policy identifies the different types of personal protective equipment (PPE) provided by the Bureau as well the requirements and guidelines for the use of PPE.

This policy does not address ballistic vests or protection from communicable disease.

604.2 POLICY

The Sonoma County District Attorney's Office endeavors to protect members by supplying certain PPE to members as provided in this policy.

604.3 HEARING PROTECTION

Approved hearing protection shall be used by members during firearms training.

Hearing protection shall meet or exceed the requirements provided in 8 CCR 5098.

604.4 EYE PROTECTION

Approved eye protection, including side protection, shall be used by members during firearms training. Eye protection for members who wear prescription lenses shall incorporate the prescription (e.g., eye protection that can be worn over prescription lenses). Members shall ensure their eye protection does not interfere with the fit of their hearing protection.

The Firearms Instructor shall ensure eye protection meets or exceeds the requirements provided in 8 CCR 3382.

Chapter 7 - Support Services

Property and Evidence

700.1 PURPOSE AND SCOPE

This policy provides for the proper collection, storage, and security of evidence and other property. Additionally, this policy provides for the protection of the chain of evidence and identifies those persons authorized to remove, return and/or destroy property. The District Attorney's Office is not intended to be a long-term evidence storage facility and every effort should be made to promptly return court case evidence to the agency of jurisdiction,

700.2 DEFINITIONS

Property - Includes all items of evidence, items taken for safekeeping and found property.

Evidence - Includes items taken, produced or recovered in the course of an investigation that may be used in the prosecution of a case. This includes photographs and latent fingerprints.

Safekeeping - Includes the following types of property:

- Property obtained by the Bureau for safekeeping
- Personal property of an individual not taken as evidence
- Property obtained during the course of the court case

Found property - Includes property found by an employee or citizen that has no apparent evidentiary value and where the owner cannot be readily identified or contacted.

700.3 PROPERTY HANDLING

Any employee who first comes into possession of any property shall retain such property in his/her possession until it is properly tagged and placed in the designated property locker or storage room along with the property form. Care shall be taken to maintain the chain of custody for all evidence.

Where ownership can be established as to found property with no apparent evidentiary value, such property may be released to the owner without the need for booking. The property form must be completed to document the release of property not booked and the owner shall sign the form acknowledging receipt of the items.

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 where no responsible person can be located, the property should be booked for safekeeping in the normal manner.

700.3.1 PROPERTY BOOKING PROCEDURE

Employees booking property shall observe the following guidelines:

- (a) Complete the property form describing each item of property separately, listing all case numbers, serial numbers, owner's name, finder's name, and other identifying information or markings.

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- (b) Mark each item of evidence with the booking employee's initials and the date booked using the appropriate method so as not to deface or damage the value of the property.
- (c) Complete an evidence/property tag and attach it to each package or envelope in which the property is stored.
- (d) Place the case number on the bag.
- (e) The original property form shall be submitted with the case report. A copy shall be placed with the property in the temporary property locker or with the property if property is stored somewhere other than a property locker.
- (f) When the property is too large to be placed in a locker, the item may be retained in the evidence room and must be properly labeled.
- (g) Enter a note or supplemental report into the case file describing the items in evidence.

700.3.2 NARCOTICS AND DANGEROUS DRUGS

Whenever possible, all narcotics and dangerous drugs located during a contact with the public should be referred to the agency having jurisdiction.

All narcotics and dangerous drugs shall be booked separately using a separate property record. Paraphernalia as defined by Health and Safety Code § 11364 shall also be booked separately.

The investigator seizing the narcotics and dangerous drugs shall place them in the designated locker accompanied by two copies of the form and inform the Supervising Investigator of the presence in the drugs.

700.3.3 EXPLOSIVES

Investigators who encounter a suspected explosive device shall promptly notify the law enforcement agency of jurisdiction and then the Supervising Investigator. The Sheriff's Office bomb squad will be called to handle explosive-related incidents and will be responsible for the handling, storage, sampling and disposal of all suspected explosives.

Explosives of any kind shall not be retained in the District Attorney's Office or anywhere within the Hall of Justice, Juvenile Justice Center, LaPlaza Building B, or Family Justice Center.

700.3.4 RELINQUISHED FIREARMS

Individuals who wish to relinquish firearms pursuant to the provisions of Penal Code § 29850 shall be directed to the Sheriff's Office or, the law enforcement agency having jurisdiction over the individual's residence. The District Attorney's Office shall not accept a relinquished firearm.

700.4 PACKAGING OF PROPERTY

Certain items require special consideration and shall be booked separately as follows:

- (a) Narcotics and dangerous drugs
- (b) Firearms (ensure they are unloaded and booked separately from ammunition)
- (c) Property with more than one known owner
- (d) Paraphernalia as described in Health and Safety Code § 11364

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- (e) Contraband
- (f) Biohazards

700.4.1 PACKAGING CONTAINER

Employees shall package all property, except narcotics and dangerous drugs in a suitable container available for its size. Knife boxes should be used to package knives, and syringe tubes should be used to package syringes and needles.

A property tag shall be securely attached to the outside of all items or group of items packaged together.

700.5 RECORDING OF PROPERTY

The D.A. Investigator receiving custody of evidence or property shall record his/her signature, the date and time the property was received.

A property number shall be obtained for each item or group of items. This number shall be recorded on the property tag.

Any changes in the location of property held by the Sonoma County District Attorney's Office shall be noted in PBK case notes or supplemental report.

700.6 PROPERTY CONTROL

Each time the D.A. Investigator receives property or releases property to another person, he/she shall enter this information on the property sheet.

700.6.1 TRANSFER OF EVIDENCE TO CRIME LABORATORY OR COMPUTER CRIMES TASK FORCE

The transporting employee will check the evidence out of property, indicating the date and time on the property sheet and the request for laboratory or forensic analysis.

The D.A. Investigator releasing the evidence must complete the required information on the property sheet and the evidence. The lab forms or forensic examination request will be transported with the property or submitted electronically prior to transportation and surrender. Upon delivering the item involved, the investigator will record the delivery time on both copies, and indicate the locker in which the item was placed or the employee to whom it was delivered. The original copy of any forms will remain with the case file.

700.6.2 STATUS OF PROPERTY

Each person receiving property will make the appropriate entry to document the chain of evidence. Temporary release of property to investigators for investigative purposes, or for court, shall be noted on the property sheet, stating the date, time and to whom released.

The D.A. Investigator shall obtain the signature of the person to whom property is released, and the reason for release. Any employee receiving property shall be responsible for such property until it is properly returned to property or properly released to another authorized person or entity.

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The return of the property should be recorded on the property sheet, indicating date, time, and the person who returned the property.

700.6.3 AUTHORITY TO RELEASE PROPERTY

The Investigative Bureau shall authorize the disposition or release of all evidence and property coming into the care and custody of the Bureau.

700.6.4 RELEASE OF PROPERTY

All reasonable attempts shall be made to identify the rightful owner of found property or evidence not needed for an investigation. No found property items will be retained by the District Attorney's Office and shall be turned over to the agency having jurisdiction.

Release of property shall be made upon receipt of an authorized release form, listing the name and address of the person to whom the property is to be released. The release authorization shall be signed by the authorizing supervisor or detective and must conform to the items listed on the property form or must specify the specific item(s) to be released. Release of all property shall be documented on the property form.

700.6.5 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)).

700.7 DISPOSITION OF PROPERTY

All property not held for evidence in a pending criminal investigation or proceeding, and held for six months or longer where the owner has not been located or fails to claim the property, may be disposed of in compliance with existing laws upon receipt of proper authorization for disposal. The D.A. Investigator shall request a disposition or status on all property which has been held in excess of 120 days, and for which no disposition has been received from a supervisor or detective.

700.7.1 EXCEPTIONAL DISPOSITIONS

The following types of property shall be destroyed or disposed of in the manner, and at the time prescribed by law, unless a different disposition is ordered by a court of competent jurisdiction:

- Weapons declared by law to be nuisances (Penal Code § 29300; Penal Code § 18010; Penal Code § 32750)
- Animals, birds, and related equipment that have been ordered forfeited by the court (Penal Code § 599a)
- Counterfeiting equipment (Penal Code § 480)
- Gaming devices (Penal Code § 335a)

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- Obscene matter ordered to be destroyed by the court (Penal Code § 312)
- Altered vehicles or component parts (Vehicle Code § 10751)
- Narcotics (Health and Safety Code § 11474 et seq.)
- Unclaimed, stolen, or embezzled property (Penal Code § 1411)
- Destructive devices (Penal Code § 19000)
- Sexual assault evidence (Penal Code § 680)

700.7.2 UNCLAIMED MONEY

If found or seized money is no longer required as evidence and remains unclaimed after three years, the Bureau shall cause a notice to be published each week for a period of two consecutive weeks in a local newspaper of general circulation (Government Code § 50050). Such notice shall state the amount of money, the fund in which it is held and that the money will become the property of the agency on a designated date not less than 45 days and not more than 60 days after the first publication (Government Code § 50051).

Any individual item with a value of less than \$15.00, or any amount if the depositor/owner's name is unknown, which remains unclaimed for a year or by order of the court, may be transferred to the general fund without the necessity of public notice (Government Code § 50055).

If the money remains unclaimed as of the date designated in the published notice, the money will become the property of this bureau to fund official law enforcement operations. Money representing restitution collected on behalf of victims shall either be deposited into the Restitution Fund or used for purposes of victim services.

700.7.3 RETENTION OF BIOLOGICAL EVIDENCE

The Evidence Room Supervisor (Supervising Investigator) shall ensure that no biological evidence held by the Bureau is destroyed without adequate notification to the following persons, when applicable:

- (a) The defendant
- (b) The defendant's attorney
- (c) The appropriate prosecutor and Attorney General
- (d) Any sexual assault victim
- (e) The originating agency Evidence Room Supervisor

Biological evidence shall be retained for either a minimum period that has been established by law (Penal Code § 1417.9) or that has been established by the Evidence Room Supervisor, or until the expiration of any imposed sentence that is related to the evidence, whichever time period is greater. Following the retention period, notifications should be made by certified mail and should inform the recipient that the evidence will be destroyed after a date specified in the notice unless a motion seeking an order to retain the sample is filed and served on the Bureau within 180 days of the date of the notification. A record of all certified mail receipts shall be retained in the appropriate

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file. Any objection to, or motion regarding, the destruction of the biological evidence should be retained in the appropriate file and a copy forwarded to the originating agency Evidence Room Supervisor.

Biological evidence related to a homicide shall be retained indefinitely and may only be destroyed with the written approval of the District Attorney and the head of the applicable prosecutor's office.

Biological evidence or other crime scene evidence from an unsolved sexual assault should not be disposed of prior to expiration of the statute of limitations and shall be retained as required in Penal Code § 680. Even after expiration of an applicable statute of limitations, the originating agency Evidence Room Supervisor should be consulted and the sexual assault victim shall be notified at least 60 days prior to the disposal (Penal Code § 680). Reasons for not analyzing biological evidence shall be documented in writing (Penal Code § 680.3).

700.8 INSPECTIONS OF THE EVIDENCE ROOM

- (a) On a monthly basis, the supervisor of the evidence custodian shall make an inspection of the evidence storage facilities and practices to ensure adherence to appropriate policies and procedures.
- (b) Unannounced inspections of evidence storage areas shall be conducted annually as directed by the District Attorney.
- (c) An annual audit of evidence held by the Bureau shall be conducted by the Chief Investigator.
- (d) Whenever a change is made in personnel who have access to the evidence room, an inventory of all evidence/property shall be made by an individual not associated to the property room or function to ensure that records are correct and all evidence property is accounted for.

Records Section

701.1 PURPOSE AND SCOPE

This policy establishes the guidelines for the operational functions of the Sonoma County District Attorney's Office Records Section. The policy addresses bureau file access and internal requests for case reports.

701.2 POLICY

It is the policy of the Sonoma County District Attorney's Office to maintain bureau records securely, professionally, and efficiently.

- (a) Maintaining compliance with federal, state, and local regulations regarding reporting requirements of crime statistics. This includes reporting statistical data to the California Department of Justice (DOJ) for:
 - (a) All officer-involved shootings and incidents involving use of force resulting in serious bodily injury (Government Code § 12525.2).
 - (b) Suspected hate crimes (Penal Code § 13023).
 - (c) Complaints of racial bias against investigators (Penal Code § 13012; Penal Code § 13020).
 - (d) Civilian complaints made against investigators (Penal Code § 832.5; Penal Code § 13012).
 - (e) Stop data required by Government Code § 12525.5 and 11 CCR 999.226.
 - (a) The reported information must not contain personally identifiable information of the person stopped or other information exempt from disclosure pursuant to Government Code § 12525.5 (11 CCR 999.228).
- (b) Maintaining compliance with federal, state, and local regulations regarding criminal history reports and auditing.

Records Maintenance and Release

702.1 PURPOSE AND SCOPE

This policy provides guidance on the maintenance and release of bureau records. Protected information is separately covered in the Protected Information Policy.

702.2 POLICY

The Sonoma 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 § 7920.000 et seq.).

702.3 PROCESSING REQUESTS FOR PUBLIC RECORDS

Any bureau member who receives a request for any record shall route the request to the Assistant District Attorney or the authorized designee. No member shall allow, facilitate, or make possible the dissemination or access to any record held within the District Attorney's Office unless at the lawful direction of the Assistant District Attorney or District Attorney.

702.4 SECURITY BREACHES

The Records Supervisor 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 Bureau 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 Bureau 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 (Civil Code § 1798.29):

- (a) Social Security number
 - 1. 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
 - 2. 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
 - 3. Medical information
 - 4. Health insurance information

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5. Information or data collected by Automated License Plate Reader (ALPR) technology
 6. Unique biometric data
 7. Genetic data
- (b) A username or email address, in combination with a password or security question and answer that permits access to an online account

Protected Information

703.1 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 Sonoma County District Attorney's Office. This policy addresses the protected information that is used in the day-to-day operation of the Bureau and not the public records information covered in the Records Maintenance and Release Policy.

703.1.1 DEFINITIONS

Definitions related to this policy include:

Protected information - Any information or data that is collected, stored or accessed by members of the Sonoma 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.

703.2 POLICY

Members of the Sonoma 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.

703.3 RESPONSIBILITIES

The District Attorney shall designate the Supervising Investigator or other designee of the Bureau 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 including information contained within the Sonoma County Law Enforcement Consortium Data Analysis (I-Leads), Prosecutor by Karpel, and Evidence.com.
- (d) Developing procedures to ensure training and certification requirements are met.
- (e) Resolving specific questions that arise regarding authorized recipients of protected information.

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- (f) Ensuring security practices and procedures are in place to comply with requirements applicable to protected information.

703.4 ACCESS TO PROTECTED INFORMATION

Protected information shall not be accessed in violation of any law, order, regulation, user agreement, Sonoma 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 and/or criminal prosecution.

703.4.1 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).

703.5 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 the Supervising Investigator or the Assistant district Attorney for information regarding a formal request.

Unless otherwise ordered or when an investigation would be jeopardized, protected information maintained by the Bureau may generally be shared with authorized persons from other law enforcement agencies who are assisting in the investigation or conducting a related investigation.

Protected information, such as Criminal Justice Information (CJI), which includes Criminal History Record Information (CHRI), should generally not be transmitted by radio, cellular telephone or any other type of wireless transmission to members in the field or in vehicles through any computer or electronic device, except in cases where there is an immediate need for the information to further an investigation or where circumstances reasonably indicate that the immediate safety of investigators, other bureau members or the public is at risk.

703.5.1 REVIEW OF CRIMINAL OFFENDER RECORD

Individuals requesting to review their own California criminal history information shall be referred to the Department of Justice (Penal Code § 11121).

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703.6 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).

703.7 SECURITY OF PROTECTED INFORMATION

The District Attorney will select a member of the Bureau or member of IT team 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 District Attorney and appropriate authorities.

703.7.1 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).

703.8 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.

Computers and Digital Evidence

704.1 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.

704.2 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 possible, all computers and related evidence should be seized with the assistance of a trained computer forensic investigator. When seizing a computer and accessories the following steps should be taken:

- (a) Photograph each item, front and back, specifically including cable connections to other items. Look for a phone line or cable to a modem for Internet access.
- (b) Do not overlook the possibility of the presence of physical evidence on and around the hardware relevant to the particular investigation such as fingerprints, biological or trace evidence, and/or documents.
- (c) If the computer is off, do not turn it on.
- (d) If the computer is on, do not shut it down normally and do not click on anything or examine any files.
 1. Photograph the screen, if possible, and note any programs or windows that appear to be open and running.
 2. Disconnect the power cable from the back of the computer box or if a portable notebook style, disconnect any power cable from the case and remove the battery).
- (e) Label each item with case number, evidence sheet number, and item number.
- (f) Handle and transport the computer and storage media (e.g., tape, discs, memory cards, flash memory, external drives) with care so that potential evidence is not lost.
- (g) Store all computer items in the Property Room. Do not store computers where normal room temperature and humidity is not maintained.
- (h) At 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.
 3. Who claimed ownership.
 4. If it can be determined, how it was being used.

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- (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.

704.2.1 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 shall contact a certified forensic computer examiner for instructions or a response to the scene. It may be possible to perform an on-site inspection, or to image the hard drive only of the involved computer. This should only be done by someone specifically trained in processing computers for evidence.

704.2.2 FORENSIC EXAMINATION OF COMPUTERS

If an examination of the contents of the computer's hard drive, or floppy disks, compact discs, or any other storage media is required, forward the following items to a computer forensic examiner:

- (a) Copy of report(s) involving the computer, including the Evidence/Property sheet.
- (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.

704.3 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 Evidence Room to copy the contents to an appropriate form of storage media.
- (c) Many kinds of storage media can be erased or damaged by magnetic fields. Keep all media away from magnetic devices, electric motors, radio transmitters or other sources of magnetic fields.
- (d) Do not leave storage media where they would be subject to excessive heat such as in a parked vehicle on a hot day.

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- (e) Use plastic cases designed to protect the media, or other protective packaging, to prevent damage.

704.4 SEIZING PCDS

Personal communication devices such as cell phones, PDAs or other hand-held devices connected to any communication network must be handled with care to preserve evidence that may be on the device including messages, stored data and/or images.

- (a) Investigators should not attempt to access, review or search the contents of such devices prior to examination by a forensic expert. Unsent messages can be lost, data can be inadvertently deleted and incoming messages can override stored messages.
- (b) Do not turn the device on or off. The device should be placed in a solid metal container such as a paint can or in a faraday bag, to prevent the device from sending or receiving information from its host network.
- (c) When seizing the devices, also seize the charging units and keep them plugged in to the chargers until they can be examined. If the batteries go dead all the data may be lost.

Chapter 8 - Custody

Custodial Searches

800.1 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 Sonoma County District Attorney's Office facilities. Such items can pose a serious risk to the safety and security of District Attorney's Office members, private individuals, contractors and the public.

Nothing in this policy is intended to prohibit the otherwise lawful collection of evidence from an individual in custody.

800.1.1 DEFINITIONS

Definitions related to this policy include:

Custody search - An in-custody search of an individual and of the individual's 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, rectal cavity, or vagina of an individual.

Strip search - A search that requires an individual to remove or rearrange some or all of the individual's 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 the individual's underclothing, buttocks, genitalia, or female breasts are visible.

800.2 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.

800.3 FIELD AND TRANSPORTATION SEARCHES

An investigator should conduct a custody search of an individual immediately after the individual's arrest, when receiving an individual from the custody of another, and before transporting a person who is in custody in any bureau vehicle.

Whenever practicable, 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.

800.4 SEARCHES AT DISTRICT ATTORNEY INVESTIGATOR FACILITIES

Custody searches should also be conducted any time an individual in custody enters or re-enters a secure area, or any time it is reasonably believed that a search is necessary to maintain the

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safety and security of the office. DAIs should make every effort to prevent the presence of any in-custody person within the confines of any District Attorney's Office facility. While nothing in this policy is intended to prevent a DAI from taking a suspect into custody, safety considerations and communication with a supervisor is paramount.

800.4.1 PROPERTY

Members shall take reasonable care in handling the property of an individual in custody to avoid discrepancies or losses. Property retained for safekeeping shall be kept in a secure location until the individual is released or transferred.

All property shall be inventoried by objective description (this does not include an estimated value). The inventory should include the case number, date, time, and member's name.

800.4.2 VERIFICATION OF MONEY

All money shall be counted in front of the individual from whom it was received. When possible, the individual shall initial the dollar amount on the inventory. Additionally, all money should be placed in a separate envelope and sealed. Negotiable checks or other instruments and foreign currency should also be sealed in an envelope with the amount indicated but not added to the cash total. All envelopes should clearly indicate the contents on the front. The bureau member sealing it should place the member's initials across the sealed flap. Should any money be withdrawn or added, the member making such change shall enter the amount below the original entry and initial it. The amount of money in the envelope should always be totaled and written on the outside of the envelope.

Chapter 9 - Personnel

Evaluation of Employees

900.1 PURPOSE AND SCOPE

The Bureau's employee performance evaluation system is designed to record work performance for both the Bureau and the employee, providing recognition for good work and developing a guide for improvement.

900.2 POLICY

The Sonoma County District Attorney's Office utilizes a performance evaluation report to measure performance and to use as a factor in making personnel decisions that relate to merit increases, promotion, reassignment, and discipline. The evaluation report is intended to serve as a guide for work planning and review by the supervisor and employee. It gives supervisors a way to create an objective history of work performance based on job standards.

The Bureau evaluates employees in a non-discriminatory manner based upon job-related factors specific to the employee's position, without regard to actual or perceived race, ethnicity, national origin, religion, sex, sexual orientation, gender identity or expression, age, disability, pregnancy, genetic information, veteran status, marital status, and any other classification or status protected by law.

900.3 EVALUATION PROCESS

Evaluation reports will cover a specific period of time and should be based on performance during that period. Evaluation reports will be completed by each investigator'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. Non-probationary member evaluations shall be completed every two years.

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. Evaluations are conducted in accordance with the policies of the District Attorney's Office and the County of Sonoma personnel agreements.

900.4 FULL-TIME PERMANENT STATUS PERSONNEL

Permanent employees are subject to two types of performance evaluations:

Regular - An Employee Performance Evaluation shall be completed once every two years by the employee's immediate supervisor on the anniversary of the employee's date of hire except for employees who have been promoted in which case an Employee Performance Evaluation shall be completed on the anniversary of the employee's date of last promotion.

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

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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.

900.4.1 RATINGS

When completing the Employee Performance Evaluation, the rater will place a check mark in the column that best describes the employee's performance. The definition of each rating category is as follows:

Outstanding - Is actual performance well beyond that required for the position. It is exceptional performance, definitely superior or extraordinary.

Exceeds Standards - Represents performance that is better than expected of a fully competent employee. It is superior to what is expected, but is not of such rare nature to warrant outstanding.

Meets Standards - Is the performance of a fully competent employee. It means satisfactory performance that meets the standards required of the position.

Needs Improvement - Is a level of performance less than that expected of a fully competent employee and less than standards required of the position. A needs improvement rating must be thoroughly discussed with the employee.

Unsatisfactory - Performance is inferior to the standards required of the position. It is very inadequate or undesirable performance that cannot be tolerated.

Space for written comments is provided at the end of the evaluation in the rater comments section. This section allows the rater to document the employee's strengths, weaknesses, and suggestions for improvement. Any rating under any job dimension marked unsatisfactory or outstanding shall be substantiated in the rater comments section.

900.5 EVALUATION INTERVIEW

When the Supervising DA Investigator has completed the evaluation, it is forwarded to the Chief Investigator, and then District Attorney, for review and comment and signature. Arrangements shall be made for a private discussion of the evaluation with the employee and Chief Investigator. Areas needing improvement and goals for reaching the expected level of performance should be identified and discussed. The Chief Investigator should also provide relevant counseling regarding advancement, specialty positions and training opportunities. The employee will sign and date the evaluation and is provided a copy. Permanent employees may also write comments in the Employee Comments section of the performance evaluation report.

900.5.1 POLICY REVIEW

Before each employee's bi-annual evaluation, the reviewing supervisor shall require the employee to read the County and Bureau harassment and discrimination policies. The District Attorney, Chief Investigator or the Supervising Investigator may require other policies also be reviewed.

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900.6 EVALUATION DISTRIBUTION

The original performance evaluation shall be maintained in the employee's personnel file in the office of the District Attorney for the tenure of the employee's employment.

Grievance Procedure

901.1 PURPOSE AND SCOPE

It is the policy of this 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. Our Bureau's philosophy is to promote a free verbal communication between employees and supervisors.

901.1.1 GRIEVANCE DEFINED

A grievance is any difference of opinion concerning terms or conditions of employment or the dispute involving the interpretation or application of any of the following documents by the person(s) affected:

- The employee bargaining agreement (Memorandum of Understanding)
- This Policy Manual
- County rules and regulations covering personnel practices or working conditions

Grievances may be brought by an individual affected employee or by a group representative.

Specifically outside the category of grievance are complaints related to allegations of discrimination or harassment subject to the Discriminatory Harassment Policy. Also outside the category of grievances are personnel complaints regarding any allegation of misconduct or improper job performance against any bureau employee that, if true, would constitute a violation of bureau policy, federal, state, or local law as set forth in the Personnel Complaint Policy.

901.2 PROCEDURE

If an employee believes that they have a grievance as defined above, then that employee shall observe the procedure defined or required under their collective bargaining unit:

Reporting of Employee Convictions

902.1 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 Bureau of any current criminal convictions.

902.2 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.

902.3 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.

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 bureau may be inherently in conflict with law enforcement duties and the public trust.

902.4 REPORTING PROCEDURE

All members of this bureau and all retired investigators with an identification card issued by the Bureau shall promptly notify their immediate supervisor or a DA Manager (or the District Attorney in the case of retired investigators) in writing of any past or current criminal arrest or outstanding warrant.

All members with an identification card issued by the Bureau shall further promptly notify their immediate supervisor (or the District Attorney 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.

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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.

902.5 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. Employees 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 or ammunition as a part of the individual's 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 Bureau 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.

902.5.1 NOTIFICATION REQUIREMENTS

The District Attorney or designee shall submit within 10 days of final disposition a notice to the Commission on Peace Officer Standards and Training (POST) of a conviction or Government Code § 1029 reason that disqualifies any current peace officer employed by this bureau or any former peace officer if this bureau was responsible for the investigation (11 CCR 1003).

The District Attorney or designee shall submit within 10 days a notice to POST of any appointment, termination, reinstatement, name change, or status change regarding any peace officer, reserve peace officer, public safety dispatcher, and records supervisor employed by this bureau (11 CCR 1003).

Personnel Complaints

903.1 PURPOSE AND SCOPE

This policy provides guidelines for the reporting, investigation and disposition of complaints regarding the conduct of members of the Sonoma 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.

903.2 POLICY

The Sonoma County District Attorney's Office takes seriously all complaints regarding the service provided by the Bureau and the conduct of its members.

The Bureau 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 bureau to ensure that the community can report misconduct without concern for reprisal or retaliation.

903.3 PERSONNEL COMPLAINTS

Personnel complaints include any allegation of misconduct or improper job performance that, if true, would constitute a violation of bureau 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 bureau 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 Bureau.

903.3.1 COMPLAINT CLASSIFICATIONS

Personnel complaints shall be classified in one of the following categories:

Informal - A matter in which the District Attorney or Chief Investigator is satisfied that appropriate action has been taken by a supervisor of rank greater than the accused member.

Formal - A matter in which the District Attorney or Chief Investigator determines that further action is warranted. Such complaints may be investigated by a supervisor of rank greater than the accused member or referred to the Chief Investigator, 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.

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903.3.2 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 bureau 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.

903.4 AVAILABILITY AND ACCEPTANCE OF COMPLAINTS

903.4.1 COMPLAINT FORMS

Personnel complaint forms will be maintained in a clearly visible location in the public area of the district attorney investigator facility and be accessible through the bureau website.

Personnel complaint forms in languages other than English may also be provided, as determined necessary or practicable.

903.4.2 ACCEPTANCE

All complaints will be courteously accepted by any bureau 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 the complaining party's statement at the time it is filed with the Bureau (Penal Code § 832.7).

903.4.3 AVAILABILITY OF WRITTEN PROCEDURES

The Bureau shall make available to the public a written description of the investigation procedures for complaints (Penal Code § 832.5).

903.4.4 HATE COMPLAINTS AGAINST PEACE OFFICERS

Internal complaints or complaints from the public shall be accepted and investigated in accordance with this policy where it is alleged that an investigator has in the previous seven years, and since

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18 years of age, engaged in membership in a hate group, participated in a hate group activity, or advocated any public expression of hate (Penal Code § 13682).

903.5 DOCUMENTATION

Supervisors shall ensure that all formal and informal complaints are documented on a complaint form. The supervisor shall ensure that the nature of the complaint is defined as clearly as possible.

All complaints and inquiries should also be documented in a log that records and tracks complaints. The log shall include the nature of the complaint and the actions taken to address the complaint. On an annual basis, the Bureau should audit the log and send an audit report to the District Attorney or the authorized designee.

903.6 ADMINISTRATIVE INVESTIGATIONS

Allegations of misconduct will be administratively investigated as follows.

903.6.1 SUPERVISOR RESPONSIBILITIES

In general, the primary responsibility for the investigation of a personnel complaint shall rest with the member's Chief Investigator, 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 District Attorney 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.
 - (a) The original complaint form will be directed to the 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.
 - (b) 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 Chief Investigator or the District Attorney, 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 Bureau 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 Chief Investigator.

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- (d) Ensuring that upon receipt of a complaint involving allegations of a potentially serious nature, the Chief Investigator and the District Attorney are notified via the chain of command as soon as practicable.
- (e) Promptly contacting the Department of Human Resources and the 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 Chief Investigator, who will determine whether to contact the complainant or assign the complaint for investigation.
- (g) Informing the complainant of the investigator's name and the complaint number within three days after assignment.
- (h) Investigating a complaint as follows:
 - 1. Making reasonable efforts to obtain names, addresses and telephone numbers of witnesses.
 - 2. When appropriate, ensuring immediate medical attention is provided and photographs of alleged injuries and accessible uninjured areas are taken.
- (i) Ensuring that the procedural rights of the accused member are followed (Government Code § 3303 et seq.).
- (j) Ensuring interviews of the complainant are generally conducted during reasonable hours.

903.6.2 ADMINISTRATIVE INVESTIGATION PROCEDURES

Whether conducted by the Chief Investigator or designee, 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 Sonoma 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.

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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.
- (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).

903.6.3 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.

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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.

903.6.4 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 bureau 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 bureau 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.

903.6.5 COMPLETION OF INVESTIGATIONS

Every Chief Investigator or designee 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 Chief Investigator or designee shall ensure that an extension or delay is warranted within the exceptions set forth in Government Code § 3304(d) or Government Code § 3508.1.

903.6.6 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.

903.7 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.

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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).

903.7.1 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

903.8 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 Bureau, the District Attorney 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 bureau badge, identification, assigned weapons and any other bureau 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.

903.9 CRIMINAL INVESTIGATION

Where a member is accused of potential criminal conduct, an independent investigation will take place to investigate the criminal allegations apart from any administrative investigation. Any separate administrative investigation may parallel a criminal investigation.

The District Attorney shall be notified as soon as practicable when a member is accused of criminal conduct. The District Attorney 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 Sonoma 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.

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903.10 POST-ADMINISTRATIVE INVESTIGATION PROCEDURES

Upon completion of a formal investigation, an investigation report should be forwarded to the District Attorney through the Chief Investigator. Each level of command should review the report and include his/her comments in writing before forwarding the report. The District Attorney may accept or modify any classification or recommendation for disciplinary action.

903.10.1 CHIEF INVESTIGATOR RESPONSIBILITIES

Upon receipt of any completed personnel investigation, the Chief Investigator for the involved member shall review the entire investigative file, the member's personnel file and any other relevant materials.

The 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 District Attorney, the 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 District Attorney, the 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.

903.10.2 DISTRICT ATTORNEY RESPONSIBILITIES

Upon receipt of any written recommendation for disciplinary action, the District Attorney shall review the recommendation and all accompanying materials. The District Attorney may modify any recommendation and/or may return the file to the XXXXX for further investigation or action.

Once the District Attorney is satisfied that no further investigation or action is required by staff, the District Attorney shall determine the amount of discipline, if any, that should be imposed. In the event disciplinary action is proposed, the District Attorney 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 District Attorney shall also provide the member with:

- (a) Access to all of the materials considered by the District Attorney in recommending the proposed discipline.
- (b) An opportunity to respond orally or in writing to the District Attorney within five days of receiving the notice.
 - 1. Upon a showing of good cause by the member, the District Attorney may grant a reasonable extension of time for the member to respond.
 - 2. If the member elects to respond orally, the presentation may be recorded by the Bureau. 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 District Attorney shall consider all information received in regard to the

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recommended discipline. The District Attorney shall render a timely written decision to the member and specify the grounds and reasons for discipline and the effective date of the discipline. Once the District Attorney has issued a written decision, the discipline shall become effective.

903.10.3 NOTICE OF FINAL DISPOSITION TO THE COMPLAINANT

The District Attorney 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)).

903.10.4 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)).

903.11 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 District Attorney 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 District Attorney to consider.
- (d) In the event that the District Attorney 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 District Attorney on the limited issues of information raised in any subsequent materials.

903.12 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 (Penal Code § 13510.8).

903.13 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

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appeal using the procedures established by any collective bargaining agreement, Memorandum of Understanding and/or personnel rules.

In the event of punitive action against an employee covered by the POBR, the appeal process shall be in compliance with Government Code § 3304 and Government Code § 3304.5.

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).

903.14 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 District Attorney 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 District Attorney shall be final.

903.15 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.

903.16 REQUIRED REPORTING TO POST

The District Attorney or the authorized designee shall notify POST on the appropriate POST form within 10 days of certain investigator personnel events, including but not limited to (Penal Code § 13510.9):

- (a) Termination or separation from employment or appointment. Separation from employment or appointment includes any involuntary termination, resignation, or retirement.
 - 1. A POST affidavit-of-separation form shall be executed and maintained by the Bureau and submitted to POST as required by Penal Code § 13510.9 and 11 CCR 1003.
- (b) Events that could affect an investigator's POST certification, such as:
 - 1. Complaints, charges, or allegations of misconduct
 - 2. Findings of civilian review boards

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3. Final dispositions of any investigations
4. Civil judgments or court findings based on conduct, or settlement of a civil claim against an investigator or the Sonoma County District Attorney's Office based on allegations of conduct by an investigator

The District Attorney or the authorized designee shall be responsible for providing POST access to or duplication of investigation documentation (e.g., physical or documentary evidence, witness statements, analysis, conclusions) for up to two years after reporting of the disposition of an investigation (Penal Code § 13510.9).

Personal Appearance Standards

904.1 PURPOSE AND SCOPE

In order to project uniformity and neutrality toward the public and other members of the bureau, employees shall maintain their personal hygiene and appearance to project a professional image appropriate for this bureau and for their assignment.

904.2 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 District Attorney has granted exception.

904.2.1 HAIR

Hairstyles of all members shall be neat in appearance. For male sworn members, hair must not extend below the top edge of the collar while assuming a normal stance.

For female sworn members, when worn loose, hair must be no longer than the horizontal level mid bicep when the employee is standing erect. Hair can be worn up or in a tightly wrapped braid or ponytail.

904.2.2 MUSTACHES, GOATEES, BEARDS

A short and neatly trimmed mustache may be worn. Mustaches shall not extend below the corners of the mouth or beyond the natural hairline of the upper lip. Goatees and beards shall remain neatly trimmed and professional in appearance. Any other style of facial hair worn must meet the approval of the Chief Investigator.

904.2.3 SIDEBURNS

Sideburns shall not extend below the bottom of the outer ear opening (the top of the earlobes) and shall be trimmed and neat.

904.2.4 FACIAL HAIR

Facial hair other than sideburns, mustaches, goatees, beards and eyebrows shall not be worn, unless authorized by the District Attorney or his or her designee. Facial hair must be worn in a neat and professional manner and be of a naturally occurring color.

904.2.5 FINGERNAILS

Fingernails extending beyond the tip of the finger can pose a safety hazard to investigators or others. For this reason, fingernails shall be trimmed and maintained in a professional, hygienic manner.

904.2.6 JEWELRY

For the purpose of this policy, jewelry refers to rings, earrings, necklaces, bracelets, wristwatches, and tie tacks or tie bars. Jewelry shall present a professional image and may not create a safety

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concern for the bureau member or others. Jewelry that depicts racial, sexual, discriminatory, gang-related, or obscene language is not allowed.

904.3 TATTOOS

While on-duty or representing the Bureau in any official capacity, members should make every reasonable effort to conceal tattoos or other body art. At no time while the member is on-duty or representing the Bureau in any official capacity shall any offensive tattoo or body art be visible. Examples of offensive tattoos include but are not limited to those that exhibit or advocate discrimination; those that exhibit gang, supremacist, or extremist group affiliation; and those that depict or promote drug use, sexually explicit acts, or other obscene material.

904.4 BODY PIERCING OR ALTERATION

Body piercing or alteration to any area of the body visible in any authorized uniform or attire that is a deviation from normal anatomical features and which is not medically required is prohibited. Such body alteration includes, but is not limited to:

- (a) Tongue splitting or piercing.
- (b) The complete or transdermal implantation of any material other than hair replacement.
- (c) Abnormal shaping of the ears, eyes, nose or teeth
- (d) Branding or scarification.

904.5 EXEMPTIONS

Members who seek cultural (e.g., culturally protected hairstyles) or other exemptions to this policy that are protected by law should generally be accommodated (Government Code § 12926). A member with an exemption may be ineligible for an assignment if the individual accommodation presents a security or safety risk. The District Attorney shall 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.

Temporary Modified-Duty Assignments

905.1 PURPOSE AND SCOPE

This policy establishes procedures for providing temporary modified-duty assignments. This policy is not intended to affect the rights or benefits of employees under federal or state law, County rules, current memorandums of understanding or collective bargaining agreements. For example, nothing in this policy affects the obligation of the Bureau to engage in a good faith, interactive process to consider reasonable accommodations for any employee with a temporary or permanent disability that is protected under federal or state law.

905.2 POLICY

Subject to operational considerations, the Sonoma County District Attorney's Office may identify temporary modified-duty assignments for employees who have an injury or medical condition resulting in temporary work limitations or restrictions. A temporary assignment allows the employee to work, while providing the Bureau with a productive employee during the temporary period.

905.3 GENERAL CONSIDERATIONS

Priority consideration for temporary modified-duty assignments will be given to employees with work-related injuries or illnesses that are temporary in nature. Employees having disabilities covered under the Americans with Disabilities Act (ADA) or the California Fair Employment and Housing Act (Government Code § 12940 et seq.) shall be treated equally, without regard to any preference for a work-related injury.

No position in the Sonoma County District Attorney's Office shall be created or maintained as a temporary modified-duty assignment.

Temporary modified-duty assignments are a management prerogative and not an employee right. The availability of temporary modified-duty assignments will be determined on a case-by-case basis, consistent with the operational needs of the Bureau. Temporary modified-duty assignments are subject to continuous reassessment, with consideration given to operational needs and the employee's ability to perform in a modified-duty assignment.

The District Attorney or the authorized designee may restrict employees working in temporary modified-duty assignments from wearing a uniform, displaying a badge, carrying a firearm, operating an emergency vehicle, engaging in outside employment, or being otherwise limited in employing their peace officer powers.

Temporary modified-duty assignments shall generally not exceed a cumulative total of 1,040 hours in any one-year period.

905.4 PROCEDURE

Employees may request a temporary modified-duty assignment for short-term injuries or illnesses.

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Temporary Modified-Duty Assignments

Employees seeking a temporary modified-duty assignment should submit a written request to the District Attorney, Chief Investigator or their authorized designees. The request should, as applicable, include a certification from the treating medical professional containing:

- (a) An assessment of the nature and probable duration of the illness or injury.
- (b) The prognosis for recovery.
- (c) The nature and scope of limitations and/or work restrictions.
- (d) A statement regarding any required workplace accommodations, mobility aids or medical devices.
- (e) A statement that the employee can safely perform the duties of the temporary modified-duty assignment.

The Chief Investigator will make a recommendation through the chain of command to the District Attorney regarding temporary modified-duty assignments that may be available based on the needs of the Bureau and the limitations of the employee. The District Attorney or the authorized designee shall confer with the Department of Human Resources or the County Counsel as appropriate.

Requests for a temporary modified-duty assignment of 20 hours or less per week may be approved and facilitated by the Chief Investigator, with notice to the District Attorney.

905.5 ACCOUNTABILITY

Written notification of assignments, work schedules and any restrictions should be provided to employees assigned to temporary modified-duty assignments and their supervisors. Those assignments and schedules may be adjusted to accommodate bureau operations and the employee's medical appointments, as mutually agreed upon with the County Human Resources.

905.5.1 EMPLOYEE RESPONSIBILITIES

The responsibilities of employees assigned to temporary modified duty shall include, but not be limited to:

- (a) Communicating and coordinating any required medical and physical therapy appointments in advance with their supervisors.
- (b) Promptly notifying their supervisors of any change in restrictions or limitations after each appointment with their treating medical professionals.
- (c) Communicating a status update to their supervisors no less than once every 30 days while assigned to temporary modified duty.
- (d) Submitting a written status report to the Chief Investigator that contains a status update and anticipated date of return to full-duty when a temporary modified-duty assignment extends beyond 60 days.

905.5.2 SUPERVISOR RESPONSIBILITIES

The employee's immediate supervisor shall monitor and manage the work schedule of those assigned to temporary modified duty.

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Temporary Modified-Duty Assignments

The responsibilities of supervisors shall include, but not be limited to:

- (a) Periodically apprising the Chief Investigator of the status and performance of employees assigned to temporary modified duty.
- (b) Notifying the Administrative Services Officer (ASO) and ensuring that the required documentation facilitating a return to full duty is received from the employee.
- (c) Ensuring that employees returning to full duty have completed any required training and certification.

905.6 MEDICAL EXAMINATIONS

Prior to returning to full-duty status, employees shall be required to provide certification from their treating medical professionals stating that they are medically cleared to perform the essential functions of their jobs without restrictions or limitations.

905.7 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. Nothing in this policy limits a pregnant employee's right to a temporary modified-duty assignment if required under Government Code § 12945.

905.7.1 NOTIFICATION

Pregnant employees should notify their immediate supervisors as soon as practicable and provide a statement from their medical providers identifying any pregnancy-related job restrictions or limitations. If at any point during the pregnancy it becomes necessary 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.

905.8 PROBATIONARY EMPLOYEES

Probationary employees who are assigned to a temporary modified-duty assignment shall have their probation extended by a period of time equal to their assignment to temporary modified duty.

905.9 MAINTENANCE OF CERTIFICATION AND TRAINING

Employees assigned to temporary modified duty shall maintain all certification, training and qualifications appropriate to both their regular and temporary duties, provided that the certification, training or qualifications are not in conflict with any medical limitations or restrictions. Employees who are assigned to temporary modified duty shall inform their supervisors of any inability to maintain any certification, training or qualifications.

Illness and Injury Prevention

906.1 PURPOSE AND SCOPE

The purpose of this policy is to establish an ongoing and effective plan to reduce the incidence of illness and injury for members of the Sonoma County District Attorney's Office, in accordance with the requirements of 8 CCR 3203.

This policy specifically applies to illness and injury that results in lost time or that requires medical treatment beyond first aid. Although this policy provides the essential guidelines for a plan that reduces illness and injury, it may be supplemented by procedures outside the Policy Manual.

This policy does not supersede, but supplements any related Countywide safety efforts.

906.2 POLICY

The Sonoma County District Attorney's Office is committed to providing a safe environment for its members and visitors and to minimizing the incidence of work-related illness and injuries. The Bureau will establish and maintain an Illness and Injury Prevention program and will provide tools, training and safeguards designed to reduce the potential for accidents, illness and injuries. It is the intent of the Bureau to comply with all laws and regulations related to occupational safety.

906.3 ILLNESS AND INJURY PREVENTION PLAN

The Chief Investigator is responsible for developing an illness and injury prevention plan that reflects the County of Sonoma's guidelines and shall include:

- (a) Workplace safety and health training programs.
- (b) Regularly scheduled safety meetings during bureau briefings.
- (c) Posted electronically or distributed safety information.
- (d) A system for members to anonymously inform management about workplace hazards.
- (e) Ensures that serious illnesses or injuries and death are reported as required by the Division of Occupational Safety and Health Administration (Cal/OSHA) (8 CCR 342).

906.4 MANAGEMENT RESPONSIBILITIES

The responsibilities of the Investigations Bureau Chief or Supervising Investigator include but are not limited to:

- (a) Managing and implementing a plan to reduce the incidence of member illness and injury.
- (b) Ensuring that a system of communication is in place that facilitates a continuous flow of safety and health information between supervisors and members. This system shall include:
 - 1. New member orientation that includes a discussion of safety and health policies and procedures.
 - 2. Regular member review of the illness and injury prevention plan.

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Illness and Injury Prevention

3. Access to the illness and injury prevention plan to members or their representatives as set forth in 8 CCR 3203.
- (c) Ensuring that all safety and health policies and procedures are clearly communicated and understood by all members.
- (d) Taking reasonable steps to ensure that all members comply with safety rules in order to maintain a safe work environment. This includes but is not limited to:
 1. Informing members of the illness and injury prevention guidelines.
 2. Recognizing members who perform safe work practices.
 3. Ensuring that the member evaluation process includes member safety performance.
 4. Ensuring bureau compliance to meet standards regarding the following:
 - (a) Respiratory protection (8 CCR 5144)
 - (b) Bloodborne pathogens (8 CCR 5193)
 - (c) Aerosol transmissible diseases (8 CCR 5199)
 - (d) Heat illness (8 CCR 3395)
 - (e) Emergency Action Plan (8 CCR 3220)
 - (f) Fire Prevention Plan (8 CCR 3221)
 - (g) Hazards associated with wildfire smoke (8 CCR 5141.1)
- (e) Making available the Identified Hazards and Correction Record form to document inspections, unsafe conditions or work practices, and actions taken to correct unsafe conditions and work practices.
- (f) Making available the Investigation/Corrective Action Report to document individual incidents or accidents.
- (g) Making available a form to document the safety and health training of each member. This form will include the member's name or other identifier, training dates, type of training, and training providers.
- (h) Conducting and documenting a regular review of the illness and injury prevention plan.

906.5 SUPERVISOR RESPONSIBILITIES

Supervisor responsibilities include, but are not limited to:

- (a) Ensuring member compliance with illness and injury prevention guidelines and answering questions from members about this policy.
- (b) Training, counseling, instructing or making informal verbal admonishments any time safety performance is deficient. Supervisors may also initiate discipline when it is reasonable and appropriate under the Standards of Conduct Policy.
- (c) Establishing and maintaining communication with members on health and safety issues. This is essential for an injury-free, productive workplace.

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Illness and Injury Prevention

- (d) Completing required forms and reports relating to illness and injury prevention; such forms and reports shall be submitted to the Chief Investigator.
- (e) Notifying the Chief Investigator when:
 - 1. New substances, processes, procedures or equipment that present potential new hazards are introduced into the work environment.
 - 2. New, previously unidentified hazards are recognized.
 - 3. Occupational illnesses and injuries occur.
 - 4. New and/or permanent or intermittent members are hired or reassigned to processes, operations or tasks for which a hazard evaluation has not been previously conducted.
 - 5. Workplace conditions warrant an inspection.

906.6 HAZARDS

All members should report and/or take reasonable steps to correct unsafe or unhealthy work conditions, practices or procedures in a timely manner. Members should make their reports to a supervisor (as a general rule, their own supervisors) and complete an Employee Hazard Report Form.

Supervisors should make reasonable efforts to correct unsafe or unhealthy work conditions in a timely manner, based on the severity of the hazard. These hazards should be corrected when observed or discovered, when it is reasonable to do so. When a hazard exists that cannot be immediately abated without endangering members or property, supervisors should protect or remove all exposed members from the area or item, except those necessary to correct the existing condition. Supervisors shall complete an Employee Hazard Report if one has yet to be written.

Members who are necessary to correct the hazardous condition shall be provided with the necessary protection.

All significant actions taken and dates they are completed shall be documented on a District Attorney's Office Hazard Correction log. This form should be forwarded to the ASO and/or District Attorney's Office Management via the chain of command.

The Management will take appropriate action to ensure the illness and injury prevention plan addresses potential hazards upon such notification.

906.7 EQUIPMENT

Members are charged with daily vehicle inspections of their assigned vehicles and of their personal protective equipment (PPE) for COVID mitigation prior to working in the field.

906.8 INVESTIGATIONS

Any member sustaining any work-related illness or injury, as well as any member who is involved in any accident or hazardous substance exposure while on-duty shall report such event as soon as practicable to a supervisor. Members observing or learning of a potentially hazardous condition are to promptly report the condition to their immediate supervisors.

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Illness and Injury Prevention

A supervisor receiving such a report should personally investigate the incident or ensure that an investigation is conducted. Investigative procedures for workplace accidents and hazardous substance exposures should include:

- (a) A visit to the accident scene as soon as possible.
- (b) An interview of the injured member and witnesses.
- (c) An examination of the workplace for factors associated with the accident/exposure.
- (d) Determination of the cause of the accident/exposure.
- (e) Corrective action to prevent the accident/exposure from reoccurring.
- (f) Documentation of the findings and corrective actions taken.
- (g) Completion of an Investigation/Corrective Action Report form.
- (h) Completion of an Identified Hazards and Correction Record form.

Additionally, the supervisor should proceed with the steps to report an on-duty injury, as required under the Occupational Disease and Work-Related Injury Reporting Policy, in conjunction with this investigation to avoid duplication and ensure timely reporting. The Supervisor shall complete the Supervisor's Report of Accident or Injury form, and any other reporting forms, as required by the County of Sonoma.

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Attachments

DAI Take Home Car Form.pdf

TAKE –HOME VEHICLE AUTHORIZATION FORM
Sonoma County District Attorney's Office

County Vehicle #: _____ **Make/Model:** _____ **License Plate:** _____

Vehicle Type: An unmarked passenger car, equipped with lights and siren (pursuant to CVC 165.(b)(1) and 25252) and a county-wide radio is being provided for take-home use.

District Attorney Investigator _____ **County ID #** _____
Employee Job Classification: 4205

Primary Work Location: Hall of Justice La Plaza Family Justice Center NC3TF

Employee's Residence Zip Code: _____

Distance in miles between employee's residence and primary work location: _____

Justification:

The employee is a permanent, full-time law enforcement employee, per 830.1 PC.

The employee lives within the boundaries of Sonoma County.

The employee as defined can be called-out and assigned to escort a Deputy District Attorney to a critical incident as an Investigator on a rotating basis.

_____ DAI agrees to park the vehicle during non-working hours in a garage, carport, off-street or obtain permission to secure it at the Law Enforcement agency nearest his/her residence.

_____ DAI agrees to maintain reasonable care and control over the vehicle, securing the contents therein and adhering to the Vehicle Use Policies.

_____ DAI elects to "Op-Out" and not take home an assigned vehicle as a District Attorney Investigator and will solely use a county vehicle while on-duty, during regular business hours at the Sonoma County District Attorney's Office or during on-call week.

Other information: _____

Signed District Attorney Investigator _____ **Date:** _____

Chief Investigator Cecile Focha _____ **Date:** _____

District Attorney Jill Ravitch _____ **Date:** _____

Statutes and Legal Requirements.pdf

Statutes and Legal Requirements

Items listed in this section include sections from the California Penal Code (CPC), Welfare and Institutions Code (WI) and Government Code (GC).

Definitions

CPC 422.55 - Provides general definition of hate crimes in California.

CPC 422.56- Provides definitions of terms included in hate crimes statutes.

GC 12926- Disability-related definitions applicable to some hate crime statutes.

Felonies

Hate Crimes

CPC 422.7 - Commission of a crime for the purpose of interfering with another's exercise of civil rights.

Related Crimes

CPC 190.2(a)(16) - Homicide penalties related to certain hate crime related acts.

CPC 190.03(a) - Homicide penalties related to certain hate crime related acts.

CPC 288(b)(2) - Sexual assault of dependent person by caretaker

CPC 368(b) - Dependent adult abuse generally - may apply as disability-related hate crime.

CPC 594.3 - Vandalism of places of worship.

CPC 11412 - Causing or attempting to cause other to refrain from exercising religion by threat.

CPC 11413 - Arson or destructive device at place of worship.

Misdemeanors

Hate Crimes

CPC 422.6 - Use of force, threats, or destruction of property to interfere with another's exercise of civil rights.

CPC 422.77 - Violation of civil order (Bane Act) protecting the exercise of civil rights

Related Crimes

CPC 302 - Disorderly conduct during an assemblage of people gathered for religious worship at a tax-exempt place of worship.

CPC 538(c) - Unauthorized insertion of advertisements in newspapers and redistribution to the public.

CPC 640.2 - Placing handbill, notice of advertisement on a consumer product or product packaged without authorization.

CPC 11411 - Terrorism of owner or occupant of real property. Placement or display of sign, symbol, or other physical impression without authorization, engagement in pattern of conduct, or burning or desecration of religious symbols.

Enhancements

CPC 190.2(a)(16) - Special circumstances imposing the Death Penalty or Life Without Possibility of Parole, if the victim was intentionally killed because of sexual orientation, gender, or disability.

CPC 190.3 - Special circumstances imposing LWOP if the victim was intentionally killed because of sexual orientation, gender, or disability.

CPC 422.75 - Penalty for felony committed because of victim's race, color, religion, nationality, country or origin, ancestry, disability, or sexual orientation shall be enhanced one, two, or three years in prison, if the person acts alone; and two, three, or four years if the person commits the act with another.

CPC 1170.8 - Enhancement for robbery or assault at a place of worship.

CPC 1170.85(b) - Felony assault or battery enhancement due to age or disability.

Reporting

CPC 13023- Requirement for law enforcement agencies to report hate crime data to DOJ.

WI 15630 – Elder and Dependent Adult Abuse Mandated Reporting (may apply in disability-related hate crimes).

Training and Policy Requirements

CPC 422.87 - Hate crimes policy adoption and update requirements (AB 1985, Effective January 1, 2019).

CPC 13519.6 - Defines hate crime training requirements for peace officers.

CPC 13519.41 - Training requirements on sexual orientation and gender identity-related hate crimes for peace officers and dispatchers (AB 2504, Effective January 1, 2019).

Miscellaneous Provisions

CPC 422.78 - Responsibility for prosecution of stay away order violations.

CPC 422.86 - Public policy regarding hate crimes.

CPC 422.89 - Legislative intent regarding violations of civil rights and hate crimes

CPC 422.92 - Hate crimes victims brochure requirement for law enforcement agencies.

CPC 422.93 - Protection of victims and witnesses from being reported to immigration authorities.

GC 6254 - Victim confidentiality.

Hate Crime Checklist.pdf

HATE CRIME CHECKLIST

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VICTIM	<p style="text-align: center;"><u>Victim Type:</u></p> <p><input type="checkbox"/> Individual Legal name (Last, First): _____ Other Names used (AKA): _____</p> <p><input type="checkbox"/> School, business or organization Name: _____ Type: _____ <small>(e.g., non-profit, private, public school)</small> Address: _____</p> <p><input type="checkbox"/> Faith-based organization Name: _____ Faith: _____ Address: _____</p>	<p style="text-align: center;"><u>Target of Crime (Check all that apply):</u></p> <p><input type="checkbox"/> Person <input type="checkbox"/> Private property <input type="checkbox"/> Public property</p> <p><input type="checkbox"/> Other _____</p> <p style="text-align: center;"><u>Nature of Crime (Check all that apply):</u></p> <p><input type="checkbox"/> Bodily injury <input type="checkbox"/> Threat of violence</p> <p><input type="checkbox"/> Property damage</p> <p><input type="checkbox"/> Other crime: _____</p> <p>Property damage - estimated value _____</p>
BIAS	<p style="text-align: center;"><u>Type of Bias</u> <u>(Check all characteristics that apply):</u></p> <p><input type="checkbox"/> Disability</p> <p><input type="checkbox"/> Gender</p> <p><input type="checkbox"/> Gender identity/expression</p> <p><input type="checkbox"/> Sexual orientation</p> <p><input type="checkbox"/> Race</p> <p><input type="checkbox"/> Ethnicity</p> <p><input type="checkbox"/> Nationality</p> <p><input type="checkbox"/> Religion</p> <p><input type="checkbox"/> Significant day of offense <small>(e.g., 9/11, holy days)</small></p> <p><input type="checkbox"/> Other: _____</p> <p>Specify disability (be specific): _____ _____</p>	<p style="text-align: center;"><u>Actual or Perceived Bias – Victim’s Statement:</u></p> <p><input type="checkbox"/> Actual bias [Victim actually has the indicated characteristic(s)].</p> <p><input type="checkbox"/> Perceived bias [Suspect believed victim had the indicated characteristic(s)]. <i>If perceived, explain the circumstances in narrative portion of Report.</i></p> <hr/> <p style="text-align: center;"><u>Reason for Bias:</u></p> <p>Do you feel you were targeted based on one of these characteristics? <input type="checkbox"/> Yes <input type="checkbox"/> No <i>Explain in narrative portion of Report.</i></p> <p>Do you know what motivated the suspect to commit this crime? <input type="checkbox"/> Yes <input type="checkbox"/> No <i>Explain in narrative portion of Report.</i></p> <p>Do you feel you were targeted because you associated yourself with an individual or a group? <input type="checkbox"/> Yes <input type="checkbox"/> No <i>Explain in narrative portion of Report.</i></p> <p>Are there indicators the suspect is affiliated with a Hate Group (i.e., literature/tattoos)? <input type="checkbox"/> Yes <input type="checkbox"/> No <i>Describe in narrative portion of Report.</i></p> <p>Are there Indicators the suspect is affiliated with a criminal street gang? <input type="checkbox"/> Yes <input type="checkbox"/> No <i>Describe in narrative portion of Report.</i></p>
	<p style="text-align: center;"><u>Bias Indicators (Check all that apply):</u></p> <p><input type="checkbox"/> Hate speech <input type="checkbox"/> Acts/gestures <input type="checkbox"/> Property damage <input type="checkbox"/> Symbol used</p> <p><input type="checkbox"/> Written/electronic communication <input type="checkbox"/> Graffiti/spray paint <input type="checkbox"/> Other: _____</p> <p><i>Describe with exact detail in narrative portion of Report.</i></p>	
HISTORY	<p style="text-align: center;"><u>Relationship Between Suspect & Victim:</u></p> <p>Suspect known to victim? <input type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>Nature of relationship: _____</p> <p>Length of relationship: _____</p> <p><i>If Yes, describe in narrative portion of Report</i></p>	<p><input type="checkbox"/> Prior reported incidents with suspect? Total # _____</p> <p><input type="checkbox"/> Prior unreported incidents with suspect? Total # _____</p> <p>Restraining orders? <input type="checkbox"/> Yes <input type="checkbox"/> No</p> <p><i>If Yes, describe in narrative portion of Report</i></p> <p>Type of order: _____ Order/Case# _____</p>
WEAPONS	<p>Weapon(s) used during incident? <input type="checkbox"/> Yes <input type="checkbox"/> No Type: _____</p> <p>Weapon(s) booked as evidence? <input type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>Automated Firearms System (AFS) Inquiry attached to Report? <input type="checkbox"/> Yes <input type="checkbox"/> No</p>	

HATE CRIME CHECKLIST

Page _____ of _____

EVIDENCE	Witnesses present during incident? <input type="checkbox"/> Yes <input type="checkbox"/> No		Statements taken? <input type="checkbox"/> Yes <input type="checkbox"/> No	
	Evidence collected? <input type="checkbox"/> Yes <input type="checkbox"/> No		Recordings: <input type="checkbox"/> Video <input type="checkbox"/> Audio <input type="checkbox"/> Booked	
	Photos taken? <input type="checkbox"/> Yes <input type="checkbox"/> No		Suspect identified: <input type="checkbox"/> Field ID <input type="checkbox"/> By photo	
	Total # of photos: _____ D#: _____ Taken by: _____ Serial #: _____		<input type="checkbox"/> Known to victim	

OBSERVATIONS	<u>VICTIM</u>	<u>SUSPECT</u>
	<input type="checkbox"/> Tattoos <input type="checkbox"/> Shaking <input type="checkbox"/> Unresponsive <input type="checkbox"/> Crying <input type="checkbox"/> Scared <input type="checkbox"/> Angry <input type="checkbox"/> Fearful <input type="checkbox"/> Calm <input type="checkbox"/> Agitated <input type="checkbox"/> Nervous <input type="checkbox"/> Threatening <input type="checkbox"/> Apologetic <input type="checkbox"/> Other observations: _____	<input type="checkbox"/> Tattoos <input type="checkbox"/> Shaking <input type="checkbox"/> Unresponsive <input type="checkbox"/> Crying <input type="checkbox"/> Scared <input type="checkbox"/> Angry <input type="checkbox"/> Fearful <input type="checkbox"/> Calm <input type="checkbox"/> Agitated <input type="checkbox"/> Nervous <input type="checkbox"/> Threatening <input type="checkbox"/> Apologetic <input type="checkbox"/> Other observations: _____
	<u>ADDITIONAL QUESTIONS (Explain all boxes marked "Yes" in narrative portion of report):</u>	
	Has suspect ever threatened you? <input type="checkbox"/> Yes <input type="checkbox"/> No Has suspect ever harmed you? <input type="checkbox"/> Yes <input type="checkbox"/> No Does suspect possess or have access to a firearm? <input type="checkbox"/> Yes <input type="checkbox"/> No Are you afraid for your safety? <input type="checkbox"/> Yes <input type="checkbox"/> No Do you have any other information that may be helpful? <input type="checkbox"/> Yes <input type="checkbox"/> No	
<u>Resources offered at scene:</u> <input type="checkbox"/> Yes <input type="checkbox"/> No Type: _____		

MEDICAL	<u>Victim</u>	<u>Suspect</u>	<u>Paramedics at scene?</u> <input type="checkbox"/> Yes <input type="checkbox"/> No Unit # _____	
	<input type="checkbox"/>	<input type="checkbox"/>	Declined medical treatment	Name(s)/ID #: _____
	<input type="checkbox"/>	<input type="checkbox"/>	Will seek own medical treatment	Hospital: _____
	<input type="checkbox"/>	<input type="checkbox"/>	Received medical treatment	Jail Dispensary: _____
Authorization to Release Medical Information, Form 05.03.00, signed? <input type="checkbox"/> Yes <input type="checkbox"/> No			Physician/Doctor: _____ Patient #: _____	

Officer (Name/Rank)	Date
Officer (Name/Rank)	Date
Supervisor Approving (Name/Rank)	Date

Commission on Peace Officer Standards and Training Hate Crimes Model Policy 2019.pdf



POST HATE CRIMES MODEL POLICY



COMMISSION ON PEACE OFFICER STANDARDS AND TRAINING

2019

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The background of the page features a large, faint, light-orange watermark of the official seal of the Peace Officer Standards and Training (POST) Commission. The seal is a seven-pointed star. At the top point is a torch with a flame. The central circle of the star contains a detailed illustration of a Minuteman soldier standing with a rifle, a plow, a sheaf of wheat, and a grizzly bear. The words "PEACE OFFICER STANDARDS AND TRAINING" are inscribed around the perimeter of this central circle. The points of the star are decorated with stylized flame patterns.

POST Mission Statement

The mission of the California Commission on Peace Officer Standards and Training is to continually enhance the professionalism of California Law Enforcement in serving its communities

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FOREWORD

Hate Crimes (i.e. crimes motivated by bias) convey a message of terror and exclusion, not just to the immediate victims but to entire communities. They often target victims who are least able to defend themselves. They cause trauma that is more extreme and longer lasting than similar crimes committed for other motivations. They can spark retaliatory crimes, escalating the cycle of crime and violence. If not addressed professionally and thoroughly they may undermine public confidence in law enforcement.

The 2018 California State Auditor's Report, titled "Hate Crimes in California," found that California law enforcement has not taken adequate action to identify, report, and respond to hate crimes. The report found that agencies did not properly identify some hate crimes, and underreported or misreported hate crimes as well. The report also noted that hate crimes are on the rise in California, increasing in both 2015 and 2016.

California Penal Code (CPC) 422.87 added new language and requirements to any newly created or updated agency hate crimes policy. Effective January 1, 2019, any local law enforcement agency that updates an existing hate crimes policy, or adopts a new one, shall include the content of the model policy framework provided in this document as well as any revisions or additions to the model policy in the future.

These guidelines are the primary elements that law enforcement executives are now required to incorporate into their hate crimes policy if an agency creates a new hate crimes policy or updates an existing one. The guidelines are designed for department-wide application and are intended to reflect a values-driven "top-down" process. They are intended to assist with the development and delivery of training and ensure proper identification, investigation, and reporting of hate crimes within each agency's jurisdiction.

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POLICY GUIDELINES

GUIDELINE #1

Develop the foundation for the agency's hate crimes policy.

The law enforcement executive is responsible for providing leadership, communicating organizational values to the department and the community, paying attention to hate crime trends and current events that could trigger hate incidents and/or hate crimes in the community, and providing education and training to establish the foundation for the agency's hate crimes policy. Employees' ability to respond appropriately to hate crimes and hate incidents is maximized when the executive effectively establishes and communicates the foundational values of the organization.

GUIDELINE #2

Develop a hate crimes policy for the agency.

- I. An agency's hate crimes policy shall include the statutory definition of a hate crime, and its policy and programs should minimally include the following:
 - A. Response
 - B. Training
 - C. Planning and Prevention
 - D. Reporting

The law enforcement executive is responsible for the initial development of the policy and should be actively involved in its implementation. See the appendix for the exemplar "Message from the Agency Chief Executive".

GUIDELINE #3

Develop expertise to identify and investigate hate crimes.

The law enforcement executive is responsible for ensuring that the agency possesses expertise to identify and investigate hate crimes, as well as ensuring compliance with state and federal

reporting and public information requirements. Agencies should assign identified personnel to appropriate training to develop expertise and knowledge to investigate hate crimes.

Hate crimes are low-frequency events with high-risk consequences for the agency and community. Agencies shall provide a checklist to first responders to provide direction for the investigation of all hate crimes as mandated by CPC 422.87.

GUIDELINE #4

Develop and implement cooperative hate crimes plans with other law enforcement agencies.

- I. Coordinate cooperative efforts among regional, state, federal, and tribal law enforcement agencies to share information and training, and develop strategies to prevent hate crime activity.
- II. Develop and/or participate in law enforcement intelligence networks to enhance the agency's ability to anticipate potential hate crime targets. This interaction should include sharing intelligence information with other jurisdictions and cooperative investigations, arrests, and prosecutions if appropriate.

GUIDELINE #5

Develop and implement cooperative hate crime plans with the community and related governmental and non-governmental organizations, as appropriate.

- I. Collaborate with the community, including human relations/civil rights organizations, advocacy groups, service organizations, neighborhood associations, religious institutions, local schools and colleges, to do the following:
 - Develop a network to build rapport with community groups

-
- Develop a protocol for response to hate crimes
 - Obtain witness and victim cooperation
 - Provide support services to victims
 - Collect demographic information about specific communities
 - Identify hate crime trends based upon current events and activity (hate crimes and/or hate incidents)
 - Identify periods of increased vulnerability based on significant dates and events for affected communities
- II. Law enforcement should identify and seek out cultural diversity training and information from/about specific communities within its jurisdiction (immigrant, Muslim, Arab, LGBTQ, Black or African American, Jewish, Sikh, disability, etc.) to strengthen agency awareness.
- V. Annual outreach to the community including human relations/civil rights organizations, advocacy groups, service organizations, neighborhood associations, religious institutions, local schools, and colleges assessing the agency's responsiveness to hate crimes.

GUIDELINE #6

Conduct an annual assessment of the agency's hate crimes policy and its ongoing implementation.

The assessment should include:

- I. A review to ensure compliance with the POST Hate Crimes Model Policy and California law.
- II. A review and analysis of the agency's data collection, policy, and annual mandated reporting of hate crimes.
- III. A review and updating of the agency's hate crimes brochure to ensure compliance with CPC 422.92.
- IV. A review of any existing or available data or reports, including the annual California Attorney General's report on hate crimes, in preparation for, and response to, future hate crime trends.

MINIMUM LEGAL REQUIREMENTS FOR AN AGENCY'S HATE CRIMES POLICY

CPC 13519.6, effective January 1, 2005, minimally requires:

1. A message from the law enforcement agency's chief executive officer to the agency's officers and staff concerning the importance of hate crime laws and the agency's commitment to enforcement.
2. The definition of "hate crime" in Penal Code section 422.55.
3. References to hate crime statutes including Penal Code section 422.6.
4. A title-by-title specific protocol that agency personnel are required to follow, including, but not limited to, the following:
 - a. Preventing and preparing for likely hate crimes by, among other things, establishing contact with persons and communities who are likely targets, and forming and cooperating with community hate crime prevention and response networks.
 - b. Responding to reports of hate crimes, including reports of hate crimes committed under the color of authority.
 - c. Accessing assistance, by, among other things, activating the Department of Justice hate crimes rapid response protocol when necessary.
 - d. Providing victim assistance and follow-up, including community follow-up.
 - e. Reporting

CPC 422.87, effective January 1, 2019, states and minimally requires:

Each local law enforcement agency may adopt a hate crimes policy. Any local law enforcement agency that updates an existing hate crimes policy or adopts a new one shall include, but not limited to, the following:

1. The definitions in Penal Code sections 422.55 and 422.56.
2. The content of the model policy framework that the Commission on Peace Officer Standards and Training developed pursuant to Section 13519.6 (above) and any content that the commission may revise or add in the future, including any policy, definitions, response and reporting responsibilities, training resources, and planning and prevention methods.
3. Information regarding bias motivation
 - a. For the purposes of this paragraph, "bias motivation" is a preexisting negative attitude toward actual or perceived characteristics referenced in Section 422.55. Depending on the circumstances of each case, bias motivation may include, but is not limited to, hatred, animosity, resentment, revulsion, contempt, unreasonable fear, paranoia, callousness, thrill-seeking, desire for social dominance, desire for social bonding with those of one's "own kind," or a perception of the vulnerability of the victim due to the victim being perceived as being weak, worthless, or fair game because of a protected characteristic, including, but not limited to, disability or gender.
 - i. In recognizing suspected disability-bias hate crimes, the policy shall advise officers to consider whether there is any indication that the perpetrator was motivated by hostility or other bias, occasioned by factors such as, but not limited to, dislike of persons who arouse

fear or guilt, a perception that persons with disabilities are inferior and therefore “deserving victims,” a fear of persons whose visible traits are perceived as being disturbing to others, or resentment of those who need, demand, or receive alternative educational, physical, or social accommodations.

- ii. In recognizing suspected disability-bias hate crimes, the policy also shall advise officers to consider whether there is any indication that the perpetrator perceived the victim to be vulnerable and, if so, if this perception is grounded, in whole or in part, in anti-disability bias. This includes, but is not limited to, if a perpetrator targets a person with a particular perceived disability while avoiding other vulnerable-appearing persons such as inebriated persons or persons with perceived disabilities different than those of the victim, those circumstances could be evidence that the perpetrator’s motivations included bias against persons with the perceived disability of the victim and that the crime must be reported as a suspected hate crime and not a mere crime of opportunity.
- b. Information regarding the general underreporting of hate crimes and the more extreme underreporting of anti-disability and anti-gender hate crimes *and a plan for the agency to remedy this underreporting* (emphasis added).
- c. A protocol for reporting suspected hate crimes to the Department of Justice pursuant to Penal Code section 13023.
- d. A checklist of first responder responsibilities, including, but not limited to, being sensitive to effects of the crime on the victim, determining whether any additional resources are needed on the scene to assist the victim or whether to refer the victim to appropriate community and legal services, and giving the victims and any interested persons the agency’s hate crimes brochure, as required by Section 422.92.
- e. A specific procedure for transmitting and periodically retransmitting the policy and any related orders to all officers, including a simple and immediate way for officers to access the policy in the field when needed.
- f. The title or titles of the officer or officers responsible for assuring that the department has a hate crime brochure as required by Section 422.92 and ensuring that all officers are trained to distribute the brochure to all suspected hate crime victims and all other interested persons.
- g. A requirement that all officers be familiar with the policy and carry out the policy at all times unless directed by the chief, sheriff, director, or other chief executive of the law enforcement agency or other command-level officer to whom the chief executive officer formally delegates this responsibility.
- h. Any local law enforcement agency that updates an existing hate crimes policy or adopts a new hate crimes policy may include any of the provisions of a model hate crime policy and other relevant documents developed by the International Association of Chiefs of Police that are relevant to California and consistent with this chapter.

MODEL POLICY FRAMEWORK

Purpose

This model policy framework is designed to assist in identifying and handling crimes motivated by hate or other bias toward individuals and groups with legally defined protected characteristics, to define appropriate steps for assisting victims, and to provide a guide to conducting related investigations. It outlines the general policy framework for prevention, response, accessing assistance, victim assistance and follow up, and reporting as related to law enforcement's role in handling hate crimes. It also serves as a declaration that hate crimes are taken seriously and demonstrates how law enforcement agencies may best use its resources to investigate and solve an offense, in addition to building community trust and increasing police legitimacy.

Policy

It is the policy of this agency to safeguard the rights of all individuals irrespective of their disability, gender, nationality, race or ethnicity, religion, sexual orientation, and/or association with a person or group with one or more of these actual or perceived characteristics. Any acts or threats of violence, property damage, harassment, intimidation, or other crimes motivated by hate or bias should be viewed very seriously and given high priority.

This agency will employ necessary resources and vigorous law enforcement action to identify and arrest hate crime perpetrators. Also, recognizing the particular fears and distress typically suffered by victims, the potential for reprisal and escalation of violence, and the far-reaching negative consequences of these crimes on the community, this agency should attend to the security and related concerns of the immediate victims and their families as feasible.

The agency policy shall include a requirement that all officers be familiar with the policy and carry out the policy at all times unless directed by the chief, sheriff, director, or other chief executive of the law enforcement agency or other command-level officer to whom the chief executive officer formally delegates this responsibility.

The agency policy shall provide a specific procedure for transmitting and periodically retransmitting the policy and any related orders to all officers, including a simple and immediate way for officers to access the policy in the field when needed.

Response, Victim Assistance and Follow-up

Initial response

First responding officers should know the role of all department personnel as they relate to the agency's investigation of hate crimes and/or incidents. Responding officers should evaluate the need for additional assistance, and working with supervision and/or investigations, access needed assistance if applicable. Responding officers should ensure the crime scene is properly protected, preserved and processed.

At the scene of a suspected hate or bias crimes, officers should take preliminary actions deemed necessary, to include, but not limited to, the following:

1. Use agency checklist (per CPC 422.87) to assist in the investigation of any hate crime (see appendix, page 21, for exemplar checklist based on the Los Angeles Police Department Hate Crimes Supplemental Report with the agency's permission).

-
2. Stabilize the victim(s) and request medical attention when necessary.
 3. Ensure the safety of victims, witnesses, and perpetrators.
 - a. Issue a Temporary Restraining Order (if applicable).
 4. Notify other appropriate personnel in the chain of command, depending on the nature and seriousness of the offense and its potential inflammatory and related impact on the community.
 5. Ensure that the crime scene is properly protected, preserved, and processed and that all physical evidence of the incident is removed as soon as possible after the offense is documented. If evidence of an inflammatory nature cannot be physically removed, the property owner should be contacted to ensure that it is removed or covered up as soon as possible. Agency personnel should follow-up to ensure that this is accomplished in a timely manner.
 6. Collect and photograph physical evidence or indicators of hate crimes such as:
 - a. Hate literature.
 - b. Spray paint cans.
 - c. Threatening letters.
 - d. Symbols used by hate groups.
 7. Identify criminal evidence on the victim.
 8. Request the assistance of translators or interpreters when needed to establish effective communication with witnesses, victims, or others as appropriate.
 9. Conduct a preliminary investigation and record pertinent information including, but not limited to:
 - a. Identity of suspected perpetrator(s).
 - b. Identity of witnesses, including those no longer at the scene.
 - c. The offer of victim confidentiality per Government Code (GC) 5264.
 - d. Prior occurrences, in this area or with this victim.
 - e. Statements made by suspects; exact wording is critical.
 - f. The victim's protected characteristics and determine if bias was a motivation "in whole or in part"¹ in the commission of the crime.
 1. "Bias motivation" is a preexisting negative attitude toward actual or perceived characteristics referenced in Section 422.55. Depending on the circumstances of each case, bias motivation may include, but is not limited to, hatred, animosity, resentment, revulsion, contempt, unreasonable fear, paranoia, callousness, thrill-seeking, desire for social dominance, desire for social bonding with those of one's "own kind," or a perception of the vulnerability of the victim due to the victim being perceived as being weak, worthless, or fair game because of a protected characteristic, including, but not limited to, disability or gender.
 - (a) In recognizing suspected disability-bias hate crimes, the policy shall advise officers to consider whether there is any indication that the perpetrator was motivated by hostility or other bias, occasioned by factors such as, but not limited to, dislike of persons

¹See Appendix, page 15, for definition

who arouse fear or guilt, a perception that persons with disabilities are inferior and therefore “deserving victims,” a fear of persons whose visible traits are perceived as being disturbing to others, or resentment of those who need, demand, or receive alternative educational, physical, or social accommodations.

- (b) In recognizing suspected disability-bias hate crimes, the policy also shall advise officers to consider whether there is any indication that the perpetrator perceived the victim to be vulnerable and, if so, if this perception is grounded, in whole or in part, in anti-disability bias. This includes, but is not limited to, if a perpetrator targets a person with a particular perceived disability while avoiding other vulnerable-appearing persons such as inebriated persons or persons with perceived disabilities different than those of the victim, those circumstances could be evidence that the perpetrator’s motivations included bias against persons with the perceived disability of the victim and that the crime must be reported as a suspected hate crime and not a mere crime of opportunity.

10. Adhere to CPC 422.93, which protects hate crime victims and witnesses from being reported to federal immigration authorities if they have not committed any crime under state law.
11. Provide information regarding immigration remedies available to victims of crime. (U-Visa, T-Visa, S-Visa, etc.).
12. Provide the agency’s Hate Crimes Brochure (per CPC 422.92) if asked, if necessary or per policy (if applicable).
13. Utilize proper techniques for interviewing people with disabilities and being aware of and providing appropriate accommodations (such as ADA standards, Braille, visuals, translators for the deaf or hard of hearing, etc.).
14. Report any suspected multi-mission extremist crimes to the agency Terrorism Liaison Officer (TLO), or assigned designee, and direct the TLO/ designee to send the data to the Joint Regional Information Exchange System.

Investigation

Investigators at the scene of or while performing follow-up investigation on a suspected hate or bias crimes (or hate incident if agency policy requires it) should take all actions deemed necessary, including, but not limited to, the following:

1. Consider typologies of perpetrators of hate crimes and incidents, including but not limited to thrill, reactive/defensive, and mission (hard core).
2. Utilize investigative techniques and methods to handle hate crimes or hate incidents in a professional manner.
3. Utilize proper techniques for interviewing people with disabilities and being aware of and providing appropriate accommodations (such as ADA standards, Braille, visuals, translators for the deaf or hard of hearing, etc.).
4. Fully investigate any report of hate crime committed under the color of authority per CPC 422.6 and CPC 13519.6.

-
5. Collect and photograph physical evidence or indicators of hate crimes such as:
 - a. Hate literature.
 - b. Spray paint cans.
 - c. Threatening letters.
 - d. Symbols used by hate groups.
 - e. Desecration of religious symbols, objects, or buildings.
 6. Request the assistance of translators or interpreters when needed to establish effective communication.
 7. Conduct a preliminary investigation and record information regarding:
 - a. Identity of suspected perpetrator(s).
 - b. Identity of witnesses, including those no longer at the scene.
 - c. Offer of victim confidentiality per GC 5264.
 - d. Prior occurrences, in this area or with this victim.
 - e. Statements made by suspects; exact wording is critical.
 - f. Document the victim's protected characteristics.
 8. Provide victim assistance and follow-up.
 9. Canvass the area for additional witnesses.
 10. Examine suspect's social media activity for potential evidence of bias motivation.
 11. Coordinate the investigation with agency, state, and regional intelligence operations. These sources can provide the investigating officer with an analysis of any patterns, organized hate groups, and suspects potentially involved in the offense.
 12. Coordinate the investigation with the crime scene investigation unit (if applicable) or other units of the agency.
 13. Determine if the incident should be classified as a hate crime.
 14. Take steps to ensure appropriate assistance is provided to hate crime victim(s), including the following measures:
 - a. Contact the victim periodically to determine whether he/she is receiving adequate and appropriate assistance.
 - b. Provide ongoing information to the victim about the status of the criminal investigation.
 - c. Provide the victim and any other interested person the brochure on hate crimes per CPC 422.92 and information on any local advocacy groups (if asked).
 15. Report any suspected multi-mission extremist crimes to the agency TLO, or assigned designee, and direct the TLO or designee to send the data to the Joint Regional Information Exchange System.
 16. Coordinate with other law enforcement agencies in the area to assess patterns of hate crimes and/or hate incidents (if directed by policy), and determine if organized hate groups are involved.

Supervision

The supervisor shall confer with the initial responding officer(s) and ensure that necessary preliminary actions have been taken. The supervisor shall request any appropriate personnel necessary to accomplish the following:

1. Provide immediate assistance to the crime victim by:
 - a. Expressing the law enforcement agency's official position on the importance of these cases and the measures that will be taken to apprehend the perpetrators.
 - b. Expressing the department's interest in protecting victims' anonymity (confidentiality forms GC 6254) to the extent possible. Allow the victim to convey his/her immediate concerns and feelings.
 - c. Identifying individuals or agencies that may provide victim assistance and support. Local victim assistance resources may include family members or close acquaintances, clergy or departmental chaplain, as well as community service agencies that provide shelter, food, clothing, child care, or other related services (per CPC 422.92).
2. Ensure that all relevant facts are documented on an incident and/ or arrest report and make an initial determination as to whether the incident should be classified as a hate crime for federal and state bias-crimes reporting purposes.
3. Notify other appropriate personnel in the chain of command, depending on the nature and seriousness of the offense and its potential inflammatory and related impact on the community.
4. In cases of large-scale hate crime waves, or in circumstances where the potential exists for subsequent hate crimes or incidents, consider directing resources to protect vulnerable sites (such as assigning an officer at specific locations that could become targets).
5. Ensure hate crimes are properly reported, including reporting to the Department of Justice, pursuant to CPC 13023.
6. Ensure adherence to CPC 422.93, which protects hate crime victims and witnesses from being reported to federal immigration authorities if they have not committed any crime under state law. Supervisors should also be aware of the immigration remedies available to victims of crime. (U-Visa, T-Visa, S-Visa, etc.)
7. Respond to and investigate any reports of hate crimes committed under the color of authority.
8. Provide appropriate assistance, including activating the California Department of Justice hate crime rapid response protocol if necessary. For information see the California Department of Justice webpage or use following link: <https://oag.ca.gov/sites/all/files/agweb/pdfs/civilrights/AG-Rapid-Response-Team-Protocol-2.pdf>
9. Report or ensure any suspected multi-mission extremists crimes are reported to the agency TLO, or assigned designee, and direct the TLO/ designee to send the data to the Joint Regional Information Exchange System.
10. Make a final determination as to whether the incident should be classified as a hate crime.

Training

All staff, including dispatch, desk personnel, volunteers, records, support staff, officers, supervisors, and managers shall be properly trained on the department's hate crimes policy. The agency will follow all legislatively mandated training requirements.

POST offers training and video courses to assist law enforcement in the identification, investigation, documentation and reporting of hate crimes. These courses provide officers with information and skills necessary to effectively identify, investigate, document and report hate crimes. Various training programs include the history and definitions of hate crimes, recognition of hate groups, international terrorism, legal considerations, victims' considerations, initial response duties, victim interviewing and care, suspect identification and interrogation, evidence identification, report writing, the role of law enforcement, investigative strategies, intelligence collection, supervisory roles, community relations, media relations and local program training development, and other topics such as proper use of computer systems and methods for reporting. POST also maintains an extensive array of training videos on applicable topics such as working with those with mental illness and intellectual disabilities, hate crimes, and working with minority communities.

For more information on POST training opportunities and available videos, visit the POST website at www.post.ca.gov. In conjunction with POST training opportunities, trainers may utilize other state and federal agencies that offer training courses, such as the U.S. Department of Justice.

Planning and Prevention

The general underreporting of hate crimes is an identified issue in California. Underreporting is caused by victims not reporting hate crimes or hate incidents due to a number of factors, including fear of reprisal and the belief that law enforcement will not properly investigate them. A report by the State Auditor in 2018 determined that California law enforcement has not taken adequate action to identify, report and respond to hate crimes. There is also an extreme underreporting of anti-disability and anti-gender hate crimes. The agency's plan to remedy this underreporting *shall be inserted into the policy* (emphasis added).

In order to facilitate the recommendations contained within this policy, it is strongly recommended that agencies build and strengthen relationships with the community, engage in dialogue, and provide education to the community about this policy. Agency personnel are also encouraged to learn about the inherent issues concerning their communities in relation to hate crimes. Assigned personnel should perform the following:

1. Meet with residents in target communities to allay fears; emphasize the agency's concern over this and related incidents; reduce the potential for counter-violence; and provide safety, security, and crime prevention information. Cultural diversity education and immersion programs (if available) could facilitate this process.
2. Provide direct and referral assistance to the victim and his/her family.
3. Conduct public meetings on hate crime threats and violence in general.
4. Establish relationships with formal community-based organizations and leaders.
5. Expand, where appropriate, preventive programs such as hate, bias, and crime reduction seminars for school children.

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6. Review the Attorney General's latest opinion on hate crime statistics and targets in order to prepare and plan for future crimes, specifically for Arab/Middle Eastern and Islamic communities.²
 7. Provide orientation of and with communities of specific targeted victims such as immigrants, Muslims, Arabs, LGBTQ, Black or African-American, Jewish, Sikh, disabled persons, etc.

Hate crimes are not only a crime against the targeted victim(s) but also have impacts on the victim's family and community. Working constructively with segments of this larger community after such crimes is essential to help reduce fears, stem possible retaliation, prevent additional hate crimes, and encourage any other previously victimized individuals to step forward and report such crimes. This is particularly important if an upward trend has been identified in these crimes.

Although hate incidents are not criminal events, they can be indicators of, or precursors to, hate crimes. Most California law enforcement agencies do not track hate incidents. It is recommended that hate incidents be investigated and documented, if directed by policy, as part of the overall planning to prevent hate crime.

Tracking social media is also another identified area to find indicators of, or precursors to, hate crimes. It is recommended that agencies assign personnel to find, evaluate and monitor public social media sources to identify possible suspects in reported hate crimes, or to determine suspects or suspect groups in future hate crimes or hate incidents affecting the identified individuals, groups or communities that may be victimized, and planned hate-based events.

Release of Information

Agencies should have procedure and/or policy on public disclosure of hate crimes. Establishing a relationship with stakeholders, before any incident occurs, to develop a network and protocol for disclosure would assist greatly in any disclosure.

The benefit of public disclosure of hate crime incidents includes:

1. Dissemination of correct information.
2. Assurance to affected communities or groups that the matter is being properly and promptly investigated.
3. The ability to request information regarding the commission of the crime(s) from the victimized community.

Agencies should provide the supervisor, public information officer, or designee with information that can be responsibly reported to the media. When appropriate, the law enforcement media spokesperson should reiterate that the hate crimes will not be tolerated, will be taken seriously, and will be prosecuted to the full extent of the law.

Agencies are encouraged to consider the following when releasing information to the public regarding hate crimes and hate incidents that have been reported within the jurisdiction:

²As described in CPC 13519.6(b)(8)

-
1. Informing community organizations in a timely manner when a community group has been the target of a hate crime.
 2. Informing the community of the impact of these crimes on the victim, the victim's family, and the community, and the assistance and compensation available to victims.
 3. Informing the community regarding hate crime law and the legal rights of, and the remedies available to, victims of hate crimes.
 4. Providing the community with on-going information regarding hate crime and/or hate incidents (if policy requires it).

Reporting

The agency policy shall require development of a procedure for data collection, documentation, and mandated reporting requirements. The agency shall:

1. Ensure that hate crimes are properly investigated, documented and reported.
2. During documentation, ensure hate crimes are flagged properly to allow for required reporting to the California Department of Justice. This is typically indicated by the title/penal code section identifying the report as a hate crime. Some agencies have added a check box specifically indicating a hate crime that could, if required by the agency policy, require a secondary review by an investigator/detective, supervisor or other identified party. It is the agency executive's responsibility to determine the form of documentation and type of indicators on crime reports.
3. The agency head or their designee (identified in the agency policy) should make a final determination as to whether the incident should be classified as a hate crime by the agency.
4. Agencies shall develop procedures to comply with legally mandated reporting, including the California Department of Justice, pursuant to CPC 13023.

Checklist for the agency's policy creation

- ☐ Message from the law enforcement's agency's chief executive is included
 - ☐ The updated existing policy or newly adopted policy includes the content of the model policy framework from POST.
 - ☐ Definition of "hate crime" included from:
 - ☐ CPC 422.55
 - ☐ CPC 422.56
 - ☐ CPC 422.6
 - ☐ Title by title specific protocol regarding:
 - ☐ Prevention
 - ☐ Is contact is established with identified persons and/or communities who are likely targets?
 - ☐ Have we formed and/or are we cooperating with hate crime prevention and response networks?
 - ☐ Has a plan for the agency to remedy underreporting of hate crimes and the more extreme underreporting of anti-disability and anti-gender hate crimes been created?
 - ☐ Response
 - ☐ Requirement that all hate crimes be properly investigated and supervised
 - ☐ Requirement that any hate crimes committed under the color of authority are investigated
 - ☐ Accessing Assistance
 - ☐ Information provided for activating the Department of Justice hate crime rapid response protocol when necessary
 - ☐ Victim assistance and follow-up
 - ☐ Reporting
 - ☐ Protocol for reporting suspected hate crimes to the Department of Justice per CPC 13023
 - ☐ Training
 - ☐ Has a checklist for first responders been created and provided personnel (see exemplar officer checklist in appendix)
 - ☐ Does the checklist include first responder responsibilities include:
 - ☐ Determining the need for additional resources if necessary?
 - ☐ Referral information for appropriate community and legal services?
 - ☐ The requirement to provide the agency's hate crimes brochure per CPC 422.92?
 - ☐ Information regarding bias motivation from CPC 422.87
 - ☐ Information regarding the general underreporting of hate crimes and the more extreme underreporting of anti-disability and anti-gender hate crimes
- ☐ Definitions of terms used in the policy are listed
- ☐ Specific procedure for transmitting and periodically retransmitting the policy and any related orders to officers is included.
 - ☐ Procedure shall include a simple and immediate way for officers to access the policy in the field when needed
- ☐ Title or titles of the officer or officers responsible for assuring the department has a hate crime brochure (per CPC 422.92) and ensuring that all officers are trained to distribute the brochure to all suspected hate crime victims and all other interested persons.
- ☐ A requirement that all officers be familiar with the policy and carry out the policy at all times unless directed by the law enforcement chief executive or the chief executive's designee.

APPENDIX

Definitions and Laws

In accordance with CPC sections 422.55, 422.56, 422.6, and 422.87, for purposes of all other state law unless an explicit provision of law or the context clearly requires a different meaning, the following shall apply:

Hate crime

“Hate crime” means a criminal act committed, in whole or in part, because of one or more of the following actual or perceived characteristics of the victim:

- (1) Disability.
- (2) Gender.
- (3) Nationality.
- (4) Race or ethnicity.
- (5) Religion.
- (6) Sexual orientation.
- (7) Association with a person or group with one or more of these actual or perceived characteristics.

(b) “Hate crime” includes, but is not limited to, a violation of Section 422.6.

“Association with a person or group with these actual or perceived characteristics” Includes advocacy for, identification with, or being on the ground owned or rented by, or adjacent to, any of the following: a community center, educational facility, family, individual, office, meeting hall, place of worship, private institution, public agency, library, or other entity, group, or person that has, or is identified with people who have, one or more of those characteristics listed in the definition of “hate crime” under paragraphs 1 to 6, inclusive, of CPC 422.55 subdivision (a).

Note: A “hate crime” need not be motivated by hate but may be motivated by any bias against a protected characteristic.

Hate Speech

The First Amendment to the U.S. Constitution protects most speech, even when it is disagreeable, offensive, or hurtful. The following types of speech are generally not protected: fighting words, true threats, perjury, blackmail, incitement to lawless action, conspiracy and solicitation to commit any crime.

Hate incident

A hate incident is an action or behavior motivated by hate or bias but legally protected by the First Amendment right to freedom of expression. Examples of hate incidents include:

- Name-calling
- Insults and epithets
- Distributing hate material in public places
- Displaying hate material on your own property

Bias Motivation

Bias motivation is a preexisting negative attitude toward actual or perceived characteristics referenced in Section 422.55. Depending on the circumstances of each case, bias motivation may include, but is not limited to, hatred, animosity, resentment, revulsion, contempt, unreasonable fear, paranoia, callousness, thrill-seeking, desire for social dominance, desire for social bonding with those of one's "own kind," or a perception of the vulnerability of the victim due to the victim being perceived as being weak, worthless, or fair game because of a protected characteristic, including, but not limited to, disability or gender.

Disability Bias

In recognizing suspected disability-bias hate crimes, officers should consider whether there is any indication that the perpetrator was motivated by hostility or other bias, occasioned by factors such as, but not limited to, dislike of persons who arouse fear or guilt, a perception that persons with disabilities are inferior and therefore "deserving victims," a fear of persons whose visible traits are perceived as being disturbing to others, or resentment of those who need, demand, or receive alternative educational, physical, or social accommodations.

In recognizing suspected disability-bias hate crimes, officers should consider whether there is any indication that the perpetrator perceived the victim to be vulnerable and, if so, if this perception is grounded, in whole or in part, in anti-disability bias. This includes, but is not limited to, if a perpetrator targets a person with a particular perceived disability while avoiding other vulnerable-appearing persons such as inebriated persons or persons with perceived disabilities different than those of the victim, those circumstances could be evidence that the perpetrator's motivations included bias against persons with the perceived disability of the victim and that the crime must be reported as a suspected hate crime and not a mere crime of opportunity.

Disability

Disability includes mental disability and physical disability as defined in GC 12926, regardless of whether those disabilities are temporary, permanent, congenital or acquired by heredity, accident, injury, advanced age or illness.

Gender

Gender means sex and includes a person gender identity and gender expression. Gender expression means a person's gender-related appearance and behavior, whether or not stereotypically associated with the persons assigned sex at birth. A person's gender identity and gender related appearance and behavior, whether or not stereotypically associated with the person's assigned sex at birth.

In Whole or In Part

"In whole or in part because of" means that the bias motivation must be a cause in fact of the offense whether or not other causes also exist. When multiple concurrent motives exist, the prohibited bias must be a substantial factor in bringing about the particular result. There is no requirement that the bias be a main factor, or that crime would not have been committed but for the actual or perceived characteristic.

Nationality

Nationality includes citizenship, country of origin, and national origin.

Race or Ethnicity

Race or ethnicity includes ancestry, color, and ethnic background.

Religion

Religion includes all aspects of religious belief, observance, and practice and includes agnosticism and atheism.

Sexual orientation

Sexual orientation means heterosexuality, homosexuality, or bisexuality.

Victim

Victim includes, but is not limited to, a community center, educational facility, entity, family, group, individual, office, meeting hall, person, place of worship, private institution, public

Statutes and Legal Requirements

Items listed in this section include sections from the California Penal Code (CPC), Welfare and Institutions Code (WI) and Government Code (GC).

Definitions

CPC 422.55 - Provides general definition of hate crimes in California.

CPC 422.56- Provides definitions of terms included in hate crimes statutes.

GC 12926- Disability-related definitions applicable to some hate crime statutes.

Felonies

Hate Crimes

CPC 422.7 - Commission of a crime for the purpose of interfering with another's exercise of civil rights.

Related Crimes

CPC 190.2(a)(16) - Homicide penalties related to certain hate crime related acts.

CPC 190.03(a) - Homicide penalties related to certain hate crime related acts.

CPC 288(b)(2) - Sexual assault of dependent person by caretaker

CPC 368(b) - Dependent adult abuse generally - may apply as disability-related hate crime.

CPC 594.3 - Vandalism of places of worship.

CPC 11412 - Causing or attempting to cause other to refrain from exercising religion by threat.

CPC 11413 - Arson or destructive device at place of worship.

Misdemeanors

Hate Crimes

CPC 422.6 - Use of force, threats, or destruction of property to interfere with another's exercise of civil rights.

CPC 422.77 - Violation of civil order (Bane Act) protecting the exercise of civil rights

Related Crimes

CPC 302 - Disorderly conduct during an assemblage of people gathered for religious worship at a tax-exempt place of worship.

CPC 538(c) - Unauthorized insertion of advertisements in newspapers and redistribution to the public.

CPC 640.2 - Placing handbill, notice of advertisement on a consumer product or product packaged without authorization.

CPC 11411 - Terrorism of owner or occupant of real property. Placement or display of sign, symbol, or other physical impression without authorization, engagement in pattern of conduct, or burning or desecration of religious symbols.

Enhancements

CPC 190.2(a)(16) - Special circumstances imposing the Death Penalty or Life Without Possibility of Parole, if the victim was intentionally killed because of sexual orientation, gender, or disability.

CPC 190.3 - Special circumstances imposing LWOP if the victim was intentionally killed because of sexual orientation, gender, or disability.

CPC 422.75 - Penalty for felony committed because of victim's race, color, religion, nationality, country or origin, ancestry, disability, or sexual orientation shall be enhanced one, two, or three years in prison, if the person acts alone; and two, three, or four years if the person commits the act with another.

CPC 1170.8 - Enhancement for robbery or assault at a place of worship.

CPC 1170.85(b) - Felony assault or battery enhancement due to age or disability.

Reporting

CPC 13023- Requirement for law enforcement agencies to report hate crime data to DOJ.

WI 15630 – Elder and Dependent Adult Abuse Mandated Reporting (may apply in disability-related hate crimes).

Training and Policy Requirements

CPC 422.87 - Hate crimes policy adoption and update requirements (AB 1985, Effective January 1, 2019).

CPC 13519.6 - Defines hate crime training requirements for peace officers.

CPC 13519.41 - Training requirements on sexual orientation and gender identity-related hate crimes for peace officers and dispatchers (AB 2504, Effective January 1, 2019).

Miscellaneous Provisions

CPC 422.78 - Responsibility for prosecution of stay away order violations.

CPC 422.86 - Public policy regarding hate crimes.

CPC 422.89 - Legislative intent regarding violations of civil rights and hate crimes

CPC 422.92 - Hate crimes victims brochure requirement for law enforcement agencies.

CPC 422.93 - Protection of victims and witnesses from being reported to immigration authorities.

GC 6254 - Victim confidentiality.

HATE CRIME CHECKLIST

Page _____ of _____

VICTIM	<u>Victim Type:</u> <input type="checkbox"/> Individual Legal name (Last, First): _____ Other Names used (AKA): _____ <input type="checkbox"/> School, business or organization Name: _____ Type: _____ (e.g., non-profit, private, public school) Address: _____ <input type="checkbox"/> Faith-based organization Name: _____ Faith: _____ Address: _____	<u>Target of Crime (Check all that apply):</u> <input type="checkbox"/> Person <input type="checkbox"/> Private property <input type="checkbox"/> Public property <input type="checkbox"/> Other _____ <u>Nature of Crime (Check all that apply):</u> <input type="checkbox"/> Bodily injury <input type="checkbox"/> Threat of violence <input type="checkbox"/> Property damage <input type="checkbox"/> Other crime: _____ Property damage - estimated value _____
	<u>Type of Bias (Check all characteristics that apply):</u> <input type="checkbox"/> Disability <input type="checkbox"/> Gender <input type="checkbox"/> Gender identity/expression <input type="checkbox"/> Sexual orientation <input type="checkbox"/> Race <input type="checkbox"/> Ethnicity <input type="checkbox"/> Nationality <input type="checkbox"/> Religion <input type="checkbox"/> Significant day of offense (e.g., 9/11, holy days) <input type="checkbox"/> Other: _____ Specify disability (be specific): _____ <u>Actual or Perceived Bias – Victim’s Statement:</u> <input type="checkbox"/> Actual bias [Victim actually has the indicated characteristic(s)]. <input type="checkbox"/> Perceived bias [Suspect believed victim had the indicated characteristic(s)]. If perceived, explain the circumstances in narrative portion of Report. <u>Reason for Bias:</u> Do you feel you were targeted based on one of these characteristics? <input type="checkbox"/> Yes <input type="checkbox"/> No Explain in narrative portion of Report. Do you know what motivated the suspect to commit this crime? <input type="checkbox"/> Yes <input type="checkbox"/> No Explain in narrative portion of Report. Do you feel you were targeted because you associated yourself with an individual or a group? <input type="checkbox"/> Yes <input type="checkbox"/> No Explain in narrative portion of Report. Are there indicators the suspect is affiliated with a Hate Group (i.e., literature/tattoos)? <input type="checkbox"/> Yes <input type="checkbox"/> No Describe in narrative portion of Report. Are there Indicators the suspect is affiliated with a criminal street gang? <input type="checkbox"/> Yes <input type="checkbox"/> No Describe in narrative portion of Report.	
BIAS	<u>Bias Indicators (Check all that apply):</u> <input type="checkbox"/> Hate speech <input type="checkbox"/> Acts/gestures <input type="checkbox"/> Property damage <input type="checkbox"/> Symbol used <input type="checkbox"/> Written/electronic communication <input type="checkbox"/> Graffiti/spray paint <input type="checkbox"/> Other: _____ Describe with exact detail in narrative portion of Report.	
HISTORY	<u>Relationship Between Suspect & Victim:</u> Suspect known to victim? <input type="checkbox"/> Yes <input type="checkbox"/> No Nature of relationship: _____ Length of relationship: _____ If Yes, describe in narrative portion of Report	<input type="checkbox"/> Prior reported incidents with suspect? Total # _____ <input type="checkbox"/> Prior unreported incidents with suspect? Total # _____ Restraining orders? <input type="checkbox"/> Yes <input type="checkbox"/> No If Yes, describe in narrative portion of Report Type of order: _____ Order/Case# _____
WEAPONS	Weapon(s) used during incident? <input type="checkbox"/> Yes <input type="checkbox"/> No Type: _____ Weapon(s) booked as evidence? <input type="checkbox"/> Yes <input type="checkbox"/> No Automated Firearms System (AFS) Inquiry attached to Report? <input type="checkbox"/> Yes <input type="checkbox"/> No	

HATE CRIME CHECKLIST

Page _____ of _____

EVIDENCE	Witnesses present during incident? <input type="checkbox"/> Yes <input type="checkbox"/> No		Statements taken? <input type="checkbox"/> Yes <input type="checkbox"/> No	
	Evidence collected? <input type="checkbox"/> Yes <input type="checkbox"/> No		Recordings: <input type="checkbox"/> Video <input type="checkbox"/> Audio <input type="checkbox"/> Booked	
	Photos taken? <input type="checkbox"/> Yes <input type="checkbox"/> No		Suspect identified: <input type="checkbox"/> Field ID <input type="checkbox"/> By photo	
	Total # of photos: _____ D#: _____		<input type="checkbox"/> Known to victim	
Taken by: _____ Serial #: _____				

OBSERVATIONS	<u>VICTIM</u>	<u>SUSPECT</u>
	<input type="checkbox"/> Tattoos	<input type="checkbox"/> Tattoos
	<input type="checkbox"/> Shaking	<input type="checkbox"/> Shaking
	<input type="checkbox"/> Unresponsive	<input type="checkbox"/> Unresponsive
	<input type="checkbox"/> Crying	<input type="checkbox"/> Crying
<input type="checkbox"/> Scared	<input type="checkbox"/> Scared	
<input type="checkbox"/> Angry	<input type="checkbox"/> Angry	
<input type="checkbox"/> Fearful	<input type="checkbox"/> Fearful	
<input type="checkbox"/> Calm	<input type="checkbox"/> Calm	
<input type="checkbox"/> Agitated	<input type="checkbox"/> Agitated	
<input type="checkbox"/> Nervous	<input type="checkbox"/> Nervous	
<input type="checkbox"/> Threatening	<input type="checkbox"/> Threatening	
<input type="checkbox"/> Apologetic	<input type="checkbox"/> Apologetic	
<input type="checkbox"/> Other observations: _____	<input type="checkbox"/> Other observations: _____	

<u>ADDITIONAL QUESTIONS (Explain all boxes marked "Yes" in narrative portion of report):</u>		
Has suspect ever threatened you?	<input type="checkbox"/> Yes	<input type="checkbox"/> No
Has suspect ever harmed you?	<input type="checkbox"/> Yes	<input type="checkbox"/> No
Does suspect possess or have access to a firearm?	<input type="checkbox"/> Yes	<input type="checkbox"/> No
Are you afraid for your safety?	<input type="checkbox"/> Yes	<input type="checkbox"/> No
Do you have any other information that may be helpful?	<input type="checkbox"/> Yes	<input type="checkbox"/> No

<u>Resources offered at scene:</u> <input type="checkbox"/> Yes <input type="checkbox"/> No Type: _____		
---	--	--

MEDICAL	<u>Victim</u>	<u>Suspect</u>	
	<input type="checkbox"/>	<input type="checkbox"/>	Declined medical treatment
	<input type="checkbox"/>	<input type="checkbox"/>	Will seek own medical treatment
	<input type="checkbox"/>	<input type="checkbox"/>	Received medical treatment
	Authorization to Release Medical Information, Form 05.03.00, signed? <input type="checkbox"/> Yes <input type="checkbox"/> No		

<u>Paramedics at scene?</u> <input type="checkbox"/> Yes <input type="checkbox"/> No Unit # _____	
Name(s)/ID #: _____	
Hospital: _____	
Jail Dispensary: _____	
Physician/Doctor: _____	
Patient #: _____	

Officer (Name/Rank)	Date
Officer (Name/Rank)	Date
Supervisor Approving (Name/Rank)	Date

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